

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

In re:

Dynamic Aerostructures LLC, *et al.*,  
Debtors.<sup>1</sup>

Chapter 11

Case No. 25-10292 (LSS)

(Jointly Administered)

**Re: D.I. Nos. 16 and 106**

**NOTICE OF FILING OF REVISED PROPOSED ORDER (I) APPROVING AND AUTHORIZING 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**

**PLEASE TAKE NOTICE THAT** on February 26, 2025, the Debtors filed the *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* [Docket No. 16].

<sup>1</sup> 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.



**PLEASE TAKE FURTHER NOTICE THAT** on March 14, 2025, the Debtors filed the *Notice of Filing of Proposed Order (I) Approving and Authorizing 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. 106] (the "**Sale Order**"),

**PLEASE TAKE FURTHER NOTICE THAT** attached hereto as **Exhibit A** is a revised proposed form of *Order (I) Approving and Authorizing 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* ("**Revised Sale Order**"). Attached hereto as **Exhibit B** is a redline comparing the Revised Sale Order to the Sale Order.

Dated: April 7, 2025

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# **EXHIBIT A**

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

In re:

Dynamic Aerostructures LLC, *et al.*,

Debtors.<sup>1</sup>

Chapter 11

Case No. 25-10292 (LSS)

(Jointly Administered)

Re: Docket Nos. 16, 169, & 187 \_\_\_\_\_

**ORDER (I) APPROVING AND AUTHORIZING 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**

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Upon the motion [Docket No. 16] (the "Motion")<sup>2</sup> of the above-captioned debtors and debtors in possession (collectively, the "Debtors") for entry of an order (this "Sale Order"): (a) authorizing and approving the Debtors' entry into and performance under the Asset Purchase Agreement, dated as of February 25, 2025 (as amended, restated, supplemented, or otherwise modified from time to time and together with all schedules and exhibits thereto, the "APA") by and among certain of the Debtors, as sellers, and FMI Holdco LLC, as purchaser (the "Purchaser"), a copy of which is attached hereto as **Exhibit 1**; (b) authorizing and approving the sale (the "Sale") of the Purchased Assets (as defined in the APA) free and clear of all claims and Liens (other than Assumed Liabilities and Permitted Liens); (c) authorizing the assumption and assignment of certain executory contracts and unexpired leases in connection with the Sale; and (d) granting related relief; and the Court having entered the *Order Approving Bidding*

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<sup>1</sup> 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.

<sup>2</sup> Capitalized terms used but not otherwise defined herein have the meanings ascribed to them in the Motion, the Bidding Procedures, or the APA, as applicable.

*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*, dated March 25, 2025 [Docket No. 169] (the "Bidding Procedures Order") approving, among other things, the Bidding Procedures, the Sale Notice, the Notice of Successful Bidder, the Assumption and Assignment Procedures, and authorizing and approving the Bid Protections (subject to the terms of the Bidding Procedures Order); and the Court having jurisdiction over this matter pursuant to 28 U.S.C. §§ 157(a) and 1334; and the Court having found that this is a core proceeding pursuant to 28 U.S.C. § 157(b); and the Court having found that it may enter a final order consistent with Article III of the United States Constitution; and the 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 the Debtors, in consultation with the Consultation Parties (as defined in the Bidding Procedures), having determined that the Purchaser has submitted the highest or otherwise best bid for the Purchased Assets and determined that the Purchaser is the Successful Bidder in accordance with the Bidding Procedures; and the Court having found that the relief requested in the Motion, as further explained in and supported by 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. 17] (the "Bidding Procedures Declaration"), is in the best interests of the Debtors' estates, their creditors, and other parties in interest; and the Court having found that the Debtors' notice of the Motion and opportunity for a hearing on the Motion were appropriate and

no other notice need be provided; and the Court having reviewed the Motion and having heard from all parties in interest who wished to be heard regarding statements in support of or objections to the relief requested therein at a hearing before the Court on April 7, 2025 (the “Sale Hearing”) to consider approval of the Sale pursuant to the terms of the APA; and the Court having determined that the legal and factual bases set forth in the Motion and at the Sale Hearing establish just cause for the relief granted herein; and upon all of the proceedings had before the Court; and after due deliberation and sufficient cause appearing therefor, it is HEREBY ORDERED THAT:<sup>3</sup>

A. Jurisdiction and Venue. The Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157(a) and 1334, and venue is proper before the Court pursuant to 28 U.S.C. §§ 1408 and 1409. This is a core proceeding pursuant to 28 U.S.C. § 157(b).

B. Bases for Relief. The statutory and other legal bases for the relief provided herein are sections 105(a), 363, 365, 503, and 507 of title 11 of the United States Code, 11 U.S.C. §§ 101–1532 (the “Bankruptcy Code”), and Rules 2002, 6004, 6006, 9007, 9008, and 9014 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), and Rules 2002-1, 6004-1, 9006-1, and 9013-1(m) of the Local Rules of the United States Bankruptcy Court for the District of Delaware (the “Bankruptcy Local Rules”). The consummation of the transactions contemplated by the APA and this Sale Order is legal, valid, and properly authorized under all applicable provisions of the Bankruptcy Code, the Bankruptcy Rules, and the Bankruptcy Local Rules, and the Debtors and the Purchaser have complied with all of the applicable requirements of such sections and rules in respect of such transactions.

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<sup>3</sup> 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, as 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.

C. Final Order. This Sale Order constitutes a final order within the meaning of 28 U.S.C. § 158(a). Notwithstanding Bankruptcy Rules 6004(h) and 6006(d), the Court expressly finds that there is no just reason for delay in the implementation of this Sale Order, waives any stay, and expressly directs entry of judgment as set forth herein.

D. Notice of the Motion. As evidenced by the affidavits or certificates of service and publication notice filed with the Court, proper, timely, adequate, and sufficient notice of the Motion, the Bidding Procedures, the Auction, the Sale (and all transactions contemplated in connection therewith), the identity of the Purchaser, the terms of the APA, the assumption and assignment of the Assigned Contracts to the Purchaser pursuant to the APA, the Cure Costs, the Sale Hearing, and all deadlines related thereto, has been provided to all interested parties, in accordance with sections 102(1), 363, and 365 of the Bankruptcy Code, Bankruptcy Rules 2002, 6004, 6006, 9007, 9008, and 9014, Bankruptcy Local Rules 9013-1(m), and in compliance with the Bidding Procedures Order.

E. Specifically, the Debtors served the Bidding Procedures Order on the following parties or their respective counsel, as reflected in the certificate of service filed on April 2, 2025 [Docket No. 188]: (i) the Office of the United States Trustee for the District of Delaware (Attn: Rosa Sierra-Fox; email: rosa.sierra-fox@usdoj.gov) (the “U.S. Trustee”); (ii) the Debtors’ thirty (30) largest unsecured creditors on a consolidated basis; (iii) counsel to the administrative agents for the Debtors’ prepetition and postpetition credit facilities, (iv) all parties who have expressed a written interest in some or all of the Debtors’ assets; (v) 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; (vi) the Internal Revenue Service; (vii) all applicable state and local taxing authorities; (viii) the United States Attorney for the District of Delaware; (ix) the Securities and



Exchange Commission; (x) the state attorneys general for states in which the Debtors conduct business; (xi) all non-Debtor parties to the Debtors' executory contracts and unexpired leases; (xii) all environmental authorities having jurisdiction over any of the Assets, including the Environmental Protection Agency; (xiii) all of the Debtors' other known creditors; and (xiv) any party that has requested notice pursuant to Bankruptcy Rule 2002 (collectively, the "Notice Parties").

F. The Sale Notice was published on the Debtors' case website, served on all parties required to receive such notice under the Bidding Procedures Order and applicable rules, and published in national edition of the *The New York Times*, as reflected in the affidavit of publication filed on April 2, 2025 [Docket No. 189], in accordance with the Bidding Procedures Order and was sufficient and proper notice to any other interested parties, including those parties whose identities are unknown to the Debtors. Service of the Sale Notice was appropriate and reasonably calculated to provide all interested parties with timely and proper notice of the proposed Sale and the Bidding Procedures and the dates and deadlines related thereto. With respect to any parties that may have claims against the Debtors, but whose identities are not reasonably ascertainable by the Debtors, the publication of the Sale and Auction Notice was sufficient and reasonably calculated under the circumstances to reach such parties.

G. The Potential Assignment Notice and supplement thereto were filed [Docket Nos. 171 and 179] and served on all parties required to receive such notice under the Bidding Procedures Order and applicable rules, in accordance with the Bidding Procedures Order (including the Counterparties), identifying, among other things, the Counterparties, the Contracts and Leases, and any related Cure Costs. The service of the Potential Assignment Notice was good, sufficient, and appropriate under the circumstances and in full compliance with the Bidding Procedures Order,

and no further notice need be provided in respect of the Debtors' assumption and assignment to the Purchaser of the Assigned Contracts, including with respect to adequate assurance of future performance or the Cure Costs. All Counterparties to the Contracts and Leases have had an adequate opportunity to object to the potential assumption and assignment of the Contracts and Leases and the Cure Costs (including objections related to the adequate assurance of future performance and objections based on whether applicable law excuses such Counterparty from accepting performance by, or rendering performance to, the Purchaser for purposes of section 365(c)(1) of the Bankruptcy Code).

H. The Debtors filed with the Court and published on the case website the Notice of Successful Bidder and Cancellation of Auction [Docket No. 187] in accordance with the Bidding Procedures Order and applicable rules. Service of the Notice of Successful Bidder and Cancellation of Auction was appropriate and reasonably calculated to provide all interested parties with timely and proper notice of the cancellation of the Auction and the identity of the Successful Bidder.

I. The notices described in the foregoing Paragraphs D–H are good, sufficient, and appropriate under the circumstances, and no other or further notice of the Bidding Procedures, the Auction, the Sale, the assumption and assignment of the Assigned Contracts to the Purchaser pursuant to the APA, the Cure Costs, the Sale Hearing, and all deadlines related thereto is or shall be required.

J. Marketing and Sale Process. The Sale of the Purchased Assets to the Purchaser pursuant to the Bidding Procedures is duly authorized under sections 363(b)(1) and 363(f) of the Bankruptcy Code, Bankruptcy Rule 6004(f), and Bankruptcy Local Rule 6004-1. As demonstrated by (i) the testimony and other evidence proffered or adduced at the Sale Hearing and (ii) the

representations of counsel made on the record at the Sale Hearing, the Debtors and their professionals, agents, and other representatives engaged in a robust marketing and sale process and have marketed the Purchased Assets and conducted all aspects of the sale process in good faith and in compliance with the Bidding Procedures and the Bidding Procedures Order. The marketing process undertaken by the Debtors and their professionals, agents, and other representatives with respect to the Purchased Assets has been adequate and appropriate and reasonably calculated to maximize value for the benefit of all stakeholders. The Bidding Procedures were duly noticed, were substantively and procedurally fair to all parties, and were conducted in a diligent, non-collusive, fair and good-faith manner.

K. As set forth in the Notice of Successful Bidder and Cancellation of Auction, other than the Stalking Horse Bid, the Debtors did not receive any Qualified Bids prior to the Bid Deadline. Accordingly, pursuant to the Bidding Procedures and Bidding Procedures Order, the Debtors cancelled the Auction and designated the Stalking Horse Bid as the Successful Bid. As established by the record of the Sale Hearing, the Bidding Procedures and the Bidding Procedures Order have been complied with in all material respects by the Debtors and the Purchaser. The Bidding Procedures, together with the substantial prepetition marketing efforts, afforded a full, fair, and reasonable opportunity for any entity or person to make a higher or otherwise better offer to purchase the Purchased Assets, and the APA constitutes the best or otherwise highest offer for the Purchased Assets.

L. Corporate Authority. The Debtors are the sole and lawful owners of the Purchased Assets. The Purchased Assets constitute property of the Debtors' estates and title thereto is vested in the Debtors' estates within the meaning of section 541 of the Bankruptcy Code. The Debtors (i) have full corporate or other organizational power and authority necessary to execute the APA

and to consummate the Sale and all transactions contemplated by the APA, (ii) have taken all corporate or other organizational action necessary to authorize and approve the APA and to consummate the Sale and all transactions contemplated by the APA, and (iii) require no consents or approvals, other than those expressly provided for in the APA, to consummate such transaction.

M. Highest or Otherwise Best Offer; Business Judgment. The Debtors have demonstrated sufficient basis to enter into the APA, sell the Purchased Assets on the terms outlined therein, and assume and assign the Assigned Contracts to the Purchaser under sections 363 and 365 of the Bankruptcy Code. All such actions are appropriate exercises of the Debtors' business judgment, maximize the value of the Purchased Assets, satisfy applicable fiduciary duties, and are in the best interests of the Debtors, their creditors, their estates, and other parties in interest. Approval of the Sale pursuant to the APA at this time is in the best interests of the Debtors, their creditors, their estates, and all other parties in interest.

N. The offer of the Purchaser, upon the terms and conditions set forth in the APA, including the total consideration to be realized by the Debtors thereunder: (i) is the highest or otherwise best offer received by the Debtors for the Purchased Assets after the prepetition and postpetition marketing efforts, including through the Bidding Procedures; (ii) is in the best interests of the Debtors, their creditors, their other stakeholders, their estates, and all other parties in interest; and (iii) constitutes adequate consideration, is fair and reasonable and constitutes reasonably equivalent value, fair consideration, and fair value for the Purchased Assets under the Bankruptcy Code, the Uniform Fraudulent Transfer Act, the Uniform Voidable Transactions Act, and under the laws of the United States, any state, territory, possession, or the District of Columbia.

O. Neither the Debtors nor the Purchaser or any of their respective affiliates, members, or shareholders (i) have entered into the APA or proposes to consummate the Sale for the purpose

of hindering, delaying, or defrauding the Debtors' present or future creditors or (ii) are entering into the APA or proposing to consummate the Sale fraudulently, for the purpose of statutory or common law fraudulent conveyance and fraudulent transfer claims, whether under the Bankruptcy Code or under the laws of the United States, any state, territory, possession thereof or the District of Columbia or any other applicable jurisdiction with laws substantially similar to the foregoing.

P. Good and sufficient reasons for approval of the APA have been articulated by the Debtors. The Debtors have demonstrated compelling circumstances for the Sale outside (i) the ordinary course of business, pursuant to section 363(b) of the Bankruptcy Code, and (ii) a plan of reorganization or liquidation (as the case may be), in that, among other things, the immediate consummation of the Sale to the Purchaser is necessary and appropriate to preserve and to maximize the value of the Debtors' estates. To maximize the value of the Purchased Assets, it is essential that the consummation of the Sale occurs promptly.

Q. The Sale of the Purchased Assets outside of a chapter 11 plan pursuant to the APA neither impermissibly restructures the rights of the Debtors' creditors or equity interest holders nor impermissibly dictates the terms of a chapter 11 plan of the Debtors. The APA and the Sale do not constitute a *sub rosa* chapter 11 plan.

R. On the terms and subject to the conditions contained in the APA, the Purchaser agreed to provide the Purchase Price as aggregate consideration for the Purchased Assets, at the Closing of the Sale. On or prior to the Closing, the Purchaser shall pay the Cure Costs in respect of the Assigned Contracts on the terms set forth under the APA and the Bidding Procedures Order.

S. Opportunity to Object. A reasonable opportunity to object or be heard with respect to the Motion, the Bidding Procedures, the Auction, the Sale (and all transactions contemplated in connection therewith), the identity of the Purchaser, the terms of the APA, the assumption and

assignment of the Assigned Contracts to the Purchaser pursuant to the APA, and the Cure Costs has been afforded to all interested parties, including, without limitation, the Notice Parties.

T. Good Faith Purchasers; Arm's Length Sale. The Debtors and their respective officers, directors, employees, agents, advisors, attorneys, and other representatives that actively participated in the marketing process postpetition acted in good faith. The APA was negotiated, proposed, and entered into by the Debtors and the Purchaser without collusion, in good faith, and from arm's length bargaining positions. Neither the Debtors, nor the Purchaser, nor any affiliates, members, or shareholders of the Purchaser have engaged in any conduct that would cause or permit the APA or the Sale to be avoided, or costs or damages to be imposed, under section 363(n) of the Bankruptcy Code.

U. The Purchaser is a good-faith purchaser under section 363(m) of the Bankruptcy Code and, as such, is entitled to all of the protections afforded thereby. In particular: (i) the Purchaser recognizes that the Debtors were free to deal with any other party interested in purchasing the Purchased Assets; (ii) neither the Purchaser nor any of its affiliates, members, or shareholders in any way induced or caused the chapter 11 filing by the Debtors; (iii) neither the Purchaser nor any of its affiliates, members, or shareholders have violated section 363(n) of the Bankruptcy Code by any action or inaction; (iv) no common identity of directors, officers, or controlling stakeholders exists between any of the Purchaser, its affiliates, members, or shareholders and any of the Debtors; (v) the Purchaser agreed to subject its bid to the competitive bid procedures set forth in the Bidding Procedures Order; (vi) all payments to be made by the Purchaser and other agreements or arrangements entered into by the Purchaser in connection with the Sale have been disclosed; and (vii) neither the Purchaser nor any of its affiliates, members, or

shareholders have acted in a collusive manner with any person and the Purchase Price was not controlled by any agreement among third parties.

V. Neither the Purchaser nor any affiliates, members, officers, directors, shareholders or any of its or their respective successors or assigns is an “insider” or “affiliate” of any of the Debtors, as those terms are defined in sections 101(31) and 101(2) of the Bankruptcy Code. The Purchaser’s advisors, agents, and other representatives have complied in all respects with the Bidding Procedures Order and all other applicable orders of the Court in negotiating and entering into the APA. The APA complies with the Bidding Procedures Order and all other applicable orders of the Court. The Purchaser is therefore entitled to all of the protections afforded under section 363(m) of the Bankruptcy Code.

W. Free and Clear Transfer Required by the Purchaser. The Purchaser would not have entered into the APA and would not have consummated the Sale, thus adversely affecting the Debtors, their estates, and their creditors, if the Sale (including all provisions in connection therewith, including the assumption and assignment of the Assigned Contracts to the Purchaser) were not free and clear of all (i) Liens, mortgages, deeds of trust, pledges, charges, security interests, option, rights of first offer or first refusal (or any other type of preferential arrangement), hypothecations, encumbrances, easements, servitudes, leases or subleases, licenses or sublicenses, rights-of-way, pre-emptive right, encroachments, restrictive covenants, restrictions on transferability or other similar restrictions, interests or rights under any operating agreement, rights of offset or recoupment, right of use or possession, or other liens (including mechanic’s, materialman’s, possessory and other consensual and non-consensual liens and statutory liens), judgments, penalties, charges of any kind or nature, including any restriction on use, sale, voting, disposition, transfer, receipt of income or other exercise of any attributes of ownership, or any

rights that purport to give any party a right of first refusal or consent with respect to the Debtors' interest in the Purchased Assets or any similar rights; (ii) all claims as defined in section 101(5) of the Bankruptcy Code and jurisprudence interpreting the Bankruptcy Code, including, without limitation, all claims, counterclaims, cross-claims, third party claims, debt, rights, remedies, or causes of action (whether in law or in equity), proceedings, warranties, contractual rights, guarantees, indemnities, claims for recovery, reimbursement, subrogation, setoff (except to the extent exercised prepetition), recoupment, indemnity or contribution, obligations, demands, expenses, commitments, restrictions, responsibilities, or liabilities of any kind or nature whatsoever arising in connection with or relating to the Debtors, their operations, their business, their liabilities, the Purchased Assets, the Debtors' marketing and bidding process with respect to the Purchased Assets, the Assigned Contracts, or the transactions contemplated by the APA; (iii) all claims, causes of action, or rights based on or related to successor or transferee liability, products liability, alter-ego liability, environmental liability, or tax liability, orders or decrees of any court or foreign or domestic governmental entity; (iv) any and all equity or other interests of any kind or nature whatsoever in or with respect to the Debtors, the Purchased Assets, or the Assigned Contracts; (v) any rights that purport to give any party a right or option to effect any forfeiture, modification, right of first offer or first refusal, or consents, or termination of the Debtors' or the Purchaser's interest in the Purchased Assets, or any similar rights; (vi) any labor, collective bargaining, pension, retiree, and employment claims and any claims, causes of action, or rights under labor, collective bargaining, retirement, or employment agreements; (vii) any claims, causes of action, or rights related to intercompany loans and receivables; (viii) any claims, causes of action, or rights under pension, multiemployer (as such term is defined in Section 3(37) or Section 4001(a)(3) of the Employee Retirement Income Security Act of 1974 (as amended,



“ERISA”), health or welfare, compensation or other employee benefit plans, agreements, practices, and programs; (ix) any employee claims related to worker’s compensation, occupational disease, or unemployment or temporary disability, including, without limitation, claims that might otherwise arise under or pursuant to (a) ERISA, (b) the Fair Labor Standards Act, (c) Title VII of the Civil Rights Act of 1964, (d) the Federal Rehabilitation Act of 1973, (e) the National Labor Relations Act, (f) the Age Discrimination and Employment Act of 1967 and Age Discrimination in Employment Act, as amended, (g) the Americans with Disabilities Act of 1990, (h) the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended, including, without limitation, the requirements of Part 6 of Subtitle B of Title I of ERISA and Section 4980B of the Internal Revenue Code and of any similar state law (collectively, “COBRA”), (i) state discrimination laws, (j) state unemployment compensation laws or any other similar state laws, (k) any other state or federal benefits or claims relating to any employment with the Debtors or any of their predecessors, or (l) the Workers Adjustment and Retraining Notification Act of 1988, as amended, 929 U.S.C. §§ 210 et seq. (“WARN Act”), or any similar foreign, state or local law; (x) any claims, causes of action, or rights under any bulk sales or similar law and any tax laws, statutes, regulations, or ordinances, including, without limitation, the Internal Revenue Code of 1986, as amended, and any taxes arising under or out of, in connection with, or in any way relating to the Purchased Assets prior to the Closing, including, without limitation, any *ad valorem* taxes assessed by any applicable taxing authority; (xi) any unexpired and executory contract or unexpired lease that is not an Assigned Contract; and (xii) any other Excluded Liabilities, in case of each of the foregoing (i) through (xii), whether disclosed or undisclosed, known or unknown, choate or inchoate, filed or unfiled, scheduled or unscheduled, noticed or unnoticed, accrued or unaccrued, asserted or unasserted, recorded or unrecorded, perfected or unperfected, allowed or

disallowed, contingent or non-contingent, liquidated or unliquidated, matured or unmatured, material or non-material, disputed or undisputed, direct or indirect, direct or derivative, and regardless of whether currently exercisable, whether arising prior to or subsequent to the commencement of these chapter 11 cases, and whether imposed by agreement, understanding, law, equity or otherwise (all of the foregoing, the “Claims and Encumbrances”), except for Assumed Liabilities and Permitted Liens.<sup>4</sup> Claims and Encumbrances, if any, shall attach to the portion of the Purchase Price attributable to the Purchased Assets against or in which such holders hold an interest, in the same order of priority, and with the same validity, force and effect, if any, which such holders now have against such Purchased Assets, subject to any claims and defenses the Debtors or their estates may possess with respect thereto. For the avoidance of doubt, neither the Purchaser nor any of its affiliates, members, or shareholders shall have any responsibility whatsoever with respect to the Excluded Liabilities, which shall remain the responsibility of the Debtors before, on, and after Closing.

X. As of the Closing, pursuant and subject to the terms of the APA, the Sale of the Purchased Assets shall effect a legal, valid, enforceable, and effective transfer of the Purchased Assets and will vest the Purchaser with all of the Debtors’ rights, title, and interests in the Purchased Assets, free and clear of all Claims and Encumbrances, other than Assumed Liabilities and Permitted Liens.

Y. Satisfaction of Section 363(f). The Debtors may sell the Purchased Assets free and clear of any and all Claims and Encumbrances (other than the Assumed Liabilities and Permitted

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<sup>4</sup> Permitted Liens under this Sale Order and the APA includes the lien and security interest in favor of Mitsubishi HC Capital America, Inc. in, to, and on the Mitsubishi Collateral (as defined in the *Final Order (I) Authorizing the Debtors to Obtain Postpetition Senior Secured Financing, (II) Authorizing the Debtors to use Cash Collateral on a Limited Basis, (III) Granting Liens and Providing Superpriority Administrative Expense Status, (IV) Granting Adequate Protection, (V) Modifying the Automatic Stay, and (V) Granting Related Relief* [Docket No. 149]).

Liens), including any rights or claims based on any putative successor or transferee liability, as set forth herein, because, in each case, one or more of the standards set forth in sections 363(f)(1)–(5) of the Bankruptcy Code has or have been satisfied. All parties in interest, including, without limitation, any holders of Claims and Encumbrances and any Counterparty to the Assigned Contracts, who did not timely object, or who withdrew their objection, to the Sale, the assumption and assignment of the applicable Assigned Contract or the associated Cure Cost are deemed to have consented to the relief granted herein pursuant to section 363(f)(2) of the Bankruptcy Code. Such holders of Claims and Encumbrances are adequately protected by having their Claims and Encumbrances, if any, attach to the portion of the Purchase Price attributable to the Purchased Assets against or in which such holders hold an interest, in the same order of priority, and with the same validity, force and effect, if any, which such holders now have against such Purchased Assets, subject to any claims and defenses the Debtors or their estates may possess with respect thereto.

Z. No Successorship; No Merger. By virtue of this Sale Order and the consummation of the transactions contemplated under the APA: (i) neither the Purchaser nor any of its affiliates, members, or shareholders are a continuation of any Debtor or its respective estate, there is not substantial continuity between any of the Purchaser or its affiliates, members, or shareholders and the Debtors, and there is no continuity of enterprise between the Debtors and the Purchaser or its affiliates, members, or shareholders; (ii) neither the Purchaser nor any of its affiliates, members, or shareholders are holding themselves out to the public as a continuation of the Debtors or their respective estates; (iii) the transactions do not amount to a consolidation, merger, or *de facto* merger of the Purchaser or its affiliates, members, or shareholders and the Debtors and/or the Debtors' estates; and (iv) neither the Purchaser nor any of its affiliates, members, or shareholders is a successor or assignee of the Debtors or their estates for any purpose including, but not limited

to, under any federal, state or local statute or common law, or revenue, pension, ERISA, COBRA, tax, labor, employment, environmental, escheat or unclaimed property laws, or other law, rule or regulation (including, without limitation, filing requirements under any such laws, rules, or regulations), and neither the Purchaser nor any of its affiliates, members, or shareholders shall have any liability or obligation under the WARN Act or the Comprehensive Environmental Response Compensation and Liability Act and neither the Purchaser nor any of its affiliates, members, or shareholders shall be deemed to be a “successor employer” for purposes of the Internal Revenue Code of 1986, Title VII of the Civil Rights Act of 1964, as amended, the Age Discrimination in Employment Act, the Americans with Disability Act, the Family Medical Leave Act, the National Labor Relations Act, the Labor Management Relations Act, the Older Workers Benefit Protection Act, the Equal Pay Act, the Civil Rights Act of 1866 (42 U.S.C. 1981), COBRA, ERISA, the Multiemployer Pension Protection Act, the Pension Protection Act, and/or the Fair Labor Standards Act. Except for the Assumed Liabilities, (x) the transfer of the Purchased Assets to the Purchaser and (y) the assumption and assignment to the Purchaser of the Assigned Contracts do not and will not subject the Purchaser nor any of its affiliates, members, or shareholders to any liability whatsoever with respect to the operation of the Debtors’ business before the Closing Date or by reason of such transfer under the laws of the United States, any state, territory, or possession thereof, or the District of Columbia, based on, in whole or in part, directly or indirectly, any theory of law or equity including, without limitation, any theory of antitrust or successor or transferee liability.

AA. Assigned Contracts. The Debtors have demonstrated (i) that it is an exercise of their sound business judgment to assume and assign the Assigned Contracts to the Purchaser in connection with the consummation of the Sale and (ii) that the assumption and assignment of the

Assigned Contracts to the Purchaser is in the best interests of the Debtors, their estates and creditors, and all other parties in interest. The Assigned Contracts are an integral part of the Purchased Assets and, accordingly, such assumption, assignment, and cure of any defaults under the Assigned Contracts are reasonable, appropriate, and enhance the value of the Debtors' estates. Any Counterparty to an Assigned Contract that has not filed with the Court an objection to such assumption and assignment in accordance with the terms of the Bidding Procedures Order (including any objections related to Cure Costs or adequate assurance of future performance and objections based on whether applicable law excuses the counterparty from accepting performance by, or rendering performance to, the Purchaser for purposes of section 365(c)(1) of the Bankruptcy Code) is deemed to have consented to such assumption and assignment.

BB. Cure Costs and Adequate Assurance. The Debtors and the Purchaser, as applicable, have, including by way of entering into the APA and agreeing to the provisions relating to the Assigned Contracts therein, (i) cured, or provided adequate assurance of cure, of any default existing prior to the date hereof under any of the Assigned Contracts within the meaning of section 365(b)(1)(A) of the Bankruptcy Code and (ii) provided compensation or adequate assurance of compensation to any party for any actual pecuniary loss to such party resulting from a default prior to the date hereof under any of the Assigned Contracts within the meaning of section 365(b)(1)(B) of the Bankruptcy Code. The Purchaser has, based upon the record of these proceedings, provided adequate assurance of its future performance of and under the Assigned Contracts pursuant to sections 365(b)(1) and 365(f)(2) of the Bankruptcy Code. The Purchaser's covenants under the APA to perform the obligations under the Assigned Contracts after the Closing shall constitute adequate assurance of future performance under the Assigned Contracts being assigned to the Purchaser within the meaning of sections 365(b)(1)(C) and 365(f)(2)(B) of the Bankruptcy Code.

The Cure Costs are hereby deemed to be the sole amounts necessary to cure any and all defaults under the Assigned Contracts under section 365(b) of the Bankruptcy Code.

CC. Time Is of the Essence; Waiver of Stay. Time is of the essence in consummating the Sale. To maximize the value of the Purchased Assets, it is essential that the Sale of the Purchased Assets and assignment and assumption of the Assigned Contracts occur within the time constraints set forth in the APA. Accordingly, there is cause to waive the stays contemplated by Bankruptcy Rules 6004 and 6006.

**NOW THEREFORE, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED THAT:**

**I. The Sale Is Approved**

1. The Sale of the Purchased Assets contemplated by the APA is hereby approved as set forth herein.

**II. Objections Overruled**

2. All objections or reservation of rights with respect to the entry of this Sale Order or to the relief granted herein, whether filed, stated on the record before the Court or otherwise, which have not been withdrawn, waived, or settled, are hereby denied and overruled on the merits. All objections to the entry of this Sale Order or to the relief granted herein that were not timely filed are hereby forever barred.

3. Notice of the Bidding Procedures, the Auction, the Sale, the APA, the assumption and assignment of the Assigned Contracts to the Purchaser pursuant to the APA, the Cure Costs, the Sale Hearing, and all deadlines related thereto was fair and equitable under the circumstances and complied in all respects with sections 102(1), 363, and 365 of the Bankruptcy Code, Bankruptcy Rules 2002, 6004, 6006, 9007, 9008, and 9014, Bankruptcy Local Rules 9013-1(m), and the Bidding Procedures Order.

**III. Approval of the APA**

4. The Purchased Assets constitute property of the Debtors' estates and title thereto is vested in the Debtors' estates within the meaning of section 541 of the Bankruptcy Code. The Debtors (i) have full corporate or other organizational power and authority necessary to execute the APA and any related instruments, documents, and agreements, and to consummate the Sale and all transactions contemplated by the APA, (ii) have taken all corporate or other organizational action necessary to authorize and approve the APA and any related instruments, documents, and agreements, and to consummate the Sale and all transactions contemplated by the APA, and (iii) require no consents or approvals, other than those expressly provided for in the APA, to consummate such transaction.

5. The APA and all other instruments, documents, and agreements related thereto or contemplated thereby, and all of the terms and conditions thereof, are hereby approved. Pursuant to sections 105, 363, and 365 of the Bankruptcy Code, the Debtors are authorized and directed to take any and all actions necessary to fulfill their obligations under, and comply with the terms of, the APA and to consummate the Sale pursuant to and in accordance with the terms and conditions of the APA and this Sale Order, without further leave of the Court. The Debtors are further authorized to pay, without further order of the Court, whether before, at, or after the Closing, any fees, expenses or costs that are required to be paid in order to consummate the transactions contemplated by the APA or perform their obligations under the APA.

6. The Debtors are authorized, in accordance with the APA, to execute and deliver, and empowered to perform under, consummate, and implement, the APA, together with all additional instruments, documents, and other agreements that may be reasonably necessary or desirable to implement the APA, and to take all further actions as may be reasonably requested by

the Purchaser for the purpose of assigning, transferring, granting, conveying and conferring to the Purchaser or reducing to possession, the Purchased Assets, or as may be reasonably necessary or appropriate to the performance of the obligations as contemplated by the APA.

**IV. Binding Effect of Order**

7. This Sale Order and the APA shall be binding upon all creditors of, and equity interest holders in, the Debtors and any and all other parties in interest, including, without limitation, any and all holders of Claims and Encumbrances (including holders of any rights or claims based on any putative successor or transferee liability) of any kind or nature whatsoever, all Counterparties to the Assigned Contracts, the Purchaser and its affiliates, members, or shareholders, all successors and assigns of the Purchaser and its affiliates, members, or shareholders, the Debtors and their affiliates and subsidiaries, and any trustee or successor trustee appointed in the Debtors' chapter 11 cases or upon a conversion to chapter 7 under the Bankruptcy Code. This Sale Order and the APA shall inure to the benefit of the Debtors, their estates and creditors, the Purchaser, their affiliates, members, and shareholders, and the respective successors and assigns of each of the foregoing.

**V. Amendments to the APA**

8. The APA and any related instruments, documents, and agreements, may be modified, amended, supplemented or restated by the parties thereto in a writing signed by such parties and in accordance with the terms thereof, without further order of the Court, provided that any such modification, amendment, supplement or restatement does not have a material adverse effect on the Debtors' estates.



**VI. Transfer of the Purchased Assets Free and Clear**

9. The Purchaser shall assume and be liable for the Assumed Liabilities, and shall not be liable for any Excluded Liabilities. Except as expressly permitted or otherwise specifically provided for in the APA or this Sale Order, pursuant to sections 105(a), 363(b), 363(f), 365(b), and 365(f) of the Bankruptcy Code, upon the Closing, the Purchased Assets shall be transferred to the Purchaser, and the Purchaser shall take title to and possession of the Purchased Assets, free and clear of all Claims and Encumbrances (other than Assumed Liabilities and Permitted Liens). Any holders of Claims and Encumbrances are adequately protected by having their Claims and Encumbrances, if any, attach to the portion of the Purchase Price attributable to the Purchased Assets against or in which such holders hold an interest, in the same order of priority, and with the same validity, force and effect, if any, which such holders now have against such Purchased Assets, subject to any claims and defenses the Debtors or their estates may possess with respect thereto.

**VII. Vesting of Assets in the Purchaser**

10. The transfer of the Purchased Assets to the Purchaser pursuant to the APA shall constitute a legal, valid, and effective transfer of the Purchased Assets on the Closing, and shall vest the Purchaser with all of the Debtors' rights, title, and interests in the Purchased Assets free and clear of all Claims and Encumbrances (other than Assumed Liabilities and Permitted Liens).

**VIII. Release of Liens**

11. Except for holders of Assumed Liabilities and Permitted Liens, each holder of any Claims and Encumbrances in the Purchased Assets (including, without limitation, CRG Financial, LLC (the "DIP Lender") and Prepetition Lender and Prepetition Agent (each as defined in the DIP Term Sheet, together with any successor thereto or assignee thereof)), shall, as of the Closing, be deemed to have waived and released such Claims and Encumbrances, without regard to whether

such holder has executed or filed any applicable release, and such Claims and Encumbrances shall automatically, and with no further action by any party, attach to the portion of the Purchase Price attributable to the Purchased Assets against or in which such holders hold an interest, in the same order of priority, and with the same validity, force and effect, if any, which such holders now have against such Purchased Assets, subject to any claims and defenses the Debtors or their estates may possess with respect thereto. Each holder of any such Claim and Encumbrance (including, without limitation, the DIP Lender and Prepetition Lender and Prepetition Agent) is hereby authorized and directed to execute and deliver any waivers, termination statements, instruments of satisfaction, consents, or releases, as reasonably requested by the Debtors or the Purchaser, to effectuate the foregoing.

12. If any person or entity that has filed any financing statements, mortgages, mechanic's liens, *lis pendens*, or any other documents or agreements evidencing any Claim and Encumbrance on any of the Purchased Assets conveyed pursuant to the APA and this Sale Order shall not have delivered to the Debtors prior to the Closing, in proper form for filing and executed by the appropriate parties, any waivers, termination statements, instruments of satisfaction, consents, or releases of all Claims and Encumbrances which such person or entity has with respect to the Purchased Assets, then (a) the Debtors or the Purchaser are hereby authorized to execute and file such waivers, termination statements, instruments, consents, or releases on behalf of such person or entity with respect to the Purchased Assets, and (b) the Purchaser is hereby authorized to file, register, or otherwise record a certified copy of this Sale Order, which, once filed, registered, or otherwise recorded, shall constitute conclusive evidence of the release of all Claims and Encumbrances in the Purchased Assets of any kind or nature whatsoever.

13. Upon repayment of the DIP Obligations as described in Paragraph 28 hereof (and as defined in the *Final Order (I) Authorizing the Debtors to Obtain Postpetition Senior Secured Financing, (II) Authorizing the Debtors to use Cash Collateral on a Limited Basis, (III) Granting Liens and Providing Superpriority Administrative Expense Status, (IV) Granting Adequate Protection, (V) Modifying the Automatic Stay, and (V) Granting Related Relief* [Docket No. 149] (the “Final DIP Order”)), DIP Lender and each of its respective current and former officers, directors, partners, stockholders, managers, controlling persons, employees, agents, administrators, representatives, advisors, attorneys, investors, parents, predecessors, subsidiaries, successors, assigns, and affiliates (each of the foregoing in their capacity as such, individually and collectively, the “DIP Lender Released Parties”) shall be irrevocably and unconditionally released of any and all claims, actions, refunds, damages, causes of action, choses in action, suits or proceedings, rights of recovery, rights of setoff (except for setoffs exercised prior to the Petition Date), rights of indemnity or contribution, and other similar rights (known and unknown, matured and unmatured, accrued or contingent or liquidated, whether direct or indirect, including direct claims for indemnification or contribution, regardless of whether such rights are currently exercisable), other than claims or causes of action arising from an act or omission that is judicially determined by a final order of a court of competent jurisdiction to have constituted actual fraud, for good and valuable consideration, that the Debtors and Purchaser ever had, now have, or may have against DIP Lender Released Parties in connection with any event, conduct, or circumstance, in each case arising from, connected with, or related to these chapter 11 cases and occurring prior to the repayment of the DIP Obligations.

**IX. Assumption and Assignment of Assigned Contracts**

14. Pursuant to sections 105(a) and 365 of the Bankruptcy Code, and subject to and conditioned upon the Closing, the Debtors' assumption and assignment to the Purchaser of the Assigned Contracts (subject to any agreed upon modifications and amendments to any Assigned Contract between the Purchaser and any Counterparty) is hereby approved, and the requirements of section 365(b)(1) of the Bankruptcy Code with respect thereto are hereby deemed satisfied. The Assigned Contracts includes that certain Commercial Finance Agreement, dated as of October 23, 2023 (as the same may be amended, modified, or supplemented from time to time, the "Mitsubishi Agreement") between Forrest Machining, LLC and Mitsubishi HC Capital America, Inc. and, upon the Closing, the Mitsubishi Agreement, including all liabilities arising thereunder from and after Closing, shall be transferred and assigned to the Purchaser in accordance the terms of this Sale Order and the APA.

15. The Debtors are hereby authorized, in accordance with the APA, and in accordance with sections 105(a) and 365 of the Bankruptcy Code, to (i) assume and assign to the Purchaser the Assigned Contracts, effective upon and subject to the occurrence of the Closing, free and clear of all Claims and Encumbrances (other than Assumed Liabilities and Permitted Liens), which Assigned Contracts, by operation of this Sale Order, shall be deemed assumed and assigned to the Purchaser effective as of the Closing, and (ii) execute and deliver to the Purchaser such instruments, documents, and agreements as the Purchaser may deem necessary to assign and transfer the Assigned Contracts to the Purchaser.

16. The Debtors are authorized to and may assume all of the Assigned Contracts in accordance with section 365 of the Bankruptcy Code. The Debtors are authorized to and may assign each Assigned Contract to the Purchaser in accordance with sections 363 and 365 of the

Bankruptcy Code, and any provisions in any Assigned Contract that prohibit, restrict or condition the assignment of such Assigned Contract on the consent of the counterparty thereto or allow the non-Debtor party to such Assigned Contract to terminate, recapture, impose any penalty, condition, renewal or extension, or modify any term or condition a change of control or upon the assignment of such Assigned Contract shall constitute unenforceable anti-assignment provisions which are expressly preempted under section 365 of the Bankruptcy Code and void and of no force and effect, notwithstanding the chapter 11 filing by the Debtors, the financial condition of the Debtors or any other similar circumstances. All requirements and conditions under sections 363 and 365 of the Bankruptcy Code for the assumption and assignment of the Assigned Contracts by the Debtors to the Purchaser have been satisfied. Upon the Closing, the Assigned Contracts shall be transferred and assigned to, and shall remain in full force and effect for the benefit of, the Purchaser in accordance with their respective terms, notwithstanding any provision in any such Assigned Contract (including those of the type described in sections 365(b)(2), 365(e)(1) and 365(f) of the Bankruptcy Code) that prohibits, restricts, limits, or conditions such assignment or transfer. After the Debtors' transfer and assignment of the Assigned Contracts to the Purchaser, in accordance with sections 363 and 365 of the Bankruptcy Code, the Purchaser shall be fully and irrevocably vested in all right, title, and interest of each Assigned Contract.

17. All defaults and other obligations of the Debtors under the Assigned Contracts occurring, arising, or accruing prior to the assignment thereof to the Purchaser at Closing (without giving effect to any acceleration clauses or any default provisions of the kind specified in section 365(b)(2) of the Bankruptcy Code) shall be deemed cured or satisfied by the payment of the proposed amount necessary, if any, to cure all monetary defaults, if any, under each Assigned Contract in the amounts set forth on the schedule of Cure Costs attached to the Potential

Assignment Notice or any supplement thereto (or any other cure cost reached by agreement with a counterparty to an Assigned Contract), which was served in compliance with the Bidding Procedures Order, or in the *Order Approving Debtors' Motion for Entry of an Order (I) Setting Cure Amounts for Certain Contracts and Leases, and (II) Granting Related Relief* [Docket No. 164], and which Cure Costs shall be satisfied as provided in the APA. For all Assigned Contracts for which a Potential Assignment Notice was served and no objection has been timely and properly filed by the non-Debtor Counterparty, the Purchaser is authorized and directed to pay all Cure Costs required to be paid in accordance with the APA upon the Closing. For any Assigned Contracts for which an Assigned Contract Objection has been timely and properly filed to the assumption and assignment of such Assigned Contract or the Cure Costs relating thereto and such objection remains pending as of the date of this Sale Order, the procedures set forth in the Bidding Procedures with respect to the resolution of such Assigned Contract Objection shall apply.

18. Pursuant to section 365(k) of the Bankruptcy Code, the Debtors and their estates shall be relieved from any liability for any breach of or obligations under any Assigned Contract following the effective date of such assumption and assignment to the Purchaser, subject to the Purchaser's payment of the Cure Costs as provided in the APA and the Bidding Procedures Order.

19. All Counterparties to the Assigned Contracts shall cooperate and expeditiously execute and deliver, upon reasonable request of the Purchaser, and shall not charge the Debtors or the Purchaser for, any instruments, applications, consents, agreements, or other documents that may be required or requested by any public authority or other party or entity to effectuate the applicable transfers in connection with the Sale.

20. Notwithstanding anything to the contrary set forth herein, the assumption and assignment to the Purchaser of the NGSC Agreements and NGSC POs (each as defined in the FMI

Commercial Agreement) shall be subject to the terms and conditions of, and as modified by: (a) that certain Commercial Agreement and Consent to Assumption and Assignment by and between the Debtors and Northrop Grumman Systems Corporation, dated as of February 25, 2025 (the “FMI Commercial Agreement”), which has been approved by the Court pursuant to the *Order Approving Settlement with Northrop Grumman Systems Corporation* [Docket No. 148] (the “FMI Settlement Order”), and (b) that certain Commercial Agreement and Consent to Assumption and Assignment by and between Avem Partners and Northrop Grumman Systems Corporation, dated February 25, 2025. The releases, claim waivers, and claim withdrawal set forth in the FMI Commercial Agreement, which were approved pursuant to the FMI Settlement Order, shall become effective immediately upon the Closing.

**X. Modification of the Automatic Stay; 11 U.S.C. § 525**

21. The automatic stay provisions of section 362 of the Bankruptcy Code are modified to the extent necessary to implement the terms and conditions of the APA and the provisions of this Sale Order. The Purchaser shall not be required to seek or obtain relief from the automatic stay under section 362 of the Bankruptcy Code to enforce any remedies under the APA or any other Sale-related documents.

22. To the extent provided by section 525 of the Bankruptcy Code, no governmental unit (federal or state) may revoke or suspend any permit or license relating to the Purchased Assets sold, transferred, or conveyed to the Purchaser on account of (a) the filing or pendency of these chapter 11 cases or (b) the consummation of the Sale contemplated by the APA or the failure of the Debtors to pay any pre-petition claims of such governmental unit.

**XI. Collection of Purchased Assets**

23. All persons and entities that are in possession of any Purchased Assets on the Closing Date are directed to surrender possession of such Purchased Assets to the Purchaser in accordance with the APA on the Closing Date or at such time thereafter as the Purchaser may request. As of the Closing, the Purchaser and its successors and assigns shall be designated and appointed as the Debtors' true and lawful attorney, with full power of substitution, in the Debtors' name and stead on behalf of and for the benefit of the Purchaser, and its successors and assigns, for the following sole and limited purposes: to have the power to demand and receive any and all of the Purchased Assets and to give receipts and releases for and in respect of the Purchased Assets, or any part thereof, and from time to time to institute and prosecute against third parties for the benefit of the Purchaser, its successors and assigns, proceedings at law, in equity or otherwise, which the Purchaser, and its successors and assigns, may deem proper for the collection or reduction to possession of any of the Purchased Assets.

**XII. Effect of Recordation of Order**

24. This Sale Order, once filed, registered, or otherwise recorded: (a) shall be effective as a conclusive determination that, upon the Closing, all Claims and Encumbrances (other than Assumed Liabilities and Permitted Liens) in the Purchased Assets have been unconditionally released, discharged, and terminated and that the conveyances described herein have been effected; and (b) shall be binding upon and shall govern the acts of all persons and entities including, without limitation, all filing agents, filing officers, title agents, title companies, recorders of mortgages, recorders of deeds, registrars of deeds, administrative agencies, governmental departments, secretaries of state, federal, state, local officials, notaries, protonotaries, and all other persons and entities who may be required by operation of law, the duties of their office, or contract, to accept,



file, register or otherwise record or release any documents or instruments, or who may be required to report or insure any title or state of title in or to, the Purchased Assets. Each and every federal, state, local or foreign government or governmental or regulatory authority, agency, board, bureau, commission, court, department, or other governmental entity is hereby authorized to accept any and all documents and instruments necessary and appropriate to consummate the transactions contemplated by the APA, including, without limitation, recordation of this Sale Order.

**XIII. Good Faith of Purchaser**

25. The Sale contemplated by the APA is undertaken by the Purchaser without collusion and in good faith, as that term is defined in section 363(m) of the Bankruptcy Code, and accordingly, the reversal or modification on appeal of the authorization provided herein to consummate the Sale shall not affect the validity of the Sale (including, without limitation, the assumption and assignment of the Assigned Contracts), unless such authorization and consummation of such Sale are duly and properly stayed pending such appeal.

26. Neither the Debtors nor the Purchaser have engaged in any action or inaction that would cause or permit the Sale to be avoided or costs or damages to be imposed under section 363(n) of the Bankruptcy Code. The consideration provided by the Purchaser for the Purchased Assets under the APA is fair and reasonable and the Sale may not be avoided, and costs and damages may not be imposed, under section 363(n) of the Bankruptcy Code.

**XIV. Sale Proceeds; Payment of Certain Indebtedness**

27. Upon Closing of the Sale of the Purchased Assets, all liens and encumbrances securing claims held by DIP Lender, shall attach to the Sale proceeds with the same validity, extent, and priority as existed with respect to the DIP Collateral (as defined in the Final DIP Order) prior to the Closing.

28. Notwithstanding anything to the contrary set forth herein, within two business days after the Closing Date and the Debtors' receipt of the cash portion of the Purchase Price under the APA, the Debtors shall transfer, or cause to be transferred, proceeds generated from the Sale of the Purchased Assets to the DIP Lender for permanent application against the DIP Obligations (including, without limitation, all accrued and unpaid principal, interest, fees, costs, and expenses on the DIP Loans, including the DIP Fees (each as defined in the Final DIP Order)) in accordance with the terms and conditions of the Final DIP Order and the DIP Documents (as defined in the Final DIP Order) until the DIP Obligations have been paid in full.

**XV. Release**

29. Effective upon, and subject to the occurrence of, the Closing Date, each of the Purchaser, on the one hand, and the Debtors, on the other hand, on behalf of themselves and each of their respective affiliates, subsidiaries, and successors, and all of their respective past, present and future shareholders, partners, members, board of directors and/or supervisors, managers, officers, employees, agents, representatives, attorneys, and advisors (collectively and solely in their capacities as such, their "Related Parties") (each, a "Releasing Party"), shall irrevocably and unconditionally release, remise, and forever discharge each other and each of their respective Related Parties (each, a "Released Party") from any and all suits, legal or administrative proceedings, Claims, demands, damages, losses, costs, liabilities, interest or causes of action whatsoever at law or in equity, known or unknown (collectively, "Losses"), which such Releasing Party might now or subsequently may have, based on, relating to, or arising out of the marketing process, the sale process, the negotiation and formulation of the Sale, the ownership or use of the Purchased Assets, including breaches of statutory or implied warranties, nuisance or other tort actions, rights to punitive damages, or common law rights of contribution; provided, however, that

nothing herein shall release any Losses that any Releasing Party may have against any Released Party under the APA and any related instruments, documents, or agreements, the Bidding Procedures Order, this Sale Order, and any other order of the Court.

**XVI. Prohibition of Actions Against the Purchaser**

30. Except for Assumed Liabilities and Permitted Liens, neither the Purchaser nor any of its affiliates, members, or shareholders shall have any liability or responsibility for any liability or other obligation of the Debtors or any of their predecessors and affiliates arising under or related to the Purchased Assets or otherwise or any other Claims and Encumbrances in or against the Debtors or the Purchased Assets arising or attributable to periods prior to the Closing Date, including, without limitation, successor or vicarious liability of any kind or character, based on any theory of antitrust, warranty, product liability, environmental, successor or transferee liability, labor law, ERISA, COBRA, de facto merger, mere continuation, or substantial continuity, whether known or unknown, now existing or hereafter arising, whether fixed or contingent, liquidated or unliquidated, including, without limitation, liabilities on account of any taxes arising, accruing, or payable under, out of, in connection with, or in any way relating to the operation of the Debtors' business prior to the Closing Date or, except as may otherwise be provided in the APA, any claims under the WARN Act or any claims related to wages, benefits, severance, or vacation pay owed to employees or former employees of the Debtors. Upon the Closing, all entities or persons are permanently and forever prohibited, barred, estopped, and enjoined from asserting against any of the Purchaser or its affiliates, members, or shareholders or any of their successors and assigns, or any of their assets, or the Purchased Assets, any Claims and Encumbrances (other than Assumed Liabilities and Permitted Liens), including, without limitation, under any theory of successor or vicarious liability of any kind or character, based on any theory of antitrust, warranty, product

liability, environmental, successor or transferee liability, labor law, ERISA, COBRA, de facto merger, mere continuation, or substantial continuity, whether known or unknown, now existing or hereafter arising, whether fixed or contingent, liquidated or unliquidated.

31. To the greatest extent available under applicable law, Purchaser shall be authorized, as of the Closing Date, to operate under any license, permit, registration and governmental authorization or approval of the Debtors with respect to the Purchased Assets to the extent transferred in the APA, and all such licenses, permits, registrations, and governmental authorizations and approvals are deemed to have been transferred to Purchaser as of the closing Date.

**XVII. No Interference**

32. Following the Closing, no holder of Claims and Encumbrances in or against the Debtors or the Purchased Assets shall interfere with the Purchaser's title to or use and enjoyment of the Purchased Assets based on or related to such Encumbrances or any actions that the Debtors may take in their bankruptcy cases or any successor cases.

**XVIII. Retention of Jurisdiction**

33. The Court retains jurisdiction to, among other things, interpret, enforce and implement the terms and provisions of this Sale Order and the APA, all amendments thereto, any waivers and consents thereunder, and each related instruments, documents, and agreements in all respects, including, but not limited to, retaining jurisdiction to: (a) compel delivery of the Purchased Assets or performance of other obligations owed to the Purchaser; (b) compel delivery of the Purchase Price or performance of other obligations owed to the Debtors; (c) resolve any disputes arising under or related to the APA, except as otherwise provided therein; (d) interpret, implement, and enforce the provisions of this Sale Order; and (e) protect the Purchaser and its

affiliates, members, and shareholders against (1) any Claims and Encumbrances in or against the Debtors or the Purchased Assets of any kind or nature whatsoever and (2) any creditors or other parties in interest regarding the turnover of the Purchased Assets that may be in their possession.

**XIX. No Stay of Order**

34. Notwithstanding Bankruptcy Rules 6004(h),6006(d) and 7062(g), this Sale Order shall be effective and enforceable immediately upon entry and its provisions shall be self-executing. In the absence of any person or entity obtaining a stay pending appeal, the Debtors and the Purchaser are free to close the Sale under the APA at any time pursuant to the terms thereof.

**XX. Good Faith Purchaser**

35. The Debtors and their respective officers, directors, employees, agents, advisors, attorneys, and other representatives actively participated in the marketing process and respectively acted in good faith. The Sale contemplated by the APA is undertaken by the Purchaser in good faith, as such term is used in section 363(m) of the Bankruptcy Code, and accordingly, the reversal or modification on appeal of the authorization provided herein to consummate the Sale shall not affect the validity of the Sale of the Purchased Assets to the Purchaser (including the assumption and assignment of any Assigned Contract), unless such authorization is duly stayed pending such appeal. The Purchaser is a good faith purchaser of the Purchased Assets, and is entitled to all of the protections afforded by section 363(m) of the Bankruptcy Code.

**XXI. Miscellaneous**

36. Any M&A Transaction Fees<sup>5</sup> due to Configure Partners, LLC (“Configure”) as a result of the closing of the Sale shall be segregated and escrowed (for the exclusive benefit of Configure) from the cash proceeds of the Sale 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. For the avoidance of doubt, nothing in this Sale 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; provided, further, that nothing in this Sale Order shall be interpreted to allow the payment of the M&A Transaction Fee to Configure without an application to this Court for the payment of the such fee.

37. Nothing in this Sale Order or the APA releases, nullifies, precludes or enjoins the enforcement of any police or regulatory liability to a governmental unit that any entity would be subject to as the post-sale owner or operator of property after the date of entry of this Sale Order; *provided, however*, that the Purchaser shall not assume any liability to a Governmental Unit for penalties for days of violation prior to closing of the sale. Nothing in this Sale Order or the APA authorizes the transfer or assignment of any governmental (a) license, (b) permit, (c) registration, (d) authorization, or (e) approval, or the discontinuation of any obligation thereunder, without

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<sup>5</sup> 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 is attached as Exhibit B to the *Debtors’ Application for Entry of an Order (A) Authorizing the Retention and Employment of Configure Partners, LLC and Configure Partners Securities, LLC as Investment Banker for the Debtors and Debtors in Possession, Pursuant to 11 U.S.C. §§ 327(a) and 328, Effective as of the Petition Date, (B) Waiving Certain Information Requirements Imposed by Local Rule 2016-1, and (C) Granting Related Relief.*

compliance with all applicable legal requirements and approvals under police or regulatory law. Nothing in this Sale Order divests any tribunal of any jurisdiction it may have under police or regulatory law to interpret this Sale Order or to adjudicate any defense asserted under this Sale Order.

**XXII. Inconsistencies with Prior Orders, Pleadings, or Agreements**

38. To the extent of any conflict between the APA and this Sale Order, the terms of this Sale Order shall govern. To the extent this Sale Order is inconsistent or conflicts with any prior order or pleading in these chapter 11 cases, the terms of this Sale Order shall govern and any prior orders shall be deemed amended or otherwise modified to the extent required to permit consummation of the Sale.

**XXIII. Failure to Specify Provisions**

39. The failure to specifically reference any particular provisions of the APA or other related instruments, documents, and agreements, in this Sale Order shall not diminish or impair the effectiveness of such provisions, it being the intent of the Court that the APA or other related instruments, documents, and agreements be authorized and approved in their entirety.

**Exhibit 1**

**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**

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**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., 26<sup>th</sup> 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

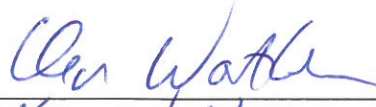
By:   
Name: ERIC ELLIS  
Title: CEO

DYNAMIC AEROSTRUCTURES INTERMEDIATE  
LLC

By:   
Name: ERIC ELLIS  
Title: CEO

**PURCHASER:**

FMI HOLDCO LLC

By:   
Name: Ken Wotler  
Title: CFO

**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**

# **EXHIBIT B**

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

In re:  Dynamic Aerostructures LLC, <i>et al.</i> ,  Debtors. <sup>1</sup>	Chapter 11  Case No. 25-10292 (LSS)  (Jointly Administered)  Re: Docket Nos. 16, <a href="#">169</a> , & <a href="#">187</a>
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**ORDER (I) APPROVING AND AUTHORIZING 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**

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Upon the motion [Docket No. 16] (the "Motion")<sup>2</sup> of the above-captioned debtors and debtors in possession (collectively, the "Debtors") for entry of an order (this "Sale Order"): (a) authorizing and approving the Debtors' entry into and performance under the Asset Purchase Agreement, dated as of February 25, 2025 (as amended, restated, supplemented, or otherwise modified from time to time and together with all schedules and exhibits thereto, the "APA") by and among certain of the Debtors, as sellers, and FMI Holdco LLC, as purchaser (the "Purchaser"), a copy of which is attached hereto as **Exhibit 1**; (b) authorizing and approving the sale (the "Sale") of the Purchased Assets (as defined in the APA), free and clear of all claims and Liens (other than Assumed Liabilities and Permitted Liens); (c) authorizing the assumption and assignment of certain executory contracts and unexpired leases in connection with the Sale;

<sup>1</sup> 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.

<sup>2</sup> Capitalized terms used but not otherwise defined herein have the meanings ascribed to them in the Motion, the Bidding Procedures, or the APA, as applicable.



and (d) granting related relief; and the Court having entered the *Order 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*, dated ~~☛~~[March 25](#), 2025 [Docket No. ~~☛~~[169](#)] (the "Bidding Procedures Order") approving, among other things, the Bidding Procedures, the Sale Notice, the Notice of Successful Bidder, the Assumption and Assignment Procedures, and authorizing and approving the Bid Protections ~~and Debtors' entry into the Stalking Horse APA~~[\(subject to the terms of the Bidding Procedures Order\)](#); and the Court having jurisdiction over this matter pursuant to 28 U.S.C. §§ 157(a) and 1334; and the Court having found that this is a core proceeding pursuant to 28 U.S.C. § 157(b); and the Court having found that it may enter a final order consistent with Article III of the United States Constitution; and the 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 the Debtors, in consultation with the Consultation Parties (as defined in the Bidding Procedures), having determined that the Purchaser has submitted the highest or otherwise best bid for the Purchased Assets and determined that the Purchaser is the Successful Bidder in accordance with the Bidding Procedures; and the Court having found that the relief requested in the Motion, as further explained in and supported by 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. 17] (the "Bidding Procedures Declaration"), is in the

best interests of the Debtors' estates, their creditors, and other parties in interest; and the Court having found that the Debtors' notice of the Motion and opportunity for a hearing on the Motion were appropriate and no other notice need be provided; and the Court having reviewed the Motion and having heard from all parties in interest who wished to be heard regarding statements in support of or objections to the relief requested therein at a hearing before the Court on [●]April 7, 2025 (the "Sale Hearing") to consider approval of the Sale pursuant to the terms of the APA; and the Court having determined that the legal and factual bases set forth in the Motion and at the Sale Hearing establish just cause for the relief granted herein; and upon all of the proceedings had before the Court; and after due deliberation and sufficient cause appearing therefor, it is HEREBY ORDERED THAT:<sup>3</sup>

A. Jurisdiction and Venue. The Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157(a) and 1334, and venue is proper before the Court pursuant to 28 U.S.C. §§ 1408 and 1409. This is a core proceeding pursuant to 28 U.S.C. § 157(b).

B. Bases for Relief. The statutory and other legal bases for the relief provided herein are sections 105(a), 363, 365, 503, and 507 of title 11 of the United States Code, 11 U.S.C. §§ 101–1532 (the "Bankruptcy Code"), and Rules 2002, 6004, 6006, 9007, 9008, and 9014 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"), and Rules 2002-1, 6004-1, 9006-1, and 9013-1(m) of the Local Rules of the United States Bankruptcy Court for the District of Delaware (the "Bankruptcy Local Rules"). The consummation of the transactions contemplated by the APA and this Sale Order is legal, valid, and properly authorized under all

<sup>3</sup> 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, as 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.

applicable provisions of the Bankruptcy Code, the Bankruptcy Rules, and the Bankruptcy Local Rules, and the Debtors and the Purchaser have complied with all of the applicable requirements of such sections and rules in respect of such transactions.

C. Final Order. This Sale Order constitutes a final order within the meaning of 28 U.S.C. § 158(a). Notwithstanding Bankruptcy Rules 6004(h) and 6006(d), the Court expressly finds that there is no just reason for delay in the implementation of this Sale Order, waives any stay, and expressly directs entry of judgment as set forth herein.

D. Notice of the Motion. As evidenced by the affidavits or certificates of service and publication notice filed with the Court, proper, timely, adequate, and sufficient notice of the Motion, the Bidding Procedures, the Auction, the Sale (and all transactions contemplated in connection therewith), the identity of the Purchaser, the terms of the APA, the assumption and assignment of the Assigned Contracts to the Purchaser pursuant to the APA, the Cure Costs,<sup>4</sup> the Sale Hearing, and all deadlines related thereto, has been provided to all interested parties, in accordance with sections 102(1), 363, and 365 of the Bankruptcy Code, Bankruptcy Rules 2002, 6004, 6006, 9007, 9008, and 9014, Bankruptcy Local Rules 9013-1(m), and in compliance with the Bidding Procedures Order.

E. Specifically, the Debtors served the Bidding Procedures Order on the following parties or their respective counsel, as reflected in the certificate of service filed on ~~●~~ [April 2, 2025](#) [Docket No. ~~●~~ [188](#)]: (i) the Office of the United States Trustee for the District of Delaware (Attn: Rosa Sierra-Fox; email: [rosa.sierra-fox@usdoj.gov](mailto:rosa.sierra-fox@usdoj.gov)) (the “U.S. Trustee”); (ii) ~~counsel to any statutory committee of unsecured creditors appointed in these chapter 11 cases;~~

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<sup>4</sup> ~~Except as otherwise provided herein, “Cure Costs” shall have the meaning provided in the Bidding Procedures Order.~~

(~~iii~~) the Debtors' thirty (30) largest unsecured creditors on a consolidated basis; (~~iv~~iii) counsel to the administrative agents for the Debtors' prepetition and postpetition credit facilities, (~~v~~iv) all parties who have expressed a written interest in some or all of the Debtors' assets; (~~vi~~v) 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; (~~vii~~vi) the Internal Revenue Service; (~~viii~~vii) all applicable state and local taxing authorities; (~~ix~~viii) the United States Attorney for the District of Delaware; (~~x~~ix) the Securities and Exchange Commission; (~~xi~~x) the state attorneys general for states in which the Debtors conduct business; (~~xii~~xi) all non-Debtor parties to the Debtors' executory contracts and unexpired leases; (~~xiii~~xii) all environmental authorities having jurisdiction over any of the Assets, including the Environmental Protection Agency; (~~xiv~~xiii) all of the Debtors' other known creditors; and (~~xv~~xiv) any party that has requested notice pursuant to Bankruptcy Rule 2002 (collectively, the "Notice Parties").

F. The Sale Notice was ~~filed [Docket No. [●]]~~, published on the Debtors' case website, served on all parties required to receive such notice under the Bidding Procedures Order and applicable rules, and published in ~~the USA Today~~ [national edition of the The New York Times](#), as reflected in the affidavit of publication filed on ~~[●]~~[April 2](#), 2025 [Docket No. ~~[●]~~[189](#)], in accordance with the Bidding Procedures Order and was sufficient and proper notice to any other interested parties, including those parties whose identities are unknown to the Debtors. Service of the Sale Notice was appropriate and reasonably calculated to provide all interested parties with timely and proper notice of the proposed Sale and the Bidding Procedures and the dates and deadlines related thereto. With respect to any parties that may have claims against the Debtors, but whose identities are not reasonably ascertainable by the Debtors, the publication of

the Sale and Auction Notice was sufficient and reasonably calculated under the circumstances to reach such parties.

G. The Potential Assignment Notice ~~was~~ and supplement thereto were filed [Docket ~~No.~~ Nos. [●]171 and 179] and served on all parties required to receive such notice under the Bidding Procedures Order and applicable rules, in accordance with the Bidding Procedures Order (including the Counterparties), identifying, among other things, the Counterparties, the Contracts and Leases, and any related Cure Costs. The service of the Potential Assignment Notice was good, sufficient, and appropriate under the circumstances and in full compliance with the Bidding Procedures Order, and no further notice need be provided in respect of the Debtors' assumption and assignment to the Purchaser of the Assigned Contracts, including with respect to adequate assurance of future performance or the Cure Costs. All Counterparties to the Contracts and Leases have had an adequate opportunity to object to the potential assumption and assignment of the Contracts and Leases and the Cure Costs (including objections related to the adequate assurance of future performance and objections based on whether applicable law excuses such Counterparty from accepting performance by, or rendering performance to, the Purchaser for purposes of section 365(c)(1) of the Bankruptcy Code).

H. The Debtors filed with the Court and published on the case website the Notice of Successful Bidder and Cancellation of Auction [Docket No. ~~[●]187~~] in accordance with the Bidding Procedures Order and applicable rules. Service of the Notice of Successful Bidder and Cancellation of Auction was appropriate and reasonably calculated to provide all interested parties with timely and proper notice of the ~~conclusion~~ cancellation of the Auction, ~~and the identities~~ identity of the Successful Bidder ~~and Back-Up Bidder, as applicable.~~

I. The notices described in the foregoing Paragraphs D–H are good, sufficient, and appropriate under the circumstances, and no other or further notice of the Bidding Procedures, the Auction, the Sale, the assumption and assignment of the Assigned Contracts to the Purchaser pursuant to the APA, the Cure Costs, the Sale Hearing, and all deadlines related thereto is or shall be required.

J. Marketing and Sale Process. The Sale of the Purchased Assets to the Purchaser pursuant to the Bidding Procedures is duly authorized under sections 363(b)(1) and 363(f) of the Bankruptcy Code, Bankruptcy Rule 6004(f), and Bankruptcy Local Rule 6004-1. As demonstrated by (i) the testimony and other evidence proffered or adduced at the Sale Hearing and (ii) the representations of counsel made on the record at the Sale Hearing, the Debtors and their professionals, agents, and other representatives engaged in a robust marketing and sale process and have marketed the Purchased Assets and conducted all aspects of the sale process in good faith and in compliance with the Bidding Procedures and the Bidding Procedures Order. The marketing process undertaken by the Debtors and their professionals, agents, and other representatives with respect to the Purchased Assets has been adequate and appropriate and reasonably calculated to maximize value for the benefit of all stakeholders. The Bidding Procedures ~~and the Auction~~ were duly noticed, were substantively and procedurally fair to all parties, and were conducted in a diligent, non-collusive, fair and good-faith manner.

K. ~~The Debtors conducted an Auction on [●], 2025, in accordance with~~ As set forth in the Notice of Successful Bidder and Cancellation of Auction, other than the Stalking Horse Bid, the Debtors did not receive any Qualified Bids prior to the Bid Deadline. Accordingly, pursuant to the Bidding Procedures and Bidding Procedures Order, the Debtors cancelled the Auction and designated the Stalking Horse Bid as the Successful Bid. As established by the

record of the Sale Hearing, the Bidding Procedures and the Bidding Procedures Order have been complied with in all material respects by the Debtors and the Purchaser. The Bidding Procedures, together with the substantial prepetition marketing efforts, afforded a full, fair, and reasonable opportunity for any entity or person to make a higher or otherwise better offer to purchase the Purchased Assets, and the APA constitutes the best or otherwise highest offer for the Purchased Assets.

L. Corporate Authority. The Debtors are the sole and lawful owners of the Purchased Assets. The Purchased Assets constitute property of the Debtors' estates and title thereto is vested in the Debtors' estates within the meaning of section 541 of the Bankruptcy Code. The Debtors (i) have full corporate or other organizational power and authority necessary to execute the APA and to consummate the Sale and all transactions contemplated by the APA, (ii) have taken all corporate or other organizational action necessary to authorize and approve the APA and to consummate the Sale and all transactions contemplated by the APA, and (iii) require no consents or approvals, other than those expressly provided for in the APA, to consummate such transaction.

M. Highest or Otherwise Best Offer; Business Judgment. The Debtors have demonstrated sufficient basis to enter into the APA, sell the Purchased Assets on the terms outlined therein, and assume and assign the Assigned Contracts to the Purchaser under sections 363 and 365 of the Bankruptcy Code. All such actions are appropriate exercises of the Debtors' business judgment, maximize the value of the Purchased Assets, satisfy applicable fiduciary duties, and are in the best interests of the Debtors, their creditors, their estates, and other parties in interest. Approval of the Sale pursuant to the APA at this time is in the best interests of the Debtors, their creditors, their estates, and all other parties in interest.

N. The offer of the Purchaser, upon the terms and conditions set forth in the APA, including the total consideration to be realized by the Debtors thereunder: (i) is the highest or otherwise best offer received by the Debtors for the Purchased Assets after the prepetition and postpetition marketing efforts, including through the Bidding Procedures; (ii) is in the best interests of the Debtors, their creditors, their other stakeholders, their estates, and all other parties in interest; and (iii) constitutes ~~full and~~ adequate consideration, is fair and reasonable and constitutes reasonably equivalent value, fair consideration, and fair value for the Purchased Assets under the Bankruptcy Code, the Uniform Fraudulent Transfer Act, the Uniform Voidable Transactions Act, and under the laws of the United States, any state, territory, possession, or the District of Columbia.

O. Neither the Debtors nor the Purchaser or any of their respective affiliates, members, or shareholders (i) have entered into the APA or proposes to consummate the Sale for the purpose of hindering, delaying, or defrauding the Debtors' present or future creditors or (ii) are entering into the APA or proposing to consummate the Sale fraudulently, for the purpose of statutory or common law fraudulent conveyance and fraudulent transfer claims, whether under the Bankruptcy Code or under the laws of the United States, any state, territory, possession thereof or the District of Columbia or any other applicable jurisdiction with laws substantially similar to the foregoing.

P. Good and sufficient reasons for approval of the APA have been articulated by the Debtors. The Debtors have demonstrated compelling circumstances for the Sale outside (i) the ordinary course of business, pursuant to section 363(b) of the Bankruptcy Code, and (ii) a plan of reorganization or liquidation (as the case may be), in that, among other things, the immediate consummation of the Sale to the Purchaser is necessary and appropriate to preserve and to



maximize the value of the Debtors' estates. To maximize the value of the Purchased Assets, it is essential that the consummation of the Sale occurs promptly.

Q. The Sale of the Purchased Assets outside of a chapter 11 plan pursuant to the APA neither impermissibly restructures the rights of the Debtors' creditors or equity interest holders nor impermissibly dictates the terms of a chapter 11 plan of the Debtors. The APA and the Sale do not constitute a *sub rosa* chapter 11 plan.

R. On the terms and subject to the conditions contained in the APA, the Purchaser agreed to provide the Purchase Price as aggregate consideration for the Purchased Assets, at the Closing of the Sale. On or prior to the Closing, the Purchaser shall pay the Cure Costs in respect of the Assigned Contracts on the terms set forth under the APA and the Bidding Procedures Order.

S. Opportunity to Object. A reasonable opportunity to object or be heard with respect to the Motion, the Bidding Procedures, the Auction, the Sale (and all transactions contemplated in connection therewith), the identity of the Purchaser, the terms of the APA, the assumption and assignment of the Assigned Contracts to the Purchaser pursuant to the APA, and the Cure Costs has been afforded to all interested parties, including, without limitation, the Notice Parties.

T. Good Faith Purchasers; Arm's Length Sale. The Debtors and their respective officers, directors, employees, agents, advisors, attorneys, and other representatives that actively participated in the marketing process, ~~both prepetition and~~ postpetition, ~~and respectively~~ acted in good faith. The APA was negotiated, proposed, and entered into by the Debtors and the Purchaser without collusion, in good faith, and from arm's length bargaining positions. Neither the Debtors, nor the Purchaser, nor any affiliates, members, or shareholders of the Purchaser

have engaged in any conduct that would cause or permit the APA or the Sale to be avoided, or costs or damages to be imposed, under section 363(n) of the Bankruptcy Code.

U. The Purchaser is a good-faith purchaser under section 363(m) of the Bankruptcy Code and, as such, is entitled to all of the protections afforded thereby. In particular: (i) the Purchaser recognizes that the Debtors were free to deal with any other party interested in purchasing the Purchased Assets; (ii) neither the Purchaser nor any of its affiliates, members, or shareholders in any way induced or caused the chapter 11 filing by the Debtors; (iii) neither the Purchaser nor any of its affiliates, members, or shareholders have violated section 363(n) of the Bankruptcy Code by any action or inaction; (iv) no common identity of directors, officers, or controlling stakeholders exists between any of the Purchaser, its affiliates, members, or shareholders and any of the Debtors; (v) the Purchaser agreed to subject its bid to the competitive bid procedures set forth in the Bidding Procedures Order; (vi) all payments to be made by the Purchaser and other agreements or arrangements entered into by the Purchaser in connection with the Sale have been disclosed; and (vii) neither the Purchaser nor any of its affiliates, members, or shareholders have acted in a collusive manner with any person and the Purchase Price was not controlled by any agreement among third parties.

V. Neither the Purchaser nor any affiliates, members, officers, directors, shareholders or any of its or their respective successors or assigns is an “insider” or “affiliate” of any of the Debtors, as those terms are defined in sections 101(31) and 101(2) of the Bankruptcy Code. The Purchaser’s advisors, agents, and other representatives have complied in all respects with the Bidding Procedures Order and all other applicable orders of the Court in negotiating and entering into the APA. The APA complies with the Bidding Procedures Order and all other applicable

orders of the Court. The Purchaser is therefore entitled to all of the protections afforded under section 363(m) of the Bankruptcy Code.

W. Free and Clear Transfer Required by the Purchaser. The Purchaser would not have entered into the APA and would not have consummated the Sale, thus adversely affecting the Debtors, their estates, and their creditors, if the Sale (including all provisions in connection therewith, including the assumption and assignment of the Assigned Contracts to the Purchaser) were not free and clear of all (i) Liens, mortgages, deeds of trust, pledges, charges, security interests, option, rights of first offer or first refusal (or any other type of preferential arrangement), hypothecations, encumbrances, easements, servitudes, leases or subleases, licenses or sublicenses, rights-of-way, pre-emptive right, encroachments, restrictive covenants, restrictions on transferability or other similar restrictions, interests or rights under any operating agreement, rights of offset or recoupment, right of use or possession, or other liens (including mechanic's, materialman's, possessory and other consensual and non-consensual liens and statutory liens), judgments, penalties, charges of any kind or nature, including any restriction on use, sale, voting, disposition, transfer, receipt of income or other exercise of any attributes of ownership, or any rights that purport to give any party a right of first refusal or consent with respect to the Debtors' interest in the Purchased Assets or any similar rights; (ii) all claims as defined in section 101(5) of the Bankruptcy Code and jurisprudence interpreting the Bankruptcy Code, including, without limitation, all claims, counterclaims, cross-claims, third party claims, debt, rights, remedies, or causes of action (whether in law or in equity), proceedings, warranties, contractual rights, guarantees, indemnities, claims for recovery, reimbursement, subrogation, setoff (except to the extent exercised prepetition), recoupment, indemnity or contribution, obligations, demands, expenses, commitments, restrictions, responsibilities, or liabilities of any

kind or nature whatsoever arising in connection with or relating to the Debtors, their operations, their business, their liabilities, the Purchased Assets, the Debtors' marketing and bidding process with respect to the Purchased Assets, the Assigned Contracts, or the transactions contemplated by the APA; (iii) all claims, causes of action, or rights based on or related to successor or transferee liability, products liability, alter-ego liability, environmental liability, or tax liability, orders or decrees of any court or foreign or domestic governmental entity; (iv) any and all equity or other interests of any kind or nature whatsoever in or with respect to the Debtors, the Purchased Assets, or the Assigned Contracts; (v) any rights that purport to give any party a right or option to effect any forfeiture, modification, right of first offer or first refusal, or consents, or termination of the Debtors' or the Purchaser's interest in the Purchased Assets, or any similar rights; (vi) any labor, collective bargaining, pension, retiree, and employment claims and any claims, causes of action, or rights under labor, collective bargaining, retirement, or employment agreements; (vii) any claims, causes of action, or rights related to intercompany loans and receivables; (viii) any claims, causes of action, or rights under pension, multiemployer (as such term is defined in Section 3(37) or Section 4001(a)(3) of the Employee Retirement Income Security Act of 1974 (as amended, "ERISA")), health or welfare, compensation or other employee benefit plans, agreements, practices, and programs; (ix) any employee claims related to worker's compensation, occupational disease, or unemployment or temporary disability, including, without limitation, claims that might otherwise arise under or pursuant to (a) ERISA, (b) the Fair Labor Standards Act, (c) Title VII of the Civil Rights Act of 1964, (d) the Federal Rehabilitation Act of 1973, (e) the National Labor Relations Act, (f) the Age Discrimination and Employment Act of 1967 and Age Discrimination in Employment Act, as amended, (g) the Americans with Disabilities Act of 1990, (h) the Consolidated Omnibus Budget

Reconciliation Act of 1985, as amended, including, without limitation, the requirements of Part 6 of Subtitle B of Title I of ERISA and Section 4980B of the Internal Revenue Code and of any similar state law (collectively, “COBRA”), (i) state discrimination laws, (j) state unemployment compensation laws or any other similar state laws, (k) any other state or federal benefits or claims relating to any employment with the Debtors or any of their predecessors, or (l) the Workers Adjustment and Retraining Notification Act of 1988, as amended, 929 U.S.C. §§ 210 et seq. (“WARN Act”), or any similar foreign, state or local law; (x) any claims, causes of action, or rights under any bulk sales or similar law and any tax laws, statutes, regulations, or ordinances, including, without limitation, the Internal Revenue Code of 1986, as amended, and any taxes arising under or out of, in connection with, or in any way relating to the Purchased Assets prior to the Closing, including, without limitation, any *ad valorem* taxes assessed by any applicable taxing authority; (xi) any unexpired and executory contract or unexpired lease that is not an Assigned Contract; and (xii) any other Excluded Liabilities, in case of each of the foregoing (i) through (xii), whether disclosed or undisclosed, known or unknown, choate or inchoate, filed or unfiled, scheduled or unscheduled, noticed or unnoticed, accrued or unaccrued, asserted or unasserted, recorded or unrecorded, perfected or unperfected, allowed or disallowed, contingent or non-contingent, liquidated or unliquidated, matured or unmatured, material or non-material, disputed or undisputed, direct or indirect, direct or derivative, and regardless of whether currently exercisable, whether arising prior to or subsequent to the commencement of these chapter 11 cases, and whether imposed by agreement, understanding, law, equity or otherwise (all of the foregoing, the “Claims and Encumbrances”), except for Assumed Liabilities and Permitted Liens.<sup>4</sup> Claims and Encumbrances, if any, shall attach to the portion of the

<sup>4</sup> Permitted Liens under this Sale Order and the APA includes the lien and security interest in favor of Mitsubishi HC Capital America, Inc. in, to, and on the Mitsubishi Collateral (as defined in the Final Order (I) Authorizing

Purchase Price attributable to the Purchased Assets against or in which such holders hold an interest, in the same order of priority, and with the same validity, force and effect, if any, which such holders now have against such Purchased Assets, subject to any claims and defenses the Debtors or their estates may possess with respect thereto. For the avoidance of doubt, neither the Purchaser nor any of its affiliates, members, or shareholders shall have any responsibility whatsoever with respect to the Excluded Liabilities, which shall remain the responsibility of the Debtors before, on, and after Closing.

X. As of the Closing, pursuant and subject to the terms of the APA, the Sale of the Purchased Assets shall effect a legal, valid, enforceable, and effective transfer of the Purchased Assets and will vest the Purchaser with all of the Debtors' rights, title, and interests in the Purchased Assets, free and clear of all Claims and Encumbrances, other than Assumed Liabilities and Permitted Liens.

Y. Satisfaction of Section 363(f). The Debtors may sell the Purchased Assets free and clear of any and all Claims and Encumbrances (other than the Assumed Liabilities and Permitted Liens), including any rights or claims based on any putative successor or transferee liability, as set forth herein, because, in each case, one or more of the standards set forth in sections 363(f)(1)–(5) of the Bankruptcy Code has or have been satisfied. All parties in interest, including, without limitation, any holders of Claims and Encumbrances and any Counterparty to the Assigned Contracts, who did not timely object, or who withdrew their objection, to the Sale, the assumption and assignment of the applicable Assigned Contract or the associated Cure Cost

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HC Capital America, Inc. in, to, and on the Mitsubishi Collateral (as defined in the *Final Order (I) Authorizing the Debtors to Obtain Postpetition Senior Secured Financing, (II) Authorizing the Debtors to use Cash Collateral on a Limited Basis, (III) Granting Liens and Providing Superpriority Administrative Expense Status, (IV) Granting Adequate Protection, (V) Modifying the Automatic Stay, and (V) Granting Related Relief* [Docket No. 149]).

are deemed to have consented to the relief granted herein pursuant to section 363(f)(2) of the Bankruptcy Code. Such holders of Claims and Encumbrances are adequately protected by having their Claims and Encumbrances, if any, attach to the portion of the Purchase Price attributable to the Purchased Assets against or in which such holders hold an interest, in the same order of priority, and with the same validity, force and effect, if any, which such holders now have against such Purchased Assets, subject to any claims and defenses the Debtors or their estates may possess with respect thereto.

Z. No Successorship; No Merger. By virtue of this Sale Order and the consummation of the transactions contemplated under the APA: (i) neither the Purchaser nor any of its affiliates, members, or shareholders are a continuation of any Debtor or its respective estate, there is not substantial continuity between any of the Purchaser or its affiliates, members, or shareholders and the Debtors, and there is no continuity of enterprise between the Debtors and the Purchaser or its affiliates, members, or shareholders; (ii) neither the Purchaser nor any of its affiliates, members, or shareholders are holding themselves out to the public as a continuation of the Debtors or their respective estates; (iii) the transactions do not amount to a consolidation, merger, or *de facto* merger of the Purchaser or its affiliates, members, or shareholders and the Debtors and/or the Debtors' estates; and (iv) neither the Purchaser nor any of its affiliates, members, or shareholders is a successor or assignee of the Debtors or their estates for any purpose including, but not limited to, under any federal, state or local statute or common law, or revenue, pension, ERISA, COBRA, tax, labor, employment, environmental, escheat or unclaimed property laws, or other law, rule or regulation (including, without limitation, filing requirements under any such laws, rules, or regulations), and neither the Purchaser nor any of its affiliates, members, or shareholders shall have any liability or obligation under the WARN Act

or the Comprehensive Environmental Response Compensation and Liability Act and neither the Purchaser nor any of its affiliates, members, or shareholders shall be deemed to be a “successor employer” for purposes of the Internal Revenue Code of 1986, Title VII of the Civil Rights Act of 1964, as amended, the Age Discrimination in Employment Act, the Americans with Disability Act, the Family Medical Leave Act, the National Labor Relations Act, the Labor Management Relations Act, the Older Workers Benefit Protection Act, the Equal Pay Act, the Civil Rights Act of 1866 (42 U.S.C. 1981), COBRA, ERISA, the Multiemployer Pension Protection Act, the Pension Protection Act, and/or the Fair Labor Standards Act. Except for the Assumed Liabilities, (x) the transfer of the Purchased Assets to the Purchaser and (y) the assumption and assignment to the Purchaser of the Assigned Contracts do not and will not subject the Purchaser nor any of its affiliates, members, or shareholders to any liability whatsoever with respect to the operation of the Debtors’ business before the Closing Date or by reason of such transfer under the laws of the United States, any state, territory, or possession thereof, or the District of Columbia, based on, in whole or in part, directly or indirectly, any theory of law or equity including, without limitation, any theory of antitrust or successor or transferee liability.

AA. Assigned Contracts. The Debtors have demonstrated (i) that it is an exercise of their sound business judgment to assume and assign the Assigned Contracts to the Purchaser in connection with the consummation of the Sale and (ii) that the assumption and assignment of the Assigned Contracts to the Purchaser is in the best interests of the Debtors, their estates and creditors, and all other parties in interest. The Assigned Contracts are an integral part of the Purchased Assets and, accordingly, such assumption, assignment, and cure of any defaults under the Assigned Contracts are reasonable, appropriate, and enhance the value of the Debtors’ estates. Any Counterparty to an Assigned Contract that has not filed with the Court an objection



to such assumption and assignment in accordance with the terms of the Bidding Procedures Order (including any objections related to Cure Costs or adequate assurance of future performance and objections based on whether applicable law excuses the counterparty from accepting performance by, or rendering performance to, the Purchaser for purposes of section 365(c)(1) of the Bankruptcy Code) is deemed to have consented to such assumption and assignment.

BB. Cure Costs and Adequate Assurance. The Debtors and the Purchaser, as applicable, have, including by way of entering into the APA and agreeing to the provisions relating to the Assigned Contracts therein, (i) cured, or provided adequate assurance of cure, of any default existing prior to the date hereof under any of the Assigned Contracts within the meaning of section 365(b)(1)(A) of the Bankruptcy Code and (ii) provided compensation or adequate assurance of compensation to any party for any actual pecuniary loss to such party resulting from a default prior to the date hereof under any of the Assigned Contracts within the meaning of section 365(b)(1)(B) of the Bankruptcy Code. The Purchaser has, based upon the record of these proceedings, provided adequate assurance of its future performance of and under the Assigned Contracts pursuant to sections 365(b)(1) and 365(f)(2) of the Bankruptcy Code. The Purchaser's covenants under the APA to perform the obligations under the Assigned Contracts after the Closing shall constitute adequate assurance of future performance under the Assigned Contracts being assigned to the Purchaser within the meaning of sections 365(b)(1)(C) and 365(f)(2)(B) of the Bankruptcy Code. The Cure Costs are hereby deemed to be the sole amounts necessary to cure any and all defaults under the Assigned Contracts under section 365(b) of the Bankruptcy Code.

CC. Time Is of the Essence; Waiver of Stay. Time is of the essence in consummating the Sale. To maximize the value of the Purchased Assets, it is essential that the Sale of the Purchased Assets and assignment and assumption of the Assigned Contracts occur within the time constraints set forth in the APA. Accordingly, there is cause to waive the stays contemplated by Bankruptcy Rules 6004 and 6006.

**NOW THEREFORE, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED THAT:**

**I. The Sale Is Approved**

1. The Sale of the Purchased Assets contemplated by the APA is hereby approved as set forth herein.

**II. Objections Overruled**

2. All objections or reservation of rights with respect to the entry of this Sale Order or to the relief granted herein, whether filed, stated on the record before the Court or otherwise, which have not been withdrawn, waived, or settled, are hereby denied and overruled on the merits. All objections to the entry of this Sale Order or to the relief granted herein that were not timely filed are hereby forever barred.

3. Notice of the Bidding Procedures, the Auction, the Sale, the APA, the assumption and assignment of the Assigned Contracts to the Purchaser pursuant to the APA, the Cure Costs, the Sale Hearing, and all deadlines related thereto was fair and equitable under the circumstances and complied in all respects with sections 102(1), 363, and 365 of the Bankruptcy Code, Bankruptcy Rules 2002, 6004, 6006, 9007, 9008, and 9014, Bankruptcy Local Rules 9013-1(m), and the Bidding Procedures Order.

**III. Approval of the APA**

4. The Purchased Assets constitute property of the Debtors' estates and title thereto is vested in the Debtors' estates within the meaning of section 541 of the Bankruptcy Code. The

Debtors (i) have full corporate or other organizational power and authority necessary to execute the APA and any related instruments, documents, and agreements, and to consummate the Sale and all transactions contemplated by the APA, (ii) have taken all corporate or other organizational action necessary to authorize and approve the APA and any related instruments, documents, and agreements, and to consummate the Sale and all transactions contemplated by the APA, and (iii) require no consents or approvals, other than those expressly provided for in the APA, to consummate such transaction.

5. The APA and all other instruments, documents, and agreements related thereto or contemplated thereby, and all of the terms and conditions thereof, are hereby approved. Pursuant to sections 105, 363, and 365 of the Bankruptcy Code, the Debtors are authorized and directed to take any and all actions necessary to fulfill their obligations under, and comply with the terms of, the APA and to consummate the Sale pursuant to and in accordance with the terms and conditions of the APA and this Sale Order, without further leave of the Court. The Debtors are further authorized to pay, without further order of the Court, whether before, at, or after the Closing, any fees, expenses or costs that are required to be paid in order to consummate the transactions contemplated by the APA or perform their obligations under the APA.

6. The Debtors are authorized, in accordance with the APA, to execute and deliver, and empowered to perform under, consummate, and implement, the APA, together with all additional instruments, documents, and other agreements that may be reasonably necessary or desirable to implement the APA, and to take all further actions as may be reasonably requested by the Purchaser for the purpose of assigning, transferring, granting, conveying and conferring to the Purchaser or reducing to possession, the Purchased Assets, or as may be reasonably necessary or appropriate to the performance of the obligations as contemplated by the APA.

**IV. Binding Effect of Order**

7. This Sale Order and the APA shall be binding upon all creditors of, and equity interest holders in, the Debtors and any and all other parties in interest, including, without limitation, any and all holders of Claims and Encumbrances (including holders of any rights or claims based on any putative successor or transferee liability) of any kind or nature whatsoever, all Counterparties to the Assigned Contracts, the Purchaser and its affiliates, members, or shareholders, all successors and assigns of the Purchaser and its affiliates, members, or shareholders, the Debtors and their affiliates and subsidiaries, and any trustee or successor trustee appointed in the Debtors' chapter 11 cases or upon a conversion to chapter 7 under the Bankruptcy Code. This Sale Order and the APA shall inure to the benefit of the Debtors, their estates and creditors, the Purchaser, their affiliates, members, and shareholders, and the respective successors and assigns of each of the foregoing.

**V. Amendments to the APA**

8. The APA and any related instruments, documents, and agreements, may be modified, amended, supplemented or restated by the parties thereto in a writing signed by such parties and in accordance with the terms thereof, without further order of the Court, provided that any such modification, amendment, supplement or restatement does not have a material adverse effect on the Debtors' estates.

**VI. Transfer of the Purchased Assets Free and Clear**

9. The Purchaser shall assume and be liable for the Assumed Liabilities, and shall not be liable for any Excluded Liabilities. Except as expressly permitted or otherwise specifically provided for in the APA or this Sale Order, pursuant to sections 105(a), 363(b), 363(f), 365(b), and 365(f) of the Bankruptcy Code, upon the Closing, the Purchased Assets shall be transferred to the Purchaser, and the Purchaser shall take title to and possession of the

Purchased Assets, free and clear of all Claims and Encumbrances (other than Assumed Liabilities and Permitted Liens). Any holders of Claims and Encumbrances are adequately protected by having their Claims and Encumbrances, if any, attach to the portion of the Purchase Price attributable to the Purchased Assets against or in which such holders hold an interest, in the same order of priority, and with the same validity, force and effect, if any, which such holders now have against such Purchased Assets, subject to any claims and defenses the Debtors or their estates may possess with respect thereto.

**VII. Vesting of Assets in the Purchaser**

10. The transfer of the Purchased Assets to the Purchaser pursuant to the APA shall constitute a legal, valid, and effective transfer of the Purchased Assets on the Closing, and shall vest the Purchaser with all of the Debtors' rights, title, and interests in the Purchased Assets free and clear of all Claims and Encumbrances (other than Assumed Liabilities and Permitted Liens).

**VIII. Release of Liens**

11. Except for holders of Assumed Liabilities and Permitted Liens, each holder of any Claims and Encumbrances in the Purchased Assets (including, without limitation, CRG Financial, LLC (the "DIP Lender") and Prepetition Lender and Prepetition Agent (each as defined in the DIP Term Sheet, [together with any successor thereto or assignee thereof](#))), shall, as of the Closing, be deemed to have waived and released such Claims and Encumbrances, without regard to whether such holder has executed or filed any applicable release, and such Claims and Encumbrances shall automatically, and with no further action by any party, attach to the portion of the Purchase Price attributable to the Purchased Assets against or in which such holders hold an interest, in the same order of priority, and with the same validity, force and effect, if any, which such holders now have against such Purchased Assets, subject to any claims and defenses the Debtors or their estates may possess with respect thereto. Each holder of any

such Claim and Encumbrance (including, without limitation, the DIP Lender and Prepetition Lender and Prepetition Agent) is hereby authorized and directed to execute and deliver any waivers, termination statements, instruments of satisfaction, consents, or releases, as reasonably requested by the Debtors or the Purchaser, to effectuate the foregoing.

12. If any person or entity that has filed any financing statements, mortgages, mechanic's liens, *lis pendens*, or any other documents or agreements evidencing any Claim and Encumbrance on any of the Purchased Assets conveyed pursuant to the APA and this Sale Order shall not have delivered to the Debtors prior to the Closing, in proper form for filing and executed by the appropriate parties, any waivers, termination statements, instruments of satisfaction, consents, or releases of all Claims and Encumbrances which such person or entity has with respect to the Purchased Assets, then (a) the Debtors or the Purchaser are hereby authorized to execute and file such waivers, termination statements, instruments, consents, or releases on behalf of such person or entity with respect to the Purchased Assets, and (b) the Purchaser is hereby authorized to file, register, or otherwise record a certified copy of this Sale Order, which, once filed, registered, or otherwise recorded, shall constitute conclusive evidence of the release of all Claims and Encumbrances in the Purchased Assets of any kind or nature whatsoever.

13. Upon repayment of the DIP Obligations as described in Paragraph ~~27~~28 hereof (and as defined in the *Final Order (I) Authorizing the Debtors to Obtain Postpetition Senior Secured Financing, (II) Authorizing the Debtors to use Cash Collateral on a Limited Basis, (III) Granting Liens and Providing Superpriority Administrative Expense Status, (IV) Granting Adequate Protection, (V) Modifying the Automatic Stay, and (V) Granting Related Relief* [Docket No. ~~—~~149] (the "Final DIP Order")), DIP Lender and each of its respective current

and former officers, directors, partners, stockholders, managers, controlling persons, employees, agents, administrators, representatives, advisors, attorneys, investors, parents, predecessors, subsidiaries, successors, assigns, and affiliates (each of the foregoing in their capacity as such, individually and collectively, the “DIP Lender Released Parties”) shall be irrevocably and unconditionally released of any and all claims, actions, refunds, damages, causes of action, choses in action, suits or proceedings, rights of recovery, rights of setoff (except for setoffs exercised prior to the Petition Date), rights of indemnity or contribution, and other similar rights (known and unknown, matured and unmatured, accrued or contingent or liquidated, whether direct or indirect, including direct claims for indemnification or contribution, regardless of whether such rights are currently exercisable), other than claims or causes of action arising from an act or omission that is judicially determined by a final order of a court of competent jurisdiction to have constituted actual fraud, for good and valuable consideration, that the Debtors, and Purchaser, ~~and/or any party that cast a Bid (as defined in the Bidding Procedures Motion [Docket No. 16])~~ ever had, now have, or may have against DIP Lender Released Parties in connection with any event, conduct, or circumstance, in each case arising from, connected with, or related to ~~the Chapter~~ these chapter 11 ~~Cases~~ cases and occurring prior to the repayment of the DIP Obligations.

**IX. Assumption and Assignment of Assigned Contracts**

14. Pursuant to sections 105(a) and 365 of the Bankruptcy Code, and subject to and conditioned upon the Closing, the Debtors’ assumption and assignment to the Purchaser of the Assigned Contracts (subject to any agreed upon modifications and amendments to any Assigned Contract between the Purchaser and any Counterparty) is hereby approved, and the requirements of section 365(b)(1) of the Bankruptcy Code with respect thereto are hereby deemed satisfied.

The Assigned Contracts includes that certain Commercial Finance Agreement, dated as of October 23, 2023 (as the same may be amended, modified, or supplemented from time to time, the “Mitsubishi Agreement”) between Forrest Machining, LLC and Mitsubishi HC Capital America, Inc. and, upon the Closing, the Mitsubishi Agreement, including all liabilities arising thereunder from and after Closing, shall be transferred and assigned to the Purchaser in accordance the terms of this Sale Order and the APA.

15. The Debtors are hereby authorized, in accordance with the APA, and in accordance with sections 105(a) and 365 of the Bankruptcy Code, to (i) assume and assign to the Purchaser the Assigned Contracts, effective upon and subject to the occurrence of the Closing, free and clear of all Claims and Encumbrances (other than Assumed Liabilities and Permitted Liens), which Assigned Contracts, by operation of this Sale Order, shall be deemed assumed and assigned to the Purchaser effective as of the Closing, and (ii) execute and deliver to the Purchaser such instruments, documents, and agreements as the Purchaser may deem necessary to assign and transfer the Assigned Contracts to the Purchaser.

16. The Debtors are authorized to and may assume all of the Assigned Contracts in accordance with section 365 of the Bankruptcy Code. The Debtors are authorized to and may assign each Assigned Contract to the Purchaser in accordance with sections 363 and 365 of the Bankruptcy Code, and any provisions in any Assigned Contract that prohibit, restrict or condition the assignment of such Assigned Contract on the consent of the counterparty thereto or allow the non-Debtor party to such Assigned Contract to terminate, recapture, impose any penalty, condition, renewal or extension, or modify any term or condition a change of control or upon the assignment of such Assigned Contract shall constitute unenforceable anti-assignment provisions which are expressly preempted under section 365 of the Bankruptcy Code and void and of no



force and effect, notwithstanding the chapter 11 filing by the Debtors, the financial condition of the Debtors or any other similar circumstances. All requirements and conditions under sections 363 and 365 of the Bankruptcy Code for the assumption and assignment of the Assigned Contracts by the Debtors to the Purchaser have been satisfied. Upon the Closing, the Assigned Contracts shall be transferred and assigned to, and shall remain in full force and effect for the benefit of, the Purchaser in accordance with their respective terms, notwithstanding any provision in any such Assigned Contract (including those of the type described in sections 365(b)(2), 365(e)(1) and 365(f) of the Bankruptcy Code) that prohibits, restricts, limits, or conditions such assignment or transfer. After the Debtors' transfer and assignment of the Assigned Contracts to the Purchaser, in accordance with sections 363 and 365 of the Bankruptcy Code, the Purchaser shall be fully and irrevocably vested in all right, title, and interest of each Assigned Contract.

17. All defaults and other obligations of the Debtors under the Assigned Contracts occurring, arising, or accruing prior to the assignment thereof to the Purchaser at Closing (without giving effect to any acceleration clauses or any default provisions of the kind specified in section 365(b)(2) of the Bankruptcy Code) shall be deemed cured or satisfied by the payment of the proposed amount necessary, if any, to cure all monetary defaults, if any, under each Assigned Contract in the amounts set forth on the schedule of Cure Costs attached to the Potential Assignment Notice or any supplement thereto (or any other cure cost reached by agreement with a counterparty to an Assigned Contract), which was served in compliance with the Bidding Procedures Order, or in ~~any order entered with respect to the~~ the Order Approving Debtors' Motion for Entry of an Order (I) Setting Cure Amounts for Certain Contracts and Leases, and (II) Granting Related Relief [Docket No. 35164]-~~(the "Cure Motion")~~, and which

Cure Costs ~~were satisfied, or~~ shall be satisfied ~~as soon as practicable, by the Purchaser~~ as provided in the APA. For all Assigned Contracts for which ~~an~~a Potential Assignment Notice was served and no objection has been timely and properly filed by the non-Debtor Counterparty, the Purchaser is authorized and directed to pay all Cure Costs required to be paid in accordance with the APA upon the Closing. For any Assigned Contracts for which an Assigned Contract Objection has been timely and properly filed to the assumption and assignment of such Assigned Contract or the Cure Costs relating thereto and such objection remains pending as of the date of this Sale Order, the procedures set forth in the Bidding Procedures with respect to the resolution of such Assigned Contract Objection shall apply.

18. Pursuant to section 365(k) of the Bankruptcy Code, the Debtors and their estates shall be relieved from any liability for any breach of or obligations under any Assigned Contract following the effective date of such assumption and assignment to the Purchaser, subject to the Purchaser's payment of the Cure Costs as provided in the APA and the Bidding Procedures Order.

19. All Counterparties to the Assigned Contracts shall cooperate and expeditiously execute and deliver, upon reasonable request of the Purchaser, and shall not charge the Debtors or the Purchaser for, any instruments, applications, consents, agreements, or other documents that may be required or requested by any public authority or other party or entity to effectuate the applicable transfers in connection with the Sale.

20. Notwithstanding anything to the contrary set forth herein, the assumption and assignment to the Purchaser of the NGSC Agreements and NGSC POs (each as defined in the FMI Commercial Agreement) shall be subject to the terms and conditions of, and as modified by: (a) that certain Commercial Agreement and Consent to Assumption and Assignment by and

between the Debtors and Northrop Grumman Systems Corporation, dated as of February 25, 2025 (the “FMI Commercial Agreement”), which has been approved by the Court pursuant to the Order Approving Settlement with Northrop Grumman Systems Corporation [Docket No. 148] (the “FMI Settlement Order”), and (b) that certain Commercial Agreement and Consent to Assumption and Assignment by and between Avem Partners and Northrop Grumman Systems Corporation, dated February 25, 2025. The releases, claim waivers, and claim withdrawal set forth in the FMI Commercial Agreement, which were approved pursuant to the FMI Settlement Order, shall become effective immediately upon the Closing.

**X. Modification of the Automatic Stay; 11 U.S.C. § 525**

21. ~~20.~~ The automatic stay provisions of section 362 of the Bankruptcy Code are modified to the extent necessary to implement the terms and conditions of the APA and the provisions of this Sale Order. The Purchaser shall not be required to seek or obtain relief from the automatic stay under section 362 of the Bankruptcy Code to enforce any remedies under the APA or any other Sale-related documents.

22. ~~21.~~ To the extent provided by section 525 of the Bankruptcy Code, no governmental unit (federal or state) may revoke or suspend any permit or license relating to the Purchased Assets sold, transferred, or conveyed to the Purchaser on account of (a) the filing or pendency of these chapter 11 cases or (b) the consummation of the Sale contemplated by the APA or the failure of the Debtors to pay any pre-petition claims of such governmental unit.

**XI. Collection of Purchased Assets**

23. ~~22.~~ All persons and entities that are in possession of any Purchased Assets on the Closing Date are directed to surrender possession of such Purchased Assets to the Purchaser in accordance with the APA on the Closing Date or at such time thereafter as the Purchaser may request. As of the Closing, the Purchaser and its successors and assigns shall be designated and

appointed as the Debtors' true and lawful attorney, with full power of substitution, in the Debtors' name and stead on behalf of and for the benefit of the Purchaser, and its successors and assigns, for the following sole and limited purposes: to have the power to demand and receive any and all of the Purchased Assets and to give receipts and releases for and in respect of the Purchased Assets, or any part thereof, and from time to time to institute and prosecute against third parties for the benefit of the Purchaser, its successors and assigns, proceedings at law, in equity or otherwise, which the Purchaser, and its successors and assigns, may deem proper for the collection or reduction to possession of any of the Purchased Assets.

**XII. Effect of Recordation of Order**

24. ~~23.~~ This Sale Order, once filed, registered, or otherwise recorded: (a) shall be effective as a conclusive determination that, upon the Closing, all Claims and Encumbrances (other than Assumed Liabilities and Permitted Liens) in the Purchased Assets have been unconditionally released, discharged, and terminated and that the conveyances described herein have been effected; and (b) shall be binding upon and shall govern the acts of all persons and entities including, without limitation, all filing agents, filing officers, title agents, title companies, recorders of mortgages, recorders of deeds, registrars of deeds, administrative agencies, governmental departments, secretaries of state, federal, state, local officials, notaries, protonotaries, and all other persons and entities who may be required by operation of law, the duties of their office, or contract, to accept, file, register or otherwise record or release any documents or instruments, or who may be required to report or insure any title or state of title in or to, the Purchased Assets. Each and every federal, state, local or foreign government or governmental or regulatory authority, agency, board, bureau, commission, court, department, or other governmental entity is hereby authorized to accept any and all documents and instruments

necessary and appropriate to consummate the transactions contemplated by the APA, including, without limitation, recordation of this Sale Order.

**XIII. Good Faith of Purchaser**

25. ~~24.~~ The Sale contemplated by the APA is undertaken by the Purchaser without collusion and in good faith, as that term is defined in section 363(m) of the Bankruptcy Code, and accordingly, the reversal or modification on appeal of the authorization provided herein to consummate the Sale shall not affect the validity of the Sale (including, without limitation, the assumption and assignment of the Assigned Contracts), unless such authorization and consummation of such Sale are duly and properly stayed pending such appeal.

26. ~~25.~~ Neither the Debtors nor the Purchaser have engaged in any action or inaction that would cause or permit the Sale to be avoided or costs or damages to be imposed under section 363(n) of the Bankruptcy Code. The consideration provided by the Purchaser for the Purchased Assets under the APA is fair and reasonable and the Sale may not be avoided, and costs and damages may not be imposed, under section 363(n) of the Bankruptcy Code.

**XIV. Sale Proceeds; Payment of Certain Indebtedness**

27. ~~26.~~ Upon Closing of the Sale of the Purchased Assets, all liens and encumbrances securing claims held by DIP Lender, shall attach to the Sale proceeds with the same validity, extent, and priority as existed with respect to the DIP Collateral (as defined in the Final DIP Order) prior to the Closing.

28. ~~27.~~ Notwithstanding anything to the contrary set forth herein, within two business days after the Closing Date and the Debtors' receipt of the cash portion of the Purchase Price under the APA, the Debtors shall transfer, or cause to be transferred, proceeds generated from the Sale of the Purchased Assets to the DIP Lender for permanent application against the DIP Obligations (including, without limitation, all accrued and unpaid principal, interest, fees, costs,

and expenses on the DIP Loans, including the DIP Fees (each as defined in the Final DIP Order)) in accordance with the terms and conditions of the Final DIP Order and the DIP Documents (as defined in the Final DIP Order) until the DIP Obligations have been paid in full.

**XV. Release**

29. ~~28.~~ Effective upon, and subject to the occurrence of, the Closing Date, each of the Purchaser, on the one hand, and the Debtors, on the other hand, on behalf of themselves and each of their respective affiliates, subsidiaries, and successors, and all of their respective past, present and future shareholders, partners, members, board of directors and/or supervisors, managers, officers, employees, agents, representatives, attorneys, and advisors (collectively and solely in their capacities as such, their “Related Parties”) (each, a “Releasing Party”), shall irrevocably and unconditionally release, remise, and forever discharge each other and each of their respective Related Parties (each, a “Released Party”) from any and all suits, legal or administrative proceedings, Claims, demands, damages, losses, costs, liabilities, interest or causes of action whatsoever at law or in equity, known or unknown (collectively, “Losses”), which such Releasing Party might now or subsequently may have, based on, relating to, or arising out of the marketing process, the sale process, the negotiation and formulation of the Sale, the ownership or use of the Purchased Assets, including breaches of statutory or implied warranties, nuisance or other tort actions, rights to punitive damages, or common law rights of contribution; provided, however, that nothing herein shall release any Losses that any Releasing Party may have against any Released Party under the APA and any related instruments, documents, or agreements, the Bidding Procedures Order, this Sale Order, and any other order of the Court.

**XVI. Prohibition of Actions Against the Purchaser**

30. ~~29.~~ Except for Assumed Liabilities and Permitted Liens, neither the Purchaser nor any of its affiliates, members, or shareholders shall have any liability or responsibility for any

liability or other obligation of the Debtors or any of their predecessors and affiliates arising under or related to the Purchased Assets or otherwise or any other Claims and Encumbrances in or against the Debtors or the Purchased Assets arising or attributable to periods prior to the Closing Date, including, without limitation, successor or vicarious liability of any kind or character, based on any theory of antitrust, warranty, product liability, environmental, successor or transferee liability, labor law, ERISA, COBRA, de facto merger, mere continuation, or substantial continuity, whether known or unknown, now existing or hereafter arising, whether fixed or contingent, liquidated or unliquidated, including, without limitation, liabilities on account of any taxes arising, accruing, or payable under, out of, in connection with, or in any way relating to the operation of the Debtors' business prior to the Closing Date or, except as may otherwise be provided in the APA, any claims under the WARN Act or any claims related to wages, benefits, severance, or vacation pay owed to employees or former employees of the Debtors. Upon the Closing, all entities or persons are permanently and forever prohibited, barred, estopped, and enjoined from asserting against any of the Purchaser or its affiliates, members, or shareholders or any of their successors and assigns, or any of their assets, or the Purchased Assets, any Claims and Encumbrances (other than Assumed Liabilities and Permitted Liens), including, without limitation, under any theory of successor or vicarious liability of any kind or character, based on any theory of antitrust, warranty, product liability, environmental, successor or transferee liability, labor law, ERISA, COBRA, de facto merger, mere continuation, or substantial continuity, whether known or unknown, now existing or hereafter arising, whether fixed or contingent, liquidated or unliquidated.

31. ~~30.~~ To the greatest extent available under applicable law, Purchaser shall be authorized, as of the Closing Date, to operate under any license, permit, registration and

governmental authorization or approval of the Debtors with respect to the Purchased Assets to the extent transferred in the APA, and all such licenses, permits, registrations, and governmental authorizations and approvals are deemed to have been transferred to Purchaser as of the closing Date.

**XVII. No Interference**

32. ~~31.~~ Following the Closing, no holder of Claims and Encumbrances in or against the Debtors or the Purchased Assets shall interfere with the Purchaser's title to or use and enjoyment of the Purchased Assets based on or related to such Encumbrances or any actions that the Debtors may take in their bankruptcy cases or any successor cases.

**XVIII. Retention of Jurisdiction**

33. ~~32.~~ The Court retains jurisdiction to, among other things, interpret, enforce and implement the terms and provisions of this Sale Order and the APA, all amendments thereto, any waivers and consents thereunder, and each related instruments, documents, and agreements in all respects, including, but not limited to, retaining jurisdiction to: (a) compel delivery of the Purchased Assets or performance of other obligations owed to the Purchaser; (b) compel delivery of the Purchase Price or performance of other obligations owed to the Debtors; (c) resolve any disputes arising under or related to the APA, except as otherwise provided therein; (d) interpret, implement, and enforce the provisions of this Sale Order; and (e) protect the Purchaser and its affiliates, members, and shareholders against (1) any Claims and Encumbrances in or against the Debtors or the Purchased Assets of any kind or nature whatsoever and (2) any creditors or other parties in interest regarding the turnover of the Purchased Assets that may be in their possession.

**XIX. No Stay of Order**

34. ~~33.~~ Notwithstanding Bankruptcy Rules 6004(h), 6006(d) and 7062(g), this Sale Order shall be effective and enforceable immediately upon entry and its provisions shall be



self-executing. In the absence of any person or entity obtaining a stay pending appeal, the Debtors and the Purchaser are free to close the Sale under the APA at any time pursuant to the terms thereof.

**XX. Good Faith Purchaser**

35. ~~34.~~ The Debtors and their respective officers, directors, employees, agents, advisors, attorneys, and other representatives actively participated in the marketing process and respectively acted in good faith. The Sale contemplated by the APA is undertaken by the Purchaser in good faith, as such term is used in section 363(m) of the Bankruptcy Code, and accordingly, the reversal or modification on appeal of the authorization provided herein to consummate the Sale shall not affect the validity of the Sale of the Purchased Assets to the Purchaser (including the assumption and assignment of any Assigned Contract), unless such authorization is duly stayed pending such appeal. The Purchaser is a good faith purchaser of the Purchased Assets, and is entitled to all of the protections afforded by section 363(m) of the Bankruptcy Code.

**XXI. Miscellaneous**

36. Any M&A Transaction Fees<sup>5</sup> due to Configure Partners, LLC (“Configure”) as a result of the closing of the Sale shall be segregated and escrowed (for the exclusive benefit of Configure) from the cash proceeds of the Sale 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. For the avoidance of doubt, nothing in this Sale Order shall prohibit or be construed to

<sup>5</sup> 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 is attached as Exhibit B to the Debtors’ Application for Entry of an Order (A) Authorizing the Retention and Employment of Configure Partners, LLC and Configure Partners Securities, LLC as Investment Banker for the Debtors and Debtors in Possession, Pursuant to 11 U.S.C. §§ 327(a) and 328, Effective as of the Petition Date, (B) Waiving Certain Information Requirements Imposed by Local Rule 2016-1, and (C) Granting Related Relief.

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; provided, further, that nothing in this Sale Order shall be interpreted to allow the payment of the M&A Transaction Fee to Configure without an application to this Court for the payment of the such fee.

37. Nothing in this Sale Order or the APA releases, nullifies, precludes or enjoins the enforcement of any police or regulatory liability to a governmental unit that any entity would be subject to as the post-sale owner or operator of property after the date of entry of this Sale Order; provided, however, that the Purchaser shall not assume any liability to a Governmental Unit for penalties for days of violation prior to closing of the sale. Nothing in this Sale Order or the APA authorizes the transfer or assignment of any governmental (a) license, (b) permit, (c) registration, (d) authorization, or (e) approval, or the discontinuation of any obligation thereunder, without compliance with all applicable legal requirements and approvals under police or regulatory law. Nothing in this Sale Order divests any tribunal of any jurisdiction it may have under police or regulatory law to interpret this Sale Order or to adjudicate any defense asserted under this Sale Order.

**XXII. ~~XXI.~~ Inconsistencies with Prior Orders, Pleadings, or Agreements**

38. ~~35.~~ To the extent of any conflict between the APA and this Sale Order, the terms of this Sale Order shall govern. To the extent this Sale Order is inconsistent or conflicts with any prior order or pleading in these chapter 11 cases, the terms of this Sale Order shall govern and any prior orders shall be deemed amended or otherwise modified to the extent required to permit consummation of the Sale.

XXIII. ~~XXII.~~ **Failure to Specify Provisions**

39. ~~36.~~ The failure to specifically reference any particular provisions of the APA or other related instruments, documents, and agreements, in this Sale Order shall not diminish or impair the effectiveness of such provisions, it being the intent of the Court that the APA or other related instruments, documents, and agreements be authorized and approved in their entirety.

**Exhibit 1**

**APA**

<b>Summary report:</b>	
<b>Litera Compare for Word 11.9.1.1 Document comparison done on 4/7/2025 12:14:18 PM</b>	
<b>Style name:</b> Default Style	
<b>Intelligent Table Comparison:</b> Active	
<b>Original DMS:</b> nd://4920-9629-5972/4/Dynamic - Sale Order (FMI Holdco).docx	
<b>Modified DMS:</b> nd://4920-9629-5972/5/Dynamic - Sale Order (FMI Holdco).docx	
<b>Changes:</b>	
<u>Add</u>	81
<del>Delete</del>	72
<del>Move From</del>	0
<u>Move To</u>	0
<u>Table Insert</u>	0
<del>Table Delete</del>	0
<u>Table moves to</u>	0
<del>Table moves from</del>	0
Embedded Graphics (Visio, ChemDraw, Images etc.)	0
Embedded Excel	0
Format changes	0
<b>Total Changes:</b>	<b>153</b>