

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

In re:	)	Chapter 11
PGX HOLDINGS, INC., <i>et al.</i> , ¹	)	Case No. 23-10718 (CTG)
Debtors.	)	(Jointly Administered)

**MOTION OF THE DEBTORS FOR ENTRY OF ORDERS
(I)(A) APPROVING BIDDING PROCEDURES FOR SUBSTANTIALLY
ALL OF THE DEBTORS’ ASSETS, (B) AUTHORIZING THE DEBTORS TO ENTER
INTO ONE OR MORE STALKING HORSE AGREEMENTS AND TO PROVIDE
BIDDING PROTECTIONS THEREUNDER, (C) SCHEDULING AN AUCTION AND
APPROVING THE FORM AND MANNER OF NOTICE THEREOF, (D) APPROVING
ASSUMPTION AND ASSIGNMENT PROCEDURES, AND (E) SCHEDULING
A SALE HEARING AND APPROVING THE FORM AND MANNER OF NOTICE
THEREOF; (II)(A) APPROVING THE SALE OF THE DEBTORS’ ASSETS
FREE AND CLEAR OF LIENS, CLAIMS, INTERESTS AND ENCUMBRANCES
AND (B) APPROVING THE ASSUMPTION AND ASSIGNMENT OF EXECUTORY
CONTRACTS AND UNEXPIRED LEASES; AND (III) GRANTING RELATED RELIEF**

The above-captioned debtors and debtors in possession (collectively, the “Debtors”) state as follows in support of this motion:²

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, are: PGX Holdings, Inc. (2510); Credit Repair UK, Inc. (4798); Credit.com, Inc. (1580); Creditrepair.com Holdings, Inc. (7536); Creditrepair.com, Inc. (7680); eFolks Holdings, Inc. (5213); eFolks, LLC (5256); John C. Heath, Attorney At Law PC (8362); Progrexion ASG, Inc. (5153); Progrexion Holdings, Inc. (7123); Progrexion IP, Inc. (5179); Progrexion Marketing, Inc. (5073); and Progrexion Teleservices, Inc. (5110). The location of the Debtors’ service address for purposes of these chapter 11 cases is: 257 East 200 South, Suite 1200, Salt Lake City, Utah 84111.

² A detailed description of the Debtors and their business, including the facts and circumstances giving rise to the Debtors’ chapter 11 cases, is set forth in the *Declaration of Chad Wallace, Chief Executive Officer of PGX Holdings, Inc., in Support of Chapter 11 Filing and First Day Motions* (the “First Day Declaration”), filed on June 4, 2023 (the “Petition Date”) and incorporated by reference herein. Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the First Day Declaration, the Augustine Declaration (as defined herein), or the Bidding Procedures, as applicable.



Preliminary Statement

1. The Debtors commenced the chapter 11 cases to implement a value-maximizing transaction through a sale of substantially all of their assets. Shortly after the Petition Date, the Debtors substantially finalized the negotiation of two stalking horse purchase agreements, subject to Bankruptcy Court approval. The first is with the Debtors' DIP Lenders and prepetition First Lien Lenders for a credit bid for substantially all the assets of the Debtors, exclusive of Lexington Law. The second is with the owners and the principal attorney at Lexington Law for substantially all the assets of Lexington Law. As discussed in the First Day Declaration, PGX provides essential business services to Lexington Law under a suite of Operating Agreements, which allow Lexington Law's attorneys to focus on the provision of legal services. The Operating Agreements provide for comprehensive operational support services that include marketing, custom proprietary software, technology, and administrative services.

2. The dual stalking horse bids are conditioned on each other and intended to permit the Debtors' underlying businesses, which are dependent on each other, to continue to operate as a going concern post-closing. As consideration for the purchase of the PGX assets, the PGX stalking horse agreement includes a credit bid of the amount of the DIP Facility, plus a portion of the first lien credit facility, for a total purchase amount of approximately \$237.5 million. As consideration for the purchase of the Lexington Law assets, the Lexington Law stalking horse agreement provides for the assumption and cure of the Operating Agreements with PGX, including (i) prepetition cure amounts of approximately \$24 million, (ii) payment of up to \$4.4 million of administrative expenses, and (iii) the assumption of the nearly 150,000 engagement agreements between Lexington Law and its direct clients.

3. A number of factors necessitate the separate Lexington Law APA (as defined below). First, because it is a law firm, certain assets of Lexington Law can only be owned by licensed attorneys in accordance with certain legal ethics rules. Second, John Heath, the principal attorney at Lexington Law, has decades of experience with the underlying business model and is uniquely positioned to continue to provide those services on a go-forward basis. The Lexington Law APA was ultimately a condition of both the PGX stalking horse agreement and the DIP Facility, and was reviewed and approved by the independent director of Lexington Law in consultation with independent counsel.

4. Through this motion, the Debtors seek the Court's approval of bidding procedures pursuant to which they will seek overbids for all or a subset of the assets of PGX, Lexington Law, or both. In order to capitalize on the opportunity presented by the proposed going-concern transactions and avoid the value-destructive consequences of a protracted stay in chapter 11, the Debtors believe it is critical that the sale process be consummated on the expedited timeline set forth below, which is consistent with the Debtors' requirements to maintain access to their DIP financing but also balances the dual goals of running a robust marketing process to ensure that the Debtors secure the highest and best purchase price possible while also minimizing any potential business disruption:

- (a) Within two (2) calendar days of the Petition Date, the Debtors shall file a motion for the sale of assets pursuant to Section 363 and the bid procedures;
- (b) Within four (4) business days of the Petition Date, the Bankruptcy Court shall have entered the Interim DIP Order;
- (c) Within twenty-five (25) calendar days of the Petition Date, the Bankruptcy Court shall have entered the Final DIP Order;
- (d) Within thirty (30) calendar days of the Petition Date, the Bankruptcy Court shall have entered an order approving the bid procedures;

- (e) The deadline for submission of binding bids for the sale of assets shall be within sixty (60) calendar days of the Petition Date;
- (f) Within sixty-five (65) calendar days of the Petition Date, the Debtors shall commence an auction of the Debtors' assets, solely to the extent the Debtors' receive competing qualified bids;
- (g) Within seventy (70) calendar days of the Petition Date, the Bankruptcy Court shall have entered one or more orders approving the sale(s); and
- (h) Within one-hundred-and-five (105) calendar days of the Petition Date, the sale transactions shall be consummated.

5. The proposed sale process is the product of substantial discussion and planning by the Debtors in concert with their Prepetition Lenders and DIP Lenders. As more fully described in the First Day Declaration, in the face of increasingly dire liquidity challenges and a balance sheet out of sync with the Debtors' modified operational footprint in the wake of the adverse ruling from the District Court regarding Count I in the CFPB Litigation, the Debtors engaged with their key stakeholders regarding possible restructuring alternatives to right-size their balance sheet and operations. Over the past several months, the Debtors' Prepetition Lenders, DIP Lenders, and other key stakeholders agreed to amendments, forbearances, waivers, payment holidays, and the like to help provide a more stable platform from which the Debtors could pursue a value-maximizing transaction. Ultimately, however, those efforts could not provide the requisite long-term relief, which necessitated a pivot towards discussions regarding an in-court restructuring process. These discussions culminated in the negotiation of \$19.925 million of postpetition financing and entry into the stalking horse purchase agreements with (a) [Lender AcquisitionCo LLC] (the "Progrexion Stalking Horse Bidder") for substantially all of the assets of PGX and (b) an acquisition vehicle formed by John C. Heath and Eric M. Kamerath, the two equity owners of Lexington Law (the "Lexington Law Stalking Horse Bidder" and, together with the Progrexion Stalking Horse Bidder, the "Stalking Horse Bidders") for substantially all of the assets of

Lexington Law, both of which are subject to a robust marketing process and higher or better offers, providing a clear path to consummate a transaction that will preserve and maximize value.

6. The Debtors and each of the Stalking Horse Bidders have memorialized the terms of the Stalking Horse Agreements (as defined herein) to be part of a market-tested sale process. The Debtors have begun the marketing process for the assets of PGX, with a similar process to be launched within the next few days for the assets of Lexington Law, and will market test the bid of the Progrexion Stalking Horse Bidder (the “Progrexion Stalking Horse Bid”) and the bid of the Lexington Law Stalking Horse Bidder (the “Lexington Law Stalking Horse Bid” and, together with the Progrexion Stalking Horse Bid, the “Stalking Horse Bids”) to ensure that the Debtors obtain the highest or otherwise best offer, or combination of offers, for the business or some or all of their assets. The key dates associated with the sale process are as follows.

- **August 3, 2023:** Bid Deadline
- **August 8, 2023:** Auction
- **August 11, 2023:** Sale Hearing

7. To the extent that the Debtors and their advisors secure a higher or otherwise better offer, they reserve their rights, as provided in the underlying stalking horse purchase agreements, to pursue an alternative sale transaction, in accordance with their fiduciary duties. If approved, the proposed Bidding Procedures will enable the Debtors to expeditiously sell their assets free and clear of all liens, claims, rights, interests, pledges, obligations, restrictions, limitations, charges, encumbrances, and other interests including, for the avoidance of doubt, any and all obligations or restrictions related to or resulting from the CFPB Litigation (collectively, the “Encumbrances”) and emerge from chapter 11 shortly thereafter. As set forth in further detail below, the Stalking Horse Agreements, the Bidding Procedures, and the related relief requested in this motion are in

the best interests of the Debtors' estates and their stakeholders. Accordingly, the Debtors respectfully request that the Court grant this motion.

Relief Requested

8. The Debtors seek entry of an order, substantially in the form attached hereto as **Exhibit A** (the "Bidding Procedures Order"): ³

- (a) authorizing and approving the Bidding Procedures attached to Exhibit 1 to the Bidding Procedures Order;
- (b) approving the terms of the asset purchase agreement by and among certain of the Debtors and the Progrexion Stalking Horse Bidder, attached to the Bidding Procedures Order as Exhibit 2 (as amended, supplemented, or otherwise modified by the parties thereto, the "Progrexion APA"), including approval of the expense reimbursement (the "Progrexion Expense Reimbursement");
- (c) approving the terms of the asset purchase agreement by and among certain of the Debtors and the Lexington Law Stalking Horse Bidder, attached to the Bidding Procedures Order as Exhibit 3 (as amended, supplemented, or otherwise modified by the parties thereto, the "Lexington Law APA");
- (d) authorizing the Debtors to enter into one or more additional asset purchase agreements (each, an "Additional Stalking Horse APA," and, together with the Progrexion APA and the Lexington Law APA, the "Stalking Horse Agreements" and each a "Stalking Horse Agreement") with one or more other bidders that the Debtors designate to serve as a stalking horse bidder (each, an "Additional Stalking Horse Bidder," and together with the Progrexion Stalking Horse Bidder and the Lexington Law Stalking Horse Bidder, the "Stalking Horse Bidders" and each a "Stalking Horse Bidder") for assets other than those assets subject to the Progrexion APA and the Lexington Law APA;
- (e) approving the form and manner of notice of the sale hearing, attached as Exhibit 4 to the Bidding Procedures Order (the "Sale Notice");
- (f) scheduling the auction (the "Auction") (solely to the extent that Debtors receive competing qualified bids) and the sale hearing;
- (g) approving procedures (the "Assumption and Assignment Procedures") for the assumption and assignment of executory contracts and leases

³ For the avoidance of doubt, the Debtors will file proposed sale orders in advance of any Sale Hearing.

(the “Assigned Contracts”), including notice of proposed cure amounts (the “Assumption and Assignment Notice”), attached as Exhibit 5 to the Bidding Procedures Order; and

- (h) granting related relief.

Jurisdiction and Venue

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

10. Venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

11. The statutory bases for the relief requested 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”), rules 2002, 6004, and 6006(a) of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), and Local Rules 2002-1, 6004-1, and 9006-1.

Background

12. The Debtors are one of the nation’s leading credit repair service providers, helping customers repair their credit and achieve their credit goals. Setting the industry standard for transparency, cutting edge technology-enabled solutions, and quality customer service, the Debtors help consumers access and understand the information contained in their credit reports, ensure that the information contained in those reports is fair, accurate, and complete, and address

other factors that may negatively impact their credit scores. The Debtors are headquartered in Salt Lake City, Utah and have employees in nine other states. Debtor PGX Holdings, Inc. and Debtor John C. Heath, Attorney At Law PC d/b/a Lexington Law (“Lexington Law”) generated approximately \$388 million in combined revenue in 2022. As of the Petition Date, the Debtors had approximately \$423 million in funded-debt obligations.

13. On the Petition Date, each of the Debtors filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code. The Debtors are operating their business and managing their property as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. Concurrently with the filing of this motion, the Debtors filed a motion requesting procedural consolidation and joint administration of these chapter 11 cases pursuant to Bankruptcy Rule 1015(b). No request for the appointment of a trustee or examiner has been made in these chapter 11 cases, and no official committees have been appointed or designated.

14. In support of the Debtors' request for entry of the Bidding Procedures Order, the Debtors submit the Augustine Declaration,⁴ the Frejka Declaration,⁵ and the First Day Declaration.⁶

The Proposed Sale Transactions

I. The Prepetition Marketing Process.

15. PGX has been working for years to evaluate paths forward in response to the CFPB Litigation and the significant financial stress brought about this litigation, among other factors. Despite these efforts, on March 10, 2023, the District Court entered summary judgment in favor of the CFPB on Count 1 in the CFPB Litigation, setting up a potential damages exposure for the Debtors of more than \$2.7 billion, should the CFPB prevail on its requested relief in the near-term. While the Defendants evaluated all options in response to this adverse ruling, the Debtors ceased all telemarketing activities and monthly billing for over 80% of their credit repair clients, i.e. those who signed up for services over the phone.

⁴ The Declaration of Neil A. Augustine, in Support of the Debtors' Motion for Entry of Orders (I)(A) Approving Bidding Procedures for Substantially All of the Debtors' Assets, (B) Authorizing the Debtors to Enter into One or More Stalking Horse Agreements and to Provide Bidding Protections Thereunder, (C) Scheduling an Auction and Approving the Form and Manner of Notice Thereof, (D) Approving Assumption and Assignment Procedures, and (E) Scheduling A Sale Hearing and Approving the Form and Manner of Notice Thereof; (II)(A) Approving the Sale of the Debtors' Assets Free and Clear of Liens, Claims, Interests and Encumbrances and (B) Approving the Assumption and Assignment of Executory (the "Augustine Declaration"), filed contemporaneously herewith and incorporated by reference herein.

⁵ The Declaration of Elise S. Frejka, CIPP/US, in Support of the Debtors' Motion for Entry of Orders (I)(A) Approving Bidding Procedures for Substantially All of the Debtors' Assets, (B) Authorizing the Debtors to Enter into One or More Stalking Horse Agreements and to Provide Bidding Protections Thereunder, (C) Scheduling an Auction and Approving the Form and Manner of Notice Thereof, (D) Approving Assumption and Assignment Procedures, and (E) Scheduling A Sale Hearing and Approving the Form and Manner of Notice Thereof; (II)(A) Approving the Sale of the Debtors' Assets Free and Clear of Liens, Claims, Interests and Encumbrances and (B) Approving the Assumption and Assignment of Executory (the "Frejka Declaration"), filed contemporaneously herewith and incorporated by reference herein.

⁶ The Debtors reserve the right to file and serve any supplemental pleading or declaration that the Debtors deem appropriate or necessary in their reasonable business judgment, including any pleading summarizing the competitive bidding and sale process and the results thereof, in support of their request for entry of the Bidding Procedures Order or the sale order.

16. At that time, interest payments on prepetition facilities were quickly coming due, and the Debtors' lenders refused to fund incremental borrowings under the prepetition delayed draw term loan. Unable to secure a comprehensive solution or bridge financing, Greenhill and the Debtors' other advisors pivoted to negotiate a comprehensive in-court restructuring transaction.

17. In the period leading up to the Petition Date, Greenhill has worked to prepare for a robust postpetition marketing process on an expedited basis that aligns with the milestones provided in the Restructuring Support Agreement and required by the DIP Facility. To date, Greenhill, with the assistance of the Debtors, has identified more than one hundred (100) parties, including strategic and financial partners, as potential bidders for the Debtors' assets. Greenhill expects that additional parties may become aware of the potential sale through the chapter 11 process, thus driving even more interest in the Debtors' assets.

18. In May 2023, the Prepetition Lenders provided the Debtors with a purchase offer proposal comprised of two components—the provision of the DIP Facility to fund these chapter 11 cases and an agreement to serve as the stalking horse bidder and to credit-bid for substantially all of the assets of PGX in tandem with the sale of the Lexington Law assets. After extensive arm's-length negotiations with the Debtors' Prepetition Lenders, the Debtors were able to secure the proposed multi-draw DIP Facility in an aggregate amount of up to \$19.925 million, as further described in the DIP Motion, coupled with a going-concern credit bid for substantially all of the assets of PGX. This proposal formed the basis for the DIP Financing and the Progrexion Stalking Horse Bid. The liquidity provided by the DIP Financing, and the support of the Progrexion Stalking Horse Bid, will facilitate a fulsome and value-maximizing postpetition marketing process for the sale of all or substantially all of the Debtors' assets. The Debtors intend to market-test the proposed transaction with the Prepetition Lenders in the early stages of these chapter 11 cases.

II. The Proposed Schedule.

19. Pursuant to the Bidding Procedures, the Debtors will solicit any higher or otherwise better proposals according to the following proposed schedule, subject to Court approval and availability:

Event	Date
Bid Deadline	Thursday, August 3, 2023
Sale Objection Deadline	Thursday, August 3, 2023
Auction	Tuesday, August 8, 2023
Post-Auction Objection Deadline	Wednesday, August 9, 2023
Sale Hearing	Friday, August 11, 2023

20. The Debtors believe that this timeline, as required to maintain access to postpetition financing, provides them with an opportunity to conduct a thorough marketing process for the assets. In addition to the Debtors' transaction efforts thus far, the Debtors will utilize the time prior to entry of the Bidding Procedures Order to actively market the assets to expedite the solicitation bids in advance of the Bid Deadline. In light of the foregoing, the Debtors have determined that the proposed schedule is in the best interests of the Debtors' estates, will assist in establishing whether and to what extent a market exists for the assets, and provide interested parties with sufficient opportunity to participate in any sale transaction and ultimately, will result in the highest and best bid for the underlying assets under the circumstances.

III. The Progrexion Stalking Horse Bidder and Material Terms of the Progrexion APA.

21. On June 6, certain of the Debtors and the Progrexion Stalking Horse Bidder reached agreement on the Progrexion APA. Pursuant to the Progrexion Stalking Horse Bid, the Progrexion Stalking Horse Bidder proposes to acquire the assets of PGX for total consideration valued at approximately \$257.5 million as of the expected Closing Date, subject to certain adjustments.

22. The following chart summarizes the terms and conditions of the Progrexion APA attached to the Bidding Procedures Order as Exhibit 2 and discloses certain information required pursuant to Local Rule 6004-1:⁷

Progrexion APA Provision	Summary Description
Progrexion APA Parties <i>See Preamble</i>	<p><u>Seller:</u> PGX Holdings, Inc., Progrexion Holdings, Inc., Credit.com, Inc., eFolks Holdings, Inc., Creditrepair.com Holdings, Inc., Progrexion ASG, Inc., Progrexion IP, Inc., Progrexion Marketing, Inc., Progrexion Teleservices, Inc., eFolks, LLC, Creditrepair.com, Inc., Credit Repair UK, Inc.</p> <p><u>Purchaser:</u> [Lender AcquisitionCo LLC]</p>
Purchase Price Local Bankr. R. 6004-1(b)(iv)(N) <i>See § 3.2</i>	<p>The aggregate consideration for the Purchased Assets shall be no less than \$257,488,673.27 and shall consist of the following (collectively, the “Purchase Price”): (i) a credit bid equal to (A) all obligations under the DIP Facility and (B) not less than \$237,563,673.27 of the obligations under the Prepetition First Lien Financing Agreement (the “<u>Credit Bid Amount</u>”); plus (ii) the assumption by Buyer of the Assumed Liabilities. The portion of the Purchase Price payable under clause (i) shall be paid by means of discharging Sellers, and Sellers shall be deemed to be discharged, from the obligation to repay the total amounts due and owing under the Credit Documents as of the Closing Date. In no event shall the Credit Bid Amount be payable by Buyer in cash.</p>
Assets of PGX <i>See § 2.1</i>	<p>The assets of PGX shall include each of the following of the Sellers:</p> <ul style="list-style-type: none"> • other than the Excluded Cash, (i) all cash, money orders, third-party checks, wire transfers and any other funds of the Sellers, commercial paper, marketable securities, demand deposits, reserves for Taxes, certificates of deposit and other bank deposits, deposits of any Seller with any third-party (including any vendor, manufacturer, customer, utility or landlord or other cash deposits for rent, electricity, telephone or otherwise), treasury bills, and other cash equivalents and liquid investments (in each case, net of bank overdrafts, issued but uncleared checks, wire transfers and drafts, and negative cash balances in other accounts) and (ii) the Acquired Bank Accounts; • all deposits, credits, and prepaid charges and expenses from whatever source paid; • all accounts receivable; • all Avoidance Actions (other than Insider Avoidance Actions) with respect to the Purchased Assets; • all Claims that the Sellers may have against any Person (including Governmental Entities) for refund or credit, rebate, abatement, deposit, prepayment, or other recovery of any type, together with any refund of interest due thereon or penalty rebate arising therefrom, in each case solely with respect to Taxes accrued with respect to periods ending on or prior to the Closing Date;

⁷ This summary is provided for the convenience of the Court and parties in interest. To the extent there is any conflict between this summary and the Progrexion APA, the Progrexion APA shall govern in all respects. All references to schedules or sections in the following summary shall refer to schedules or sections of the Progrexion APA. Terms used but not defined in this summary description have the meaning ascribed to such term as in the Progrexion APA.

Progrexion APA Provision	Summary Description
	<ul style="list-style-type: none"> • all royalties, advances, prepaid assets, and other current assets; • all machinery, furniture, fixtures, furnishings, equipment, and other tangible personal property owned or used or held for use by the Sellers in the conduct of the Business, including all artwork, desks, chairs, tables, hardware, copiers, telephone lines and numbers, facsimile machines and other telecommunication equipment, cubicles and miscellaneous office furnishings and supplies; • all rights of any Seller under or pursuant to all warranties, representations and guarantees, including those made by suppliers, manufacturers and contractors or any other third party to and for the benefit of any Seller; • all current and prior insurance policies, to the extent transferable, and any proceeds therefrom, other than any directors and officers insurance policies; • all Permits, including those listed on Schedule 2.1(j), to the extent transferable or assignable under Law; • all Assumed Contracts; • all Documents; • all Acquired Intellectual Property and all of Sellers' rights to institute and pursue Proceedings against third parties for past, present and future infringement, misappropriation or dilution of any of the foregoing, or other conflict therewith, and all of the Sellers' rights to recover damages or lost profits in connection with any of the foregoing; • all Owned Real Property; • all rights under non-disclosure or confidentiality, non-compete or non-solicitation agreements with employees and non-employee agents of any Seller or with third parties (including any non-disclosure or confidentiality, non-compete, or non-solicitation agreement entered into in connection with the Auction); • any interest in any internet websites, URLs or internet domain names, and any applications and registrations pertaining thereto; • any loans owed to any Seller by any current or former employee, officer or director of any Seller; • the sponsorship of all Assumed Benefit Plans and all right, title and interest in any assets thereof or relating thereto; • all other assets or rights of every kind and description of Sellers related to the Business, wherever located, whether real, personal or mixed, tangible or intangible; and • all goodwill related to the foregoing.
<p>Assumed Liabilities <i>See § 2.3</i></p>	<p>On the terms and subject to the conditions set forth in the Progrexion APA and the Sale Order, and subject to the exclusions set forth therein, on the Closing Date, the PGX Stalking Horse Bidder shall assume only the following Assumed Liabilities:</p> <ul style="list-style-type: none"> • all Liabilities under the Assumed Contracts to the extent that any such Liabilities under such Assumed Contracts: (i) arise out of or relate to events, occurrences, acts or omissions occurring solely after the Closing Date, (ii) do not arise from a breach, violation or default of such Assumed Contract by any Seller prior to the Closing; and (iii) are not required to be performed prior to the Closing; • all Liabilities relating to Buyer's ownership or operation of the Purchased Assets to the extent arising out of or relating to events, occurrences, acts or omissions occurring solely after the Closing Date; • all Cure Amounts (the "<u>Assumed Cure Amounts</u>"); • all accrued and unpaid Administrative Expenses incurred by Sellers prior

Progrexion APA Provision	Summary Description
	<p>to the Closing Date (other than Professional Fees and Expenses) and those listed on Schedule 2.3(d), not to exceed \$4.4 million in the aggregate;</p> <ul style="list-style-type: none"> • all Liabilities in respect of wages and other compensation of Business Employees for periods prior to the Closing Date; • all Liabilities of Sellers under the employment agreements set forth on Schedule 2.3(g) (the “Key Employee Agreements”); • all Liabilities relating to Transferred Employees accruing on or after the Closing Date; • all Liabilities relating to Transferred Employees’ vacation and other paid time off to the extent set forth in Section 6.6(c); • all Liabilities with respect to the Benefit Plans listed on Schedule 2.3(j) (the “Assumed Benefit Plans”); • all Liabilities for Transfer Taxes pursuant to Section 6.10(a); and • those Tax Liabilities specifically set forth on Schedule 2.3(l).
<p>Excluded Assets <i>See § 2.2</i></p>	<p>Notwithstanding anything to the contrary in the Progrexion APA, in no event shall any Seller be deemed to sell, transfer, assign, convey or deliver, and each Seller shall retain all right, title and interest to, in and under, the following Excluded Assets:</p> <ul style="list-style-type: none"> • any Contract other than (i) any Assumed Contract, or (ii) any Contract otherwise included as a Purchased Asset under Section 2.1(h), Section 2.1(k), or Section 2.1(o) (collectively, the “<u>Excluded Contracts</u>”); • any Contract or arrangement (including any loan or similar arrangement) with or binding upon any of the Sellers and any Related Party; • any intercompany accounts receivable owed between or among the Sellers; • all Claims which the Sellers may have against any Person (other than Avoidance Actions with respect to the Purchased Assets), including (i) all other rights, claims, causes of action, rights of recovery, rights of set-off, and rights of recoupment as of the Closing of any Seller, in each case, arising out of or relating to events occurring on or prior to the Closing Date, and (ii) all claims that any of Sellers may have against any Person with respect to any other Excluded Assets or any Excluded Liabilities; • all rights of the Sellers under this Agreement and the agreements and instruments delivered to the Sellers by Buyer pursuant to this Agreement; • all Documents (i) to the extent they relate to any of the Excluded Assets or Excluded Liabilities (including information stored on the computer systems, data networks or servers of any Seller); (ii) that are minute books, organizational documents, stock registers and such other books and records of any Seller as pertaining to ownership, organization or existence of such Seller, Tax Returns (and any related work papers), corporate seal, checkbooks, and canceled checks; (iii) that any Seller is required by Law to retain; or (iv) that are governed under GDPR or collected from natural persons with addresses in the European Union or European Economic Area; provided that, to the extent not prohibited by applicable Law, Buyer shall have the right to make copies of any portions or all of such Documents; • the Sellers’ directors and officers liability insurance policies, if any, and all rights and benefits of any nature of Sellers with respect thereto, including all insurance recoveries thereunder and rights to assert claims with respect to any such insurance recoveries; • all Equity Interests of the Sellers and CreditCo Limited, wholly-owned subsidiary of Credit Repair UK; • all assets owned or used by the Sellers that are specifically identified in

Progexion APA Provision	Summary Description
	<p>Schedule 2.2(i);</p> <ul style="list-style-type: none"> • every asset of Sellers that would otherwise constitute a Purchased Asset (if owned immediately prior to the Closing) if conveyed or otherwise disposed of during the period from the date hereof until the Closing Date (i) at the direction of the Bankruptcy Court or (ii) as permitted by the terms of the DIP Documents; • all deposits, credits, prepaid charges and expenses, and other similar amounts, to the extent related to any Excluded Liability; • all Permits other than those listed in listed on Schedule 2.1(j); • the sponsorship of all Benefit Plans that are not Assumed Benefit Plans and all right, title and interest in any assets thereof or relating thereto; and • the Excluded Cash.
<p>Excluded Liabilities <i>See § 2.4</i></p>	<p>Except for the Assumed Liabilities expressly set forth in Section 2.3 of the Progexion APA, the Purchaser shall not assume, or become liable for the payment or performance of, the Excluded Liabilities, including the following Liabilities, of all which shall remain Liabilities of the Sellers for which the Sellers shall remain solely and exclusively liable:</p> <ul style="list-style-type: none"> • any Liability for (i) Taxes of any Seller for any taxable period and (ii) Pre-Closing Taxes, including, for the avoidance of doubt, any employment Taxes the payment of which was deferred under the Coronavirus Aid, Relief, and Economic Security (CARES) Act; • any Claim in connection with or arising from or relating to any Excluded Asset, including any Taxes associated therewith; • all Cure Amounts other than the Assumed Cure Amounts; • any fees, costs and expenses (including legal fees and accounting fees) incurred by any Seller in connection with the Cases or the Transactions, including all fees, costs and expenses incurred in connection with or by virtue of (i) the negotiation, preparation and review of this Agreement and all agreements ancillary or related hereto, (ii) the preparation and submission of any filing or notice required to be made or given in connection with the Transactions, and the obtaining of any consent required to be obtained in connection with the Transactions, (iii) the negotiation, preparing and review of the DIP Documents and (iv) any Alternate Transaction; • any Liabilities arising under or pursuant to labor Laws; • any Liabilities relating to the Transferred Employees arising prior to the Closing Date (other than those expressly set forth in Section 2.3 or Section 6.6(c)), and any Liabilities relating to all other current or former employees, directors, consultants and other individual service providers of the Sellers or their Affiliates who are not Transferred Employees arising at any time, in each case, including any severance, termination or payment in lieu of notice Liability, and any other Liability arising under or out of any Law or Contract in connection with such Person’s employment, service or Contract with, or the termination of such Person’s employment, service or Contract with, any Seller or its Affiliates; • any Liabilities of the Sellers and their respective ERISA Affiliates with respect to any Benefit Plan or other compensation or benefit plan, program, policy, agreement or arrangement of the Sellers, other than with respect to any Assumed Benefit Plan, including any health, welfare, retirement, pension or profit sharing Liability, deferred compensation Liability, equity or equity-based incentive compensation Liability, any Liability under any employment agreements or offer letters, or any penalties, fines or other expenses resulting from any compliance issue with any Benefit Plan or

Progrexion APA Provision	Summary Description
	<p>Law, other than those Liabilities expressly assumed pursuant to Section 2.3(h) and Section 2.3(i) or Section 6.6;</p> <ul style="list-style-type: none"> • any Liability of any Seller arising out of this Agreement or any agreement ancillary or related hereto; • any Liabilities arising out of or relating to the Business, the Purchased Assets or the ownership, operation or conduct thereof prior to the Closing; • any Liabilities for accrued expenses and accounts payable of the Business; • any Liabilities arising as a result of any Proceeding, whether initiated prior to or following the Closing, to the extent related to the Business or the Purchased Assets, including any actions for breach of contract, violations of or non-compliance with Law (including Consumer Financial Laws), Product Liability or any tort actions; • any Liabilities arising as a result of any Contract or arrangement (including any loan or similar arrangement) with or binding upon any of the Sellers and any Related Party (other than those Liabilities expressly assumed pursuant to Section 2.3(a)) and all intercompany payables owed from one Seller to any other Seller; and • any Liabilities (i) existing prior to the filing of the Cases that are subject to compromise under the Bankruptcy Code or other applicable Law and (ii) to the extent not otherwise expressly assumed herein, incurred subsequent to the filing of the Cases and prior to the Closing; • provided that in the event of any conflict between the terms of Section 2.3 and this Section 2.4, the terms of Section 2.3 will control.
<p>Representations and Warranties of Sellers <i>See § 4.1, et seq.</i></p>	<p>The Progrexion APA contains customary representations and warranties, including, but not limited to, representations of Seller regarding: (a) organization and good standing; (b) power and authority; (c) litigation; (d) no contravention; (e) consents and approvals; (f) title to purchased assets; (g) validity of available contracts; (h) intellectual property; (i) employee benefits; (j) labor matters; (k) conduct of business; (l) compliance with laws; permits; (m) financial statements; (n) financial advisors; (o) absence of undisclosed liabilities; (p) tax matters; (q) condition and suitability of purchased assets; (r) related party transactions; and (s) disclaimer of other representations and warranties.</p>
<p>Representations and Warranties of Purchaser <i>See § 5.1, et seq.</i></p>	<p>The Progrexion APA contains customary representations and warranties, including, but not limited to, representations of Seller regarding: (a) organization and good standing; (b) power and authority; (c) no contravention; (d) consents and approvals; (e) litigation; (f) financial advisors; (g) sufficient funds, adequate assurances; (h) credit bid; and (i) acknowledgments, “as is” “where is” transaction.</p>
<p>Agreements with Management Local Bankr. R. 6004-1(b)(iv)(B) <i>See § 6.6</i></p>	<p>At least ten (10) days prior to Closing, Buyer shall extend to each Business Employee a written offer of employment, which shall have been first reviewed by Sellers, and which Sellers shall have had an opportunity to comment upon, providing for a position that is the same or no less favorable than such employee’s position immediately prior to the Closing (including level of responsibility, primary location of employment and authority) on the terms set forth in this Section 6.6 (“<u>Transfer Offer</u>”) and that, if accepted, shall become effective immediately after the Closing. Business Employees who accept such Transfer Offers and begin active employment with Buyer in accordance with this Section 6.6 shall be referred to herein as “<u>Transferred Employees</u>” For a period of no less than one (1) year or, if sooner, the Transferred Employee’s termination of employment with Buyer or its Affiliates, Buyer or its affiliates shall provide each Transferred Employee (i) at least the same base salary or hourly wage rate and target incentive cash bonus opportunities applicable to such Transferred Employee as of the Closing Date and (ii) other material employee benefits (but excluding any equity based compensation,</p>

Progexion APA Provision	Summary Description
	defined benefit plan benefits or long-term deferred compensation) that are comparable in the aggregate to the benefits such Transferred Employee received under the Benefit Plans as of the Closing Date. Buyer shall notify Sellers in a reasonable timeframe with respect to whether each such offer has been accepted or rejected. Nothing herein shall be construed as a representation or guarantee by any Seller or any of their respective Affiliates that any or all of the employees of Sellers will accept the Transfer Offer or will continue in employment with Buyer following the Closing for any period of time. Buyer shall carry out all necessary actions to effect the timely transfer of employment to it of each such Transferred Employee who has accepted a Transfer Offer. Effective as of the Closing, each Transferred Employee shall cease to be an employee of each Seller or their respective Affiliates.
Good Faith Deposit Local Bankr. R. 6004-1(b)(iv)(F)	No good faith deposit is required.
Tax Exemption Local Bankr. R. 6004-1(b)(iv)(I) <i>See § 6.10(b)</i>	Other than Transfer Taxes, all Liability for Taxes with respect to the Purchased Assets attributable to the Pre-Closing Tax Period (the “Pre-Closing Taxes”) shall be borne by the Sellers, and all Liability for Taxes with respect to the Purchased Assets attributable to the Post-Closing Tax Period shall be borne by Buyer. For the purposes of this Agreement, with respect to Taxes attributable to any taxable year or other taxable period beginning on or before and ending after the Closing Date, the portion of any such Taxes that are treated as Pre-Closing Taxes shall be: (i) in the case of Taxes based upon, or related to income, receipts, profits, or wages or imposed in connection with the sale, transfer or assignment of property, or required to be withheld, deemed equal to the amount which would be payable if such taxable year or other taxable period ended on the Closing Date, and (ii) in the case of other Taxes deemed to be the amount of such Taxes for the entire period multiplied by a fraction the numerator of which is the number of days in the period ending on the Closing Date and the denominator of which is the number of days in the entire period.
Requested Findings as to Successor Liability Local Bankr. R. 6004-1(b)(iv)(L) <i>See § 1.1, Sale Order</i>	The Parties intend that, to the fullest extent permitted by applicable Law (including under Section 363 of the Bankruptcy Code), effective as of the Closing, the release of Sellers from amounts due and owing under the Loan Documents up to an amount equal to the Credit Bid Amount provide that neither Buyer nor any of its Affiliates or equityholders will have any derivative, successor, transferee or vicarious liability of any kind or character, whether fixed or contingent, for Liabilities of the Sellers (whether under federal or state Law or otherwise), including 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 Business prior to the Closing (except for such Taxes that constitute Assumed Liabilities).
Sale of Unexpired Leases Free and Clear Local Bankr. R. 6004-1(b)(iv)(M) <i>See §§ 2.1, 4.6</i>	<p>At the Closing, and upon the terms and subject to the conditions set forth herein and in the Sale Order and, with respect to Seller, subject to the approval of the Bankruptcy Court pursuant to sections 105, 363 and 365 of the Bankruptcy Code, Seller shall sell, convey, assign, transfer and deliver to Buyer, and Buyer shall purchase, acquire and accept from Seller, all of the right, title and interest of Seller, free and clear of any Encumbrances (other than Permitted Encumbrances), in, to and under, all of the Purchased Assets.</p> <p>Sellers have, and subject to the entry and effectiveness of the Sale Order in respect of the Purchased Assets, at the Closing, Buyer will have, good and valid title to each of the Purchased Assets (except for those Purchased Assets that are leased or licensed to any Seller, as to which any Seller has, and at the Closing, Buyer will have, valid licensed or leasehold interests), free and clear of any Encumbrances,</p>

Progexion APA Provision	Summary Description
	other than (i) Permitted Encumbrances, (ii) liens or other Encumbrances upon Buyer's assets, if any, securing any loan made directly to Buyer or expressly assumed by Buyer as of the Closing Date, (iii) as subject to Section 2.5, or (iv) the Enforceability Exceptions.

IV. The Lexington Law Stalking Horse Bidder and Material Terms of the Lexington Law APA.

23. On June 6, 2023, certain of the Debtors and the Lexington Law Stalking Horse Bidder reached agreement on the Lexington Law APA. Pursuant to the Lexington Law Stalking Horse Bid, the Lexington Law Stalking Horse Bidder proposes to acquire the assets of Lexington Law for total consideration valued at approximately \$28.5 million in assumption of cure costs and administrative expenses as of the expected Closing Date, subject to certain adjustments. Importantly, the Lexington Law APA does not contain any break-up fee or expense reimbursement.

24. As noted above, the Lexington Law Stalking Horse Bidder is an acquisition vehicle formed by the current owners of Lexington Law. As discussed in further detail in the First Day Declaration, John C. Heath, Attorney At Law, P.C. is a Utah based law firm, organized as a professional corporation under Utah state law, that does business as "Lexington Law." Lexington Law is independently owned by Utah licensed attorneys John C. Heath and Eric Kamerath, who serves as the Chief Legal Officer of PGX. Mr. Heath, who currently serves as the Chief Executive Officer and Directing Attorney at Lexington Law, took on his leadership role at Lexington Law in 2004 and reoriented the primary focus of the firm's practice to consumer credit report repair. In light of the foregoing, the Debtors believe that the Lexington Law Stalking Horse Bidder can be considered an "insider" of the Debtors, as that term is defined in the Bankruptcy Code.

25. The following chart summarizes the terms and conditions of the Lexington Law APA attached to the Bidding Procedures Order as Exhibit 3 and discloses certain information required pursuant to Local Rule 6004-1:⁸

Lexington Law APA Provision	Summary Description
Lexington Law APA Parties <i>See Preamble</i>	<u>Seller:</u> John C. Heath, Attorney at Law PC d/b/a Lexington Law, a Utah professional corporation <u>Purchaser:</u> AcquisitionCo
Insider Transaction Local Bankr. R. 6004-1(b)(iv)(A)	The Lexington Law Stalking Horse Bidder is an “insider” of the Debtors, as that term is defined in section 101(31) of the Bankruptcy Code.
Purchase Price Local Bankr. R. 6004-1(b)(iv)(N) <i>See § 3.2</i>	The aggregate consideration for the Purchased Assets shall be (i) the assumption and cure of the PGX Operating Agreements, <i>plus</i> (ii) the assumption by Buyer of the Assumed Liabilities, which includes up to \$4,400,000 in administrative expenses.
Purchased Assets <i>See § 2.1</i>	At the Closing, and upon the terms and subject to the conditions set forth herein and in the Sale Order and, with respect to Seller, subject to the approval of the Bankruptcy Court pursuant to sections 105, 363 and 365 of the Bankruptcy Code, Seller shall sell, convey, assign, transfer and deliver to Buyer, and Buyer shall purchase, acquire and accept from Seller, all of the right, title and interest of Seller, free and clear of any Encumbrances (other than Permitted Encumbrances), in, to and under, all of the Purchased Assets. The Purchased Assets shall include Seller’s right, title and interest in, to and under each of the following of Seller: <ul style="list-style-type: none"> • other than the Excluded Cash, (i) all cash, money orders, third-party checks, wire transfers and any other funds of Seller, commercial paper, marketable securities, demand deposits, reserves for Taxes, certificates of deposit and other bank deposits, deposits of Seller with any third-party (including any vendor, manufacturer, customer, utility or landlord or other cash deposits for rent, electricity, telephone or otherwise), treasury bills, and other cash equivalents and liquid investments (in each case, net of bank overdrafts, issued but uncleared checks, wire transfers and drafts, and negative cash balances in other accounts), and (ii) the Acquired Bank Accounts; • all deposits, credits, and prepaid charges and expenses from whatever source paid; • all accounts receivable; • all Avoidance Actions (including the Buyer Avoidance Actions but, for the avoidance of doubt, excluding the Insider Avoidance Actions) with respect to the Purchased Assets;

⁸ This summary is provided for the convenience of the Court and parties in interest. To the extent there is any conflict between this summary and the Lexington Law APA, the Lexington Law APA shall govern in all respects. All references to schedules or sections in the following summary shall refer to schedules or sections of the Lexington Law APA. Terms used but not defined in this summary description have the meaning ascribed to such term as in the Lexington Law APA.

Lexington Law APA Provision	Summary Description
	<ul style="list-style-type: none"> • all Claims that Seller may have against any Person (including Governmental Entities) for refund or credit, rebate, abatement, deposit, prepayment, or other recovery of any type, together with any refund of interest due thereon or penalty rebate arising therefrom, in each case solely with respect to Taxes accrued with respect to periods ending on or prior to the Closing Date; • all royalties, advances, prepaid assets, and other current assets; • all machinery, furniture, fixtures, furnishings, equipment, and other tangible personal property owned or used or held for use by Seller in the conduct of the Business, including all artwork, desks, chairs, tables, hardware, copiers, telephone lines and numbers, facsimile machines and other telecommunication equipment, cubicles and miscellaneous office furnishings and supplies; • all rights of Seller under or pursuant to all warranties, representations and guarantees, including those made by suppliers, manufacturers and contractors or any other third party to and for the benefit of Seller; • all current and prior insurance policies, to the extent transferable, and any proceeds therefrom, other than any directors and officers insurance policies; • all Permits, including those listed on Schedule 2.1(j), to the extent transferable or assignable under Law; • all Assumed Contracts; • all Documents; • all Acquired Intellectual Property and all of Seller’s rights to institute and pursue Proceedings against third parties for past, present and future infringement, misappropriation or dilution of any of the foregoing, or other conflict therewith, and all of Seller’s rights to recover damages or lost profits in connection with any of the foregoing; • all Owned Real Property; • all rights under non-disclosure or confidentiality, non-compete or non-solicitation agreements with employees and non-employee agents of Seller or with third parties (including any non-disclosure or confidentiality, non-compete, or non-solicitation agreement entered into in connection with the Auction); • any interest in any internet websites, URLs or internet domain names, and any applications and registrations pertaining thereto; • any loans owed to Seller by any current or former employee, officer or director of Seller; • the sponsorship of all Assumed Benefit Plans and all right, title and interest in any assets thereof or relating thereto; • all other assets or rights of every kind and description of Seller related to the Business, wherever located, whether real, personal or mixed, tangible or intangible; and • all goodwill related to the foregoing.
<p>Assumed Liabilities <i>See § 2.3</i></p>	<p>Upon the terms and subject to the conditions set forth in this Agreement and the Sale Order, and subject to the exclusions set forth in Section 2.4 (and in the event of any conflict between the exclusions set forth in Section 2.4 and the provisions of this Section 2.3, the exclusions set forth in Section 2.4 shall prevail), as partial consideration for the Purchased Assets, Buyer shall, on and after the Closing, assume only the following Liabilities of Seller (the “Assumed Liabilities”):</p> <ul style="list-style-type: none"> • all Liabilities under the Assumed Contracts to the extent that any such Liabilities under such Assumed Contracts: (i) arise out of or relate to

Lexington Law APA Provision	Summary Description
	<p>events, occurrences, acts or omissions occurring solely after the Closing Date, (ii) do not arise from a breach, violation or default of such Assumed Contract by Seller prior to the Closing; and (iii) are not required to be performed prior to the Closing;</p> <ul style="list-style-type: none"> • all Liabilities relating to Buyer’s ownership or operation of the Purchased Assets to the extent arising out of or relating to events, occurrences, acts or omissions occurring solely after the Closing Date; • all Cure Amounts; • all accrued and unpaid Administrative Expenses incurred by Seller prior to the Closing Date (other than Professional Fees and Expenses) and those listed on Schedule 2.3(d), not to exceed \$4.4 million in the aggregate; • all current Liabilities, including all accounts payable and trade payables existing on the Closing Date (including, for the avoidance of doubt, (i) invoiced accounts payable and (ii) accrued but un-invoiced accounts payable) of Seller; • all Liabilities in respect of wages and other compensation of Business Employees for periods prior to the Closing Date; • all Liabilities of Seller under the employment agreements set forth on Schedule 2.3(g) (the “Key Employee Agreements”); • all Liabilities relating to Transferred Employees accruing on or after the Closing Date; • all Liabilities relating to Transferred Employees’ vacation and other paid time off to the extent set forth in Section 6.6; • all Liabilities with respect to the Benefit Plans listed on Schedule 2.3(i) (the “Assumed Benefit Plans”); and • all Liabilities for Transfer Taxes pursuant to Section 6.10(a) • those Tax Liabilities specifically set forth on Schedule 2.3(l); and • any Claim in connection with or arising from or relating to any Excluded Asset, including any Taxes associated therewith.
<p>Excluded Assets <i>See § 2.2</i></p>	<p>Notwithstanding anything herein contained to the contrary, from and after the Closing, Seller shall retain, and Buyer shall not purchase, Seller’s right, title and interest in and to (and the Purchased Assets shall not include any of) the following assets and properties of Seller (collectively, the “Excluded Assets”), all of which shall remain the exclusive property of the Seller:</p> <ul style="list-style-type: none"> • any Contract other than (i) any Assumed Contract, or (ii) any Contract otherwise included as a Purchased Asset under Section 2.1(h), Section 2.1(k), or Section 2.1(o) (collectively, the “Excluded Contracts”); • any Contract or arrangement (including any loan or similar arrangement) with or binding upon any of Seller and any Related Party (as defined below); • all Claims which Seller may have against any Person (other than Avoidance Actions with respect to the Purchased Assets), including (i) all other rights, claims, causes of action, rights of recovery, rights of set-off, and rights of recoupment as of the Closing of Seller, in each case, arising out of or relating to events occurring on or prior to the Closing Date, and (ii) all claims that Seller may have against any Person with respect to any other Excluded Assets or any Excluded Liabilities; • all rights of Seller under this Agreement and the agreements and instruments delivered to Seller by Buyer pursuant to this Agreement;

Lexington Law APA Provision	Summary Description
	<ul style="list-style-type: none"> • all Documents (i) to the extent they relate to any of the Excluded Assets or Excluded Liabilities (including information stored on the computer systems, data networks or servers of Seller); (ii) that are Seller’s financial accounting Documents, all minute books, organizational documents, stock registers and such other books and records of Seller as pertaining to ownership, organization or existence of Seller, Tax Returns (and any related work papers), corporate seal, checkbooks, and canceled checks; (iii) that Seller is required by Law to retain; or (iv) that are governed under GDPR or collected from natural persons with addresses in the European Union or European Economic Area; provided that, to the extent not prohibited by applicable Law, Buyer shall have the right to make copies of any portions or all of such Documents; • all privileged materials, documents and records of Seller or any of its Affiliates; • the Seller’s directors and officers liability insurance policies, if any, and all rights and benefits of any nature of Seller with respect thereto, including all insurance recoveries thereunder and rights to assert claims with respect to any such insurance recoveries; • all assets owned or used by Seller that are specifically identified in Schedule 2.2(h); • every asset of Seller that would otherwise constitute a Purchased Asset (if owned immediately prior to the Closing) if conveyed or otherwise disposed of during the period from the date hereof until the Closing Date (i) in the Ordinary Course of Business, (ii) at the direction of the Bankruptcy Court or (iii) as otherwise permitted by the terms of this Agreement; • all deposits, credits, prepaid charges and expenses, and other similar amounts, to the extent related to any Excluded Liability; • all Permits other than those listed on Schedule 2.1(j); • the sponsorship of all Benefit Plans that are not Assumed Benefit Plans and all right, title and interest in any assets thereof or relating thereto; and • the Excluded Cash.
Excluded Liabilities <i>See § 2.4</i>	<p>Notwithstanding anything to the contrary set forth herein, Buyer shall not assume, and shall not be deemed to have assumed, and Seller shall be solely and exclusively liable with respect to, all Liabilities of Seller or any of its Affiliates or any of their respective predecessors other than the Assumed Liabilities (collectively, the “<u>Excluded Liabilities</u>”). For the avoidance of doubt, and without limiting the foregoing, Buyer shall not be obligated to assume, nor assumes, and Buyer hereby disclaims, all of the Excluded Liabilities.</p>
Representations and Warranties of Sellers <i>See § 4.1, et seq.</i>	<p>The Lexington Law APA contains customary representations and warranties, including, but not limited to, representations of Seller regarding: (a) organization and good standing (b) power and authority; (c) litigation; (d) no contravention; (e) consents and approvals; (f) title to purchased assets; sufficiency; (g) validity of available contracts; (h) intellectual property; (i) employee benefits; (j) labor matters; (k) conduct of business; (l) compliance with laws; permits; (m) financial statements; (n) financial advisors; (o) tax matters; (p) related party transactions; and (q) disclaimer of other representations and warranties.</p>
Representations and Warranties of Purchaser <i>See § 5.1, et seq.</i>	<p>The Lexington Law APA contains customary representations and warranties, including, but not limited to, representations of Seller regarding: (a) organization and good standing; (b) power and authority; (c) no contravention; (d) consents and approvals; (e) litigation; (f) financial advisors; (g) sufficient funds; adequate</p>

Lexington Law APA Provision	Summary Description
	assurances.
Agreements with Management Local Bankr. R. 6004-1(b)(iv)(B) <i>See § 6.6</i>	<p>(a) At least ten (10) days prior to Closing, Buyer shall extend to each Business Employee a written offer of employment, which shall have been first reviewed by Seller, and which Seller shall have had an opportunity to comment upon, providing for a position that is the same or no less favorable than such employee's position immediately prior to the Closing (including level of responsibility, primary location of employment and authority) on the terms set forth in this Section 6.6 (each offer, a "<u>Transfer Offer</u>") and that, if accepted, shall become effective immediately after the Closing. Business Employees who accept such Transfer Offers and begin active employment with Buyer in accordance with this Section 6.6 shall be referred to herein as "<u>Transferred Employees</u>." For a period of no less than one (1) year or, if sooner, the Transferred Employee's termination of employment with Buyer or its Affiliates, Buyer or its affiliates shall provide each Transferred Employee (i) at least the same base salary or hourly wage rate and target incentive cash bonus opportunities applicable to such Transferred Employee as of the Closing Date and (ii) other material employee benefits (but excluding any equity based compensation, defined benefit plan benefits or long-term deferred compensation) that are comparable in the aggregate to the benefits such Transferred Employee received under the Benefit Plans as of the Closing Date. Buyer shall notify Seller in a reasonable timeframe with respect to whether each such offer has been accepted or rejected. Nothing herein shall be construed as a representation or guarantee by Seller or any of its respective Affiliates that any or all of the employees of Seller will accept the Transfer Offer or will continue in employment with Buyer following the Closing for any period of time. Buyer shall carry out all necessary actions to effect the timely transfer of employment to it of each such Transferred Employee who has accepted a Transfer Offer. Effective as of the Closing, each Transferred Employee shall cease to be an employee of the Seller or its respective Affiliate(s).</p>
Good Faith Deposit Local Bankr. R. 6004-1(b)(iv)(F)	No good faith deposit is required.
Tax Exemption Local Bankr. R. 6004-1(b)(iv)(I) <i>See § 6.10(b)</i>	<p>Other than Transfer Taxes, all Liability for Taxes with respect to the Purchased Assets attributable to the Pre-Closing Tax Period (the "<u>Pre-Closing Taxes</u>") shall be borne by Seller, and all Liability for Taxes with respect to the Purchased Assets attributable to the Post-Closing Tax Period, shall be borne by Buyer. For the purposes of this Agreement, with respect to Taxes attributable to any taxable year or other taxable period beginning on or before and ending after the Closing Date, the portion of any such Taxes that are treated as Pre-Closing Taxes shall be: (i) in the case of Taxes based upon, or related to income, receipts, profits, or wages or imposed in connection with the sale, transfer or assignment of property, or required to be withheld, deemed equal to the amount which would be payable if such taxable year or other taxable period ended on the Closing Date, and (ii) in the case of other Taxes deemed to be the amount of such Taxes for the entire period multiplied by a fraction the numerator of which is the number of days in the period ending on the Closing Date and the denominator of which is the number of days in the entire period.</p>
Requested Findings as to Successor Liability	<p>The Parties intend that, to the fullest extent permitted by applicable Law (including under Section 363 of the Bankruptcy Code), effective as of the Closing, the release of Sellers from amounts due and owing under the Loan Documents up to an amount equal to the Credit Bid Amount provide that neither Buyer nor any of its Affiliates or equityholders will have any derivative, successor, transferee or vicarious liability</p>

Lexington Law APA Provision	Summary Description
Local Bankr. R. 6004-1(b)(iv)(L) <i>See § 1.1, Sale Order</i>	of any kind or character, whether fixed or contingent, for Liabilities of the Sellers (whether under federal or state Law or otherwise), including 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 Business prior to the Closing (except for such Taxes that constitute Assumed Liabilities).
Sale of Unexpired Leases Free and Clear Local Bankr. R. 6004-1(b)(iv)(M) <i>See §§ 2.1, 4.6</i>	At the Closing, and upon the terms and subject to the conditions set forth herein and in the Sale Order and, with respect to Seller, subject to the approval of the Bankruptcy Court pursuant to sections 105, 363 and 365 of the Bankruptcy Code, Seller shall sell, convey, assign, transfer and deliver to Buyer, and Buyer shall purchase, acquire and accept from Seller, all of the right, title and interest of Seller, free and clear of any Encumbrances (other than Permitted Encumbrances), in, to and under, all of the Purchased Assets. At the Closing, Buyer will have, good and valid title to each of the Purchased Assets (except for those Purchased Assets that are leased or licensed to Seller, as to which Seller has, and at the Closing, Buyer will have, valid licensed or leasehold interests) free and clear of any Encumbrances, other than (i) Permitted Encumbrances, (ii) liens or other Encumbrances upon Buyer's assets, if any, securing any loan made directly to Buyer or expressly assumed by Buyer as of the Closing Date, (iii) as subject to <u>Section 2.5</u> , or (iv) the Enforceability Exceptions.

The Bidding Procedures Order

V. The Bidding Procedures.

26. To optimally and expeditiously solicit, receive, and evaluate bids in a fair and accessible manner, the Debtors have developed and proposed the Bidding Procedures, attached as Exhibit 1 to the Bidding Procedures Order.⁹ The proposed Bidding Procedures are designed to permit a fair, efficient, competitive, and value-maximizing auction process for the Debtors' assets, consistent with the timeline of the chapter 11 cases.

27. The Bidding Procedures will provide potential bidders with ample notice and time to conduct thorough due diligence to submit binding bids in advance of the Sale Hearings. The Debtors and their advisors have already commenced a marketing and sale process to confirm the market value of the Debtors' assets. In creating the Bidding Procedures, the Debtors are seeking

⁹ This summary is qualified in its entirety by the Bidding Procedures attached as Exhibit 1 to the Bidding Procedures Order. All capitalized terms that are used in this summary but not otherwise defined herein shall have the meanings given to such terms in the Bidding Procedures. To the extent there are any conflicts between this summary and the Bidding Procedures, the terms of the Bidding Procedures shall govern.

to balance their interests in consummating the sale of the assets on a timeline that ensures the Stalking Horse Bidders' willingness to provide a floor offer while at the same time preserving the opportunity to attract the highest or otherwise best offer. The Bidding Procedures are designed to encourage all prospective bidders to put their best bid forward, bring finality to the Debtors' restructuring process, and create a path towards entry of the sale order that embodies the highest or otherwise best available recoveries to the Debtors' stakeholders.

28. The following describes the salient points of the Bidding Procedures and discloses certain information required pursuant to Local Rule 6004-1:¹⁰

- (a) **Bid Requirements (Local Bankr. R. 6004-1(c)(i)(A)-(E))**. Any bid by an Acceptable Bidder must be submitted in writing and satisfy the following requirements, in each case, to the satisfaction of the Debtors:
 - (i) **Identification of Bidder**. A Qualified Bid must fully disclose the following: (a) the legal identity of each person or entity bidding for the applicable Assets and/or otherwise sponsoring, financing (including through the issuance of debt in connection with such Bid) or participating in (including through license or similar arrangement with respect to the Assets to be acquired in connection with such Bid) the Auction in connection with such Bid and the complete terms of any such participation; (b) any past or present connections or agreements with the Debtors or their non-Debtor affiliates, any Stalking Horse Bidder(s), any other known Prospective Bidder or Qualified Bidder, the Prepetition First Lien Lenders (as defined in the Bidding Procedures Order) or any officer or director of any of the foregoing (including any current or former officer or director of the Debtors or their non-Debtor affiliates) and (c) with respect to any Bid that includes the assets of Lexington Law, the legal identity of each person that holds, as of the date the Bid is being submitted, any equitable interest whatsoever in the Prospective Bidder (including, without limitation, any capital stock, convertible securities, options, warrants or similar instruments), and the status

¹⁰ The following summary is provided for convenience purposes only. To the extent any of the terms described below are inconsistent with the Bidding Procedures, the Bidding Procedures control in all respects. Capitalized terms used in this summary but not defined herein shall have the meanings ascribed to them in the Bidding Procedures.

of each such person as a “lawyer” (as such term is defined in any applicable rules of professional conduct).

- (ii) Purchased Assets. A Qualified Bid must identify the following:
 - (A) the Assets to be purchased (including any then-known executory contracts and unexpired leases (collectively, the “Contracts”)) such Prospective Bidder wishes to bid on. For the avoidance of doubt, a Bid may be a bid on the Assets in either (i) individual lots (by brand and/or by division or any other combination), (ii) as a collective whole, or (iii) in any combination;
 - (B) the liabilities (including applicable Cure Amounts (as defined in the Stalking Horse Agreements), if any, to be assumed by the Prospective Bidder in the Sale Transaction, including any debt to be assumed; and
 - (C) if a Bid is for more than one Asset, an allocation of the purchase price across the individual Assets.
- (iii) Form of Consideration.
 - (A) Credit Bidding. A Stalking Horse Bidder or Prospective Bidder holding a perfected security interest in any of the Assets may seek to credit bid all or a portion of the Stalking Horse Bidder’s or the Prospective Bidder’s claims for the collateral in which it holds a perfected security interest (each such Bid, a “Credit Bid”) in accordance with section 363(k) of the Bankruptcy Code. A Credit Bid may be applied only with respect to those Assets in which the party submitting such Credit Bid holds a perfected security interest.

For the avoidance of doubt, (i) Blue Torch Finance LLC, as administrative agent and collateral agent (in such capacities, the “Prepetition First Lien Agent”), on behalf of the Prepetition First Lien Lenders, (ii) the Prepetition First Lien Lenders, (iii) [Lender AcquisitionCo LLC], (iv) the DIP Agent, on behalf of the DIP Lenders (each as defined in the DIP Motion¹¹) or (v) the DIP Lenders, as applicable, will be deemed to be a Qualified Bidder, for all purposes and requirements pursuant to the Bidding Procedures,

¹¹ “DIP Motion” means the *Motion of Debtors for Entry of Interim and Final Orders (I) Authorizing the Debtors to (A) Obtain Postpetition Financing and (B) Utilize Cash Collateral, (II) Granting Liens and Superpriority Administrative Expense Claims, (III) Modifying the Automatic Stay, (IV) Scheduling a Final Hearing, and (V) Granting Related Relief* [Docket No. 17].

notwithstanding the requirements that a Prospective Bidder must satisfy to be a Qualified Bidder, and any Bid submitted by any party identified in this paragraph will be deemed to be a Qualified Bid, for all purposes and requirements pursuant to the Bidding Procedures, notwithstanding the requirements that a Bid must satisfy to be a Qualified Bid, including the requirements, among others, that each Bid must be irrevocable and to deliver a confidentiality agreement and post a Good Faith Deposit (as defined herein).

- (B) Form of Consideration and Allocation. A Bid must specify whether the Bid is an all cash offer (including confirmation that the cash component is in U.S. Dollars) or consists of certain non-cash components, such as a credit bid, assumption of liabilities, or other forms of consideration (and including a detailed analysis of the value of any non-cash component of the Bid) as well as the allocation of the purchase price among the Assets to be acquired and the liabilities to be assumed. Subject to Section VI.A.4 below, to be a Qualified Bid, a Bid (whether on an individual Asset, a package of Assets or all Assets) must include sufficient cash consideration to pay any applicable termination payment, expense reimbursement, or similar payment payable to any Stalking Horse Bidder under the terms of any Stalking Horse Agreement applicable to one or more of the Assets for which the Bid is submitted.
- (iv) Minimum Bid for Stalking Horse Assets. Each Bid submitted in connection with Assets that are the subject of a particular Stalking Horse Bid (any such Assets, the “Stalking Horse Assets”) must either (a) (i) be a Bid for all of the particular Stalking Horse Assets that are the subject of a particular Stalking Horse Bid, (ii) include cash consideration of not less than the sum of the purchase price set forth in the applicable Stalking Horse Agreement (excluding, for the avoidance of doubt, any “Assumed Liabilities” to be assumed by the Stalking Horse Bidder pursuant to the applicable Stalking Horse Bid Agreement) *plus* (A) all “Obligations” outstanding under the DIP Documents (as defined in the DIP Motion), *plus* (B) any applicable termination payment and/or expense reimbursement, *plus* (C) an Initial Bid Increment (as defined below), and (iii) assume the Assumed Liabilities (as defined in the applicable Stalking Horse Agreement) or (b) propose an alternative transaction that, in the Debtors’ business judgment, provides higher value or better terms than the applicable Stalking Horse Bid, including by exceeding the purchase price of such Stalking Horse Bid *plus* any applicable termination payment and/or expense reimbursement *plus* any

applicable Initial Bid Increment, and after taking into account, among other things, in light of all the Bids submitted for the Assets or any combination of Assets, whether there is sufficient cash to pay (x) any applicable termination payment and/or expense reimbursement, (y) any amounts necessary to fund confirmation and administration of a liquidating plan in an amount no less than the Wind Down Amount (as defined in the Progrexion APA), (z) and any DIP financing amount (the “DIP Financing Amount”), in each case, as applicable. For the avoidance of doubt, as to clause (b) in this Section VI.A.4, the Debtors may evaluate each Bid in light of each of the factors set forth therein, but a Bid is not required to meet each factor in order to be determined a Qualified Bid.

The Debtors may consider a Bid for a portion of any applicable Stalking Horse Assets (each such bid, a “Partial Bid”) if (a) the Debtors receive one or more other Partial Bids for the remaining applicable Stalking Horse Assets such that, when taken together, and after considering the risks associated with consummating several individual Bids, the Partial Bids collectively constitute a higher or otherwise better bid than the applicable Stalking Horse Bid (taking into account any applicable termination payment, expense reimbursement, and the Initial Bid Increment) or (b) the Partial Bid proposes a purchase price for the applicable Stalking Horse Assets that, when taken together with the liquidation or alternative sale value of the remaining applicable Stalking Horse Assets, as determined by the Debtors in good faith with the advice of their legal and financial advisors, exceeds the purchase price in the Stalking Horse Bid *plus* any applicable termination payment and/or expense reimbursement *plus* any applicable Initial Bid Increment, and after taking into account, among other things, in light of all the Bids submitted for the Assets or any combination of Assets, whether there is sufficient cash to pay (x) any applicable termination payment and/or expense reimbursement, (y) the Wind-Down Amount, (z) and the DIP Financing Amount, in each case, as applicable. For the avoidance of doubt, notwithstanding the foregoing, in evaluating any Partial Bid, the Debtors may also consider the factors set forth in Section IV.B.

If the value of a competing Qualified Bid (whether such Qualified Bid is for all of the applicable Stalking Horse Assets or is a Partial Bid) relative to the Stalking Horse Bid includes additional non-cash components (such as fewer contingencies than are in the applicable Stalking Horse Agreement), the bidder should include an analysis or description of the value of any such additional non-cash components, including any supporting documentation, to assist the Debtors in better evaluating the competing Qualified Bid.

“Initial Bid Increment” shall mean (a) with respect to the Progrexion Stalking Horse Bid, \$5.0 million and (b) with respect to the Lexington Law Stalking Horse Bid, \$500,000.

- (v) Proposed Asset Purchase Agreement and Sale Order: A Qualified Bid must constitute a *binding and irrevocable* offer and be in the form of an asset purchase agreement reflecting the terms and conditions of the Bid (each, a “Proposed Asset Purchase Agreement”). A Proposed Asset Purchase Agreement shall (a) be duly authorized and executed, (b) be based on, and marked against, (i) in the case of Assets subject to a Stalking Horse Agreement, the applicable Stalking Horse Agreement, and (ii) in the case of Assets not subject to a Stalking Horse Agreement, a form asset purchase agreement provided by the Debtors to Prospective Bidders to reflect the proposed Sale Transaction and to show any other proposed modifications to the form purchase agreement, (c) specify the proposed purchase price for the applicable Assets, and (d) identify any then-known Contracts proposed for or that may be proposed for assumption and assignment in connection with the proposed Sale Transaction. A Qualified Bid must also contain a sale order based on, and marked against, the applicable sale order(s) (which are to be filed by the Debtors no later than five (5) days prior to the Bidding Procedures Hearing) for the applicable assets to reflect the proposed Sale Transaction and to show any other proposed modifications to the applicable sale order(s).
- (vi) Financial Information. A Qualified Bid must include the following:
 - (A) a statement that the Prospective Bidder is financially capable of timely consummating the Sale Transaction contemplated by the Prospective Bidder’s Proposed Asset Purchase Agreement;
 - (B) sufficient evidence, as reasonably determined by the Debtors (in consultation with the Consultation Parties), to determine that the Prospective Bidder has, or can obtain, the financial wherewithal to timely consummate the Sale Transaction contemplated by the Prospective Bidder’s Proposed Asset Purchase Agreement; and
 - (C) Adequate Assurance Information (as defined in Section VI.A.8 below) with respect to any Contracts included or that may be included in the Prospective Bidder’s Bid.
- (vii) Good Faith Deposit. Each Qualified Bid must be accompanied by a good faith deposit (each, a “Good Faith Deposit”) in the form of

cash (or other form acceptable to the Debtors in their sole discretion) in an amount equal to ten percent (10%) of the proposed purchase price for the applicable Assets (inclusive of any amount thereof comprising any applicable Credit Bid consideration); *provided*, that no Good Faith Deposit shall be required for any Qualified Bid from any Stalking Horse Bidder or any Qualified Bid that solely contains Credit Bid consideration.

Good Faith Deposits shall be deposited into a trust account maintained on behalf of the Debtors (and to be designated by Debtors) and handled in accordance with Section VII.E of the Bidding Procedures. To the extent a Qualified Bidder increases the purchase price before, during, or after the Auction, the Debtors reserve the right to require that such Qualified Bidder adjust its Good Faith Deposit so that it equals ten percent (10%) of the increased purchase price. The Debtors reserve the right to increase or decrease the Good Faith Deposit for one or more Qualified Bidders in their sole discretion except with respect to any Qualified Bid from any Stalking Horse Bidder or any Qualified Bid that solely contains Credit Bid consideration as set forth above; *provided*, the Debtors may not decrease or waive any Good Faith Deposit without consulting with the Consultation Parties.

- (viii) Adequate Assurance. A Qualified Bid must include evidence of the Prospective Bidder's (or any other relevant assignee's) ability to comply with section 365 of the Bankruptcy Code (to the extent applicable), including providing adequate assurance of such Prospective Bidder's (or any other relevant assignee's) ability to perform future obligations arising under any Contracts included in its Bid. The Debtors may require the following information in connection with demonstrating adequate assurance of future performance: information evidencing the Prospective Bidder's (or any other relevant assignee's) financial wherewithal and willingness to perform under any Contracts included in the Bid, which information may include (i) a corporate organizational chart or similar disclosure identifying corporate ownership and control, (ii) financial statements, (iii) tax returns, (iv) annual reports and (v) with respect to Qualified Bid's including a Bid on the assets of Lexington Law, certificate(s) of good standing and/or other written certification evidencing the Prospective Bidder's (and the Prospective Bidder's interest holders') qualification(s) as a lawyer (the information described in this Section VI.A.8, the "Adequate Assurance Information"). All Adequate Assurance Information must be in a form that will permit its immediate dissemination to the applicable Counterparties (as defined below).

- (ix) Representations and Warranties. A Qualified Bid must include the following representations and warranties:
 - (A) a statement that the Prospective Bidder has had an opportunity to conduct any and all due diligence regarding the Debtors' businesses and the applicable Assets prior to submitting its bid;
 - (B) a statement that the Prospective Bidder has relied solely upon its own independent review, investigation and/or inspection of any relevant documents and the Assets in making its bid and did not rely on any written or oral statements, representations, promises, warranties or guaranties whatsoever, whether express or implied, by operation of law or otherwise, regarding the Debtors' businesses or the applicable Assets or the completeness of any information provided in connection therewith, except as expressly stated in the representations and warranties contained in a Stalking Horse Agreement;
 - (C) a statement that all proof of financial ability to consummate the applicable Sale Transaction in a timely manner and all information provided to support adequate assurance of future performance is true and correct; and
 - (D) a statement that the Prospective Bidder agrees to be bound by the terms of the Bidding Procedures.
- (x) Authorization. A Qualified Bid must (a) include evidence of authorization and approval from the Prospective Bidder's board of directors (or comparable governing body) with respect to the submission, execution and delivery of any bid for the Assets, participation in the Auction and closing of the Sale Transaction contemplated by the Prospective Bidder's Proposed Asset Purchase Agreement or (b) if the Prospective Bidder is an entity formed for the purpose of effecting the proposed Sale Transaction, a Qualified Bid must provide written evidence acceptable to the Debtors of authorization and the approval by the equity holder(s) of such Prospective Bidder.
- (xi) Joint Bids. The Debtors will be authorized to approve joint Bids in their discretion on a case-by-case basis.
- (xii) Reservation of Rights to Modify Bidding Procedures. Without prejudice to the rights of a Stalking Horse Bidder under the applicable Stalking Horse Agreement, the Debtors reserve the right to, in their business judgment, in a manner consistent with their

fiduciary duties and applicable law, modify the Bidding Procedures, including to, among other things, (a) extend or waive deadlines or other terms and conditions set forth herein, (b) adopt new rules and procedures for conducting the bidding and Auction process, (c) if applicable, provide reasonable accommodations to a Stalking Horse Bidder, or (d) otherwise modify the Bidding Procedures to further promote competitive bidding for and maximizing the of value of the Assets; provided, that such extensions, waivers, new rules and procedures, accommodations and modifications (i) do not conflict with and are not inconsistent with the Bidding Procedures Order, the Bidding Procedures, the Bankruptcy Code or any order of the Bankruptcy Court, (ii) are promptly communicated to each Qualified Bidder, and (iii) do not extend the Bid Deadline, the date of the Auction or the closing of the Auction, unless the DIP Lenders give their prior written consent to do so.

(xiii) Expense Reimbursement. The Expense Reimbursement is an amount not to exceed \$1,000,000. In consideration for [Lender AcquisitionCo LLC] having expended considerable time and expense in connection with the Progrexion APA and the negotiation thereof and the identification and quantification of assets of the Sellers (as defined in the Progrexion APA), if the Progrexion APA is terminated for any reason other than Section 9.1(b)(i) or Section 9.1(c)(i) of the Progrexion APA, the Sellers shall pay [Lender AcquisitionCo LLC] in accordance with the terms of the Progrexion APA and the Bidding Procedures Order an aggregate amount equal to the Expense Reimbursement; provided, however, if the Progrexion APA is terminated pursuant to Section 9.1(b)(v), Section 9.1(b)(vii) or Section 9.1(c)(ii), any such Expense Reimbursement shall only be due and payable upon consummation of an Alternate Transaction (as defined in the Progrexion APA) from the proceeds of such Alternate Transaction.

(xiv) Other Requirements. A Qualified Bid must:

(A) state that the Prospective Bidder agrees to serve as a backup bidder (a “Backup Bidder”) if such bidder’s Qualified Bid is selected at the Auction as the next highest or next best bid after the Successful Bid (as defined in Section VII.C.1 below) for the applicable Assets (each such bid, a “Backup Bid”); *provided*, that as to any Stalking Horse Bidder, the terms of any applicable Stalking Horse Agreement shall control as to any Backup Bidder and Backup Bid requirement, and no Stalking Horse Bidder shall be required to serve as a Backup Bidder, notwithstanding such Stalking Horse Bidder’s Stalking Horse Bid being the next highest or next best bid

after a Successful Bid for the applicable Assets, without its prior written consent.

- (B) state that the bid, as may be modified before or during the Auction, represents a binding, irrevocable, good-faith and *bona fide* offer to purchase the applicable Assets and is not subject to or conditioned on any due diligence, financing, or other contingency (other than the conditions to closing under the applicable agreement), and is irrevocable until the later of (i) the applicable outside date for consummation of the applicable Sale Transaction or (ii) the Backup Bid Expiration Date (as defined in Section VII.C.2 below);
- (C) except as otherwise may be provided in a Stalking Horse Agreement, expressly state and acknowledge that the Prospective Bidder shall not be entitled to a break-up fee, termination fee, expense reimbursement or other “bidding protection” in connection with the submission of a bid for the Assets or otherwise participating in the Auction or the Sale Transaction process, unless otherwise granted by the Debtors and approved by an order of the Court;
- (D) state that the Prospective Bidder is committed to closing the Sale Transaction contemplated in its Bid as soon as practicable and in any case no later than the applicable deadline to consummate an approved Sale Transaction set forth herein;
- (E) specify (i) whether the Qualified Bidder intends to hire any of the Debtors’ employees and (ii) the proposed treatment of the Debtors’ prepetition compensation, incentive, retention, bonus or other compensatory arrangements, plans, or agreements, including offer letters, employment agreements, consulting agreements, retiree benefits, and any other employment related agreements (collectively, the “Employee Obligations”);
- (F) expressly waive any claim or right to assert any substantial contribution administrative expense claim under section 503(b) of the Bankruptcy Code or the payment of any broker fees or costs in connection with bidding for any of the Assets and/or otherwise participating in the Auction or the Sale Transaction process;
- (G) include a covenant to cooperate with the Debtors (i) to provide pertinent factual information regarding the Prospective Bidder’s operations reasonably required to

analyze issues arising with respect to any applicable antitrust laws and any other applicable regulatory requirements and (ii) to obtain Court approval of the Sale Transaction;

- (H) state or otherwise estimate the types of transition services, if any, the Prospective Bidder would require of and/or provide to the Debtors, including an estimate of the time any such transition services would be required of and/or provided to the Debtors, if the Prospective Bidder's Bid were selected as the Successful Bid for the applicable Assets;
- (I) certify that the Prospective Bidder did not collude with any other bidders and is not otherwise a partnership, joint venture or other entity in which more than one bidder (or any affiliates of a bidder) has a direct or indirect interest, unless consented to in writing by the Debtors;
- (J) include a covenant to comply with the terms of these Bidding Procedures and the Bidding Procedures Order; and
- (K) include contact information for the specific person(s) the Debtors should contact in the event they have any questions about the Prospective Bidder's bid.

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

A. Form and Manner of Sale Notice.

30. Within two (2) business days after entry of the Bidding Procedures Order, or as soon as reasonably practicable thereafter, the Debtors will cause the Sale Notice, substantially in the forms attached as Exhibit 4 to the Bidding Procedures Order, to be served on the following parties or their respective counsel, if known: (a) the Notice Parties (as defined in the Bidding Procedures); (b) counsel to the Stalking Horse Bidders; (c) all parties to the Assigned Contracts to be potentially assumed and assigned as part of a proposed Sale Transaction; (d) all parties who have expressed a written interest in some or all of the Debtors' assets; (e) all known holders of

liens, encumbrances, and other claims secured by the Debtors' assets; (f) the Internal Revenue Service; (g) all applicable state and local taxing authorities; (h) each governmental agency that is an interested party with respect to a Sale Transaction and transactions proposed thereunder; and (i) all parties that have requested or that are required to receive notice pursuant to Bankruptcy Rule 2002.

31. In addition, within four (4) business days after entry of the Bidding Procedures Order, or as soon as reasonably practicable thereafter, the Debtors will provide notice of the Sale Hearings through the publication of the Sale Notice on the website of the Debtors' proposed noticing and claims agent to be retained in the chapter 11 cases, Kurtzman Carson Consultants LLC, at www.kccllc.net/pgx and publish the Sale Notice, with any modifications necessary for ease of publication, once in *The New York Times* (national edition), to provide notice to any other potential interested parties.

32. The Debtors respectfully submit that the Sale Notice is reasonably calculated to provide interested parties with notice of the Sale Transaction(s) and Sale Hearings and an opportunity to respond accordingly.

B. Summary of the Assumption and Assignment Procedures.

33. The Debtors seek entry of the Assumption and Assignment Procedures to facilitate the fair and orderly assumption and assignment of the Assigned Contracts in connection with the Sale Transactions. Because the Bidding Procedures Order sets forth the Assumption and Assignment Procedures in detail, they are not restated herein. Generally, however, the Assumption and Assignment Procedures: (a) outline the process by which the Debtors will serve notice to all counterparties to the Assigned Contracts regarding the proposed assumption and assignment and related cure amounts, if any, informing such parties of their right and the procedures to object

thereto and (b) establish objection and other relevant deadlines and the manner for resolving disputes relating to the assumption and assignment of the Assigned Contracts to the extent necessary.

Basis for Relief

I. The Relief Sought in the Bidding Procedures Order Is in the Best Interests of the Debtors' Estates and Should Be Approved.

34. Courts have made clear that a debtor's business judgment is entitled to substantial deference with respect to the procedures to be used in selling an estate's assets. *See, e.g., In re Culp*, 550 B.R. 683, 697 (D. Del. 2015) ("In determining whether to authorize use, sale or lease of property of the estate under Section 363, courts require the [Debtor] to show that a sound business purpose justifies such actions. If the [Debtor's] decision evidences a sound business purpose, then the Bankruptcy Court should approve the sale.") (quoting *In re Montgomery Ward Holding Corp.*, 242 B.R. 147, 153 (D. Del. 1999)); *In re Schipper*, 933 F.2d 513, 515 (7th Cir. 1991) ("Under Section 363, the debtor in possession can sell property of the estate . . . if he has an 'articulated business justification'" (internal citations omitted)); *In re Martin*, 91 F.3d 389, 395 (3d Cir. 1996) (quoting *In re Schipper*); *see also In re Integrated Res., Inc.*, 147 B.R. 650, 656–57 (S.D.N.Y. 1992) (noting that bidding procedures that have been negotiated by a trustee are to be reviewed according to the deferential "business judgment" standard, under which such procedures and arrangements are "presumptively valid").

35. The paramount goal in any proposed sale of property of the estate is to maximize the proceeds received by the estate. *See In re Adams Res. Expl. Corp.*, No. 17-10866 (KG), 2017 WL 5484017, at *3 (Bankr. D. Del. Sept. 20, 2017) ("The relief requested in the Sale Motion . . . is a necessary and appropriate step toward enabling the Debtor to maximize the value of its bankruptcy estate, and it is in the best interests of the Debtor, its estate and its creditors.");

In re Mushroom Transp. Co., 382 F.3d 325, 339 (3d Cir. 2004) (debtor-in-possession “had a fiduciary duty to protect and maximize the estate’s assets”); *In re Edwards*, 228 B.R. 552, 561 (Bankr. E.D. Pa. 1998) (“The purpose of procedural bidding orders is to facilitate an open and fair public sale designed to maximize value for the estate.”); *In re Food Barn Stores, Inc.*, 107 F.3d 558, 564–65 (8th Cir. 1997) (in bankruptcy sales, “a primary objective of the [Bankruptcy] Code [is] to enhance the value of the estate at hand”); *Integrated Res.*, 147 B.R. at 659 (“It is a well-established principle of bankruptcy law that the objective of bankruptcy rules and the Debtor’s duty with respect to such sales is to obtain the highest price or greatest overall benefit possible for the estate.”) (internal citations omitted).

36. To that end, courts uniformly recognize that procedures intended to enhance competitive bidding are consistent with the goal of maximizing the value received by the estate and therefore are appropriate in the context of bankruptcy transactions. *See, e.g., In re Dura Auto, Sys.*, No. 06-11202(KJC), 2007 WL 7728109, at *90 (Bankr. D. Del. Aug. 15, 2007) (bidding procedures “enhance[ing] competitive bidding are consistent with the goal of maximizing the value received by the estate and therefore are appropriate in the context of bankruptcy sales”); *Integrated Res.*, 147 B.R. at 659 (bidding procedures “are important tools to encourage bidding and to maximize the value of the debtor’s assets”); *In re Fin. News Network, Inc.*, 126 B.R. 152, 156 (Bankr. S.D.N.Y. 1991) (“court-imposed rules for the disposition of assets . . . [should] provide an adequate basis for comparison of offers, and [should] provide for a fair and efficient resolution of bankrupt estates”).

37. The Debtors believe that the proposed Bidding Procedures will promote active bidding from seriously interested parties and will elicit the highest or otherwise best offers available for the Debtors’ assets. The proposed Bidding Procedures will allow the Debtors to

conduct the Sale Transactions in a controlled, fair, and open fashion that will encourage participation by financially capable bidders who will offer the best package for the Debtors' assets and who can demonstrate the ability to close a transaction. Specifically, the Bidding Procedures contemplate an open auction process with minimum barriers to entry and provide potential bidding parties with sufficient time to perform due diligence and acquire the information necessary to submit a timely and well-informed bid.

38. At the same time, the Bidding Procedures provide the Debtors with a robust opportunity to consider competing bids and select the highest or otherwise best offer for the completion of the Sale Transactions. Entering into the Stalking Horse Agreements with the Stalking Horse Bidders ensures that the Debtors obtain fair market value by setting a minimum purchase price for the Debtors' assets that will be tested in the marketplace. As such, creditors of the Debtors' estates can be assured that the consideration obtained will be fair and reasonable and at or above market.

39. The Debtors submit that the proposed Bidding Procedures will encourage competitive bidding, are appropriate under the relevant standards governing auction proceedings and bidding incentives in bankruptcy proceedings, and are consistent with other procedures previously approved by this Court. *See, e.g., In re Lucira Health, Inc.*, No. 23-10242 (MFW) (Bankr. D. Del. Mar. 27, 2023); *In re Performance Powersports Group Holdings, Inc.*, No. 23-10047 (LSS) (Bankr. D. Del. Feb. 27, 2023); *In re Alex & Ani, LLC*, No. 21-10918 (CTG) (Bankr. D. Del. Jul. 16, 2021); *In re Bluestem Brands, Inc.*, No. 20-10566 (MFW) (Bankr. D. Del. Jun. 3, 2020).¹²

¹² Because of the voluminous nature of the orders cited herein, such orders have not been attached to this motion. Copies of these orders are available upon request of the Debtors' proposed counsel.

A. The Form and Manner of Service of the Sale Hearing Notice Should Be Approved.

40. Pursuant to Bankruptcy Rule 2002(a), the Debtors are required to provide creditors with twenty-one days' notice of the Sale Hearings. Pursuant to Bankruptcy Rule 2002(c), such notice must include the time and place of the relevant Auction and the Sale Hearing and the deadline for filing any objections to the relief requested herein.

41. As noted above, within two (2) business days of entry of the Bidding Procedures Order, or as soon as reasonably practicable thereafter, the Debtors will serve the Sale Notice upon the following parties or their respective counsel, if known: (a) the Sale Notice Parties (as defined in the Bidding Procedures); (b) counsel to the Stalking Horse Bidders; (c) all parties to executory contracts and leases to be assumed and assigned, or rejected as part of a proposed Sale Transaction; (d) all parties who have expressed a written interest in some or all of the Debtors' assets; (e) all known holders of liens, encumbrances, and other claims secured by the Debtors' assets; (f) the Internal Revenue Service; (g) all applicable state and local taxing authorities; (h) each governmental agency that is an interested party with respect to a Sale Transaction; and (i) all parties that have requested or that are required to receive notice pursuant to Bankruptcy Rule 2002.

42. In addition, within five (5) business days after entry of the Bidding Procedures Order, or as soon as reasonably practicable thereafter, the Debtors will provide notice of the Sale Hearings through the publication of the Sale Notice on the website of the Debtors' proposed noticing and claims agent to be retained in the chapter 11 cases, Kurtzman Carson Consultants LLC, www.kccllc.net/pgx.

43. The Debtors submit that notice of this motion and the related hearing to consider entry of the Bidding Procedures Order, coupled with service of the Sale Notice, the contract notice, and the Assumption and Assignment Notice as provided for herein, constitutes good and adequate

notice of the Sale Transactions and the proceedings with respect thereto in compliance with, and satisfaction of, the applicable requirements of Bankruptcy Rule 2002. Accordingly, the Debtors request that this Court approve the form and manner of the Sale Notice.

B. The Expense Reimbursement Has a Sound Business Purpose and Should be Approved.

44. The Debtors also request approval of the Progrexion Stalking Horse expense reimbursement (the “Expense Reimbursement”). In accordance with the terms of the Progrexion APA, the Debtors request authority to provide the Progrexion Stalking Horse Bidder with an allowed superpriority administrative claim in the chapter 11 cases in an amount equal to the Expense Reimbursement, the priority of which shall be junior to (x) the Carve-Out (as defined in the DIP Order), if applicable, and (y) Claims arising under the DIP Financing Agreement (including Claims of the DIP Agent provided for pursuant to the DIP Order).

45. Generally, stalking horse expense reimbursements are a normal, and, in many cases, necessary component of significant sales conducted under section 363 of the Bankruptcy Code. For example, courts have found that because a “corporation [has] a duty to encourage bidding, [bid protections] can be *necessary* to discharge [such] duties to maximize value. . . . [Bid protections] may ‘be legitimately necessary to convince a white knight to enter the bidding by providing some form of compensation for the risks it is undertaking.’” *In re Integrated Res., Inc.*, 147 B.R. at 660–61 (emphasis added). As a result, courts routinely approve such bidding protections in connection with proposed bankruptcy sales where a proposed fee or reimbursement provides a benefit to the estate. *See In re Energy Future Holdings Corp.*, 904 F.3d 298 (3d Cir. 2018) (holding that “[T]he allowability of [bid protections] . . . depends upon the requesting party’s ability to show that the fees [a]re actually necessary to preserve the value of the estate.”) (internal quotations omitted) (alterations in original); *In re Reliant Energy Channelview LP*, 594 F.3d 200, 206 (3d Cir. 2010)

(same); *In re O'Brien Env't Energy, Inc.*, 181 F.3d 527, 533 (3d Cir. 1999) (same); *In re Women First Healthcare, Inc.*, 332 B.R. 115, 121–23 (Bankr. D. Del. 2005) (same). The Debtors believe that the allowance of the Expense Reimbursement is in the best interests of their estates and their creditors, as the Progexion Stalking Horse Bidder, if designated, will establish a floor for further bidding that may increase the consideration given in exchange for the applicable assets for the benefit of the Debtors' estates.

46. In the Third Circuit, bidding protections, such as those proposed here, are subject to the general standard used for administrative expenses under section 503 of the Bankruptcy Code. *Energy Future*, 904 F.3d at 313 (“[T]ermination fees are subject to the same general standard used for all administrative expenses under 11 U.S.C. § 503.”); *Women First Healthcare, Inc.*, 332 B.R. at 121–23 (holding that the general standard used for all administrative expenses applies to expense reimbursements). Thus, the allowability of expense reimbursements, “like that of other administrative expenses, depends upon the requesting party’s ability to show that the fees were actually necessary to preserve the value of the estate.” *Reliant Energy*, 594 F.3d at 206 (internal quotations omitted) (quoting *O'Brien*, 181 F.3d at 535).

47. The Expense Reimbursement provided to the Progexion Stalking Horse Bidder (i) is an actual and necessary cost and expense of preserving the Debtors’ estates within the meaning of sections 503(b) and 507(a)(2) of the Bankruptcy Code, (ii) is commensurate to the real and material benefits conferred upon the Debtors’ estates by the Progexion Stalking Horse Bidder, and (iii) is fair, reasonable, and appropriate, including in light of the size and nature of the proposed sale of the applicable assets, the commitments that will be made, and the efforts that have been and will be expended by the Progexion Stalking Horse Bidder. The Expense Reimbursement is

necessary to induce the Progrexion Stalking Horse Bidder to pursue the sale of the applicable assets and to be bound by the Progrexion APA.

48. The Expense Reimbursement that may be granted to a Progrexion Stalking Horse Bidder fall well within the range of bid protections typically approved by the bankruptcy courts in the Third Circuit. The Expense Reimbursement is an amount not to exceed \$1,000,000. The Expense Reimbursement is consistent with the range of bid protections typically paid in sale transactions that have been recently approved. *See also In re Virgin Orbit Holdings, Inc.*, No. 23-10405 (KBO) (Bankr. D. Del. May 1, 2023) (approving expense reimbursements equal to approximately 2% of the proposed purchase price); *In re American Eagle Del. Holding Co., LLC*, No. 22-10028 (JKS) (Bankr. D. Del. Aug. 12, 2022) (approving expense reimbursements equal to approximately 1.25% of the proposed purchase price); *In re Ector Cnty. Energy Ctr., LLC*, No. 22-10320 (JTD) (Bankr. D. Del. May 6, 2022) (approving expense reimbursements equal to approximately 0.5% of the proposed purchase price); *In re BHCosmetics Holdings, LLC*, No. 22-10050 (CSS) (Bankr. D. Del. Jan. 28, 2022) (approving expense reimbursements equal to approximately 3.5% of the proposed purchase price); *In re Gorham Paper & Tissue, LLC*, No. 20-11662 (KBO) (Bankr. D. Del. Nov. 19, 2020) (approving expense reimbursements equal to approximately 2% of the proposed purchase price).

49. Accordingly, for the reasons set forth above, the Debtors respectfully request that the Court grant the Debtors the authority to incur and pay the Expense Reimbursement to the extent the Expense Reimbursement is necessary to preserve the value of the Debtors' estates.

C. The Assumption and Assignment Procedures Are Appropriate and Should Be Approved.

50. As set forth above, the Sale Transactions contemplate the assumption and assignment of contracts to the Stalking Horse Bidders or Successful Bidders arising from the

Auctions, if any. In connection with this process, the Debtors believe it is necessary to establish the Assumption and Assignment Procedures by which: (a) the Debtors and contract counterparties can reconcile cure obligations, if any, in accordance with section 365 of the Bankruptcy Code; and (b) such counterparties can object to the assumption and assignment of contracts and/or related cure amounts.

51. As set forth in the Bidding Procedures Order, the Debtors also request that any party that fails to object to the proposed assumption and assignment of any contract be deemed to consent to the assumption and assignment of the applicable contract pursuant to section 365 of the Bankruptcy Code on the terms set forth in the sale order, along with the cure amounts identified in the contract notice. *See, e.g., In re Boy Scouts of Am.*, 642 BR 504, 569 (Bankr. D. Del. 2022) (“The lack of objection of a [creditor] is also consensual for purposes of § 363 and, again, permissible under § 363(f)(2).”); *In re Tabone, Inc.*, 175 B.R. 855, 858 (Bankr. D.N.J. 1994) (same); *Pelican Homestead v. Wooten (In re Gabel)*, 61 B.R. 661, 667 (Bankr. W.D. La. 1985) (same).

52. The Debtors believe that the Assumption and Assignment Procedures are fair and reasonable, provide sufficient notice to parties to the executory contracts and leases, and provide certainty to all parties in interest regarding their obligations and rights in respect thereof. Accordingly, the Debtors request that the Court approve the Assumption and Assignment Procedures set forth in the Bidding Procedures Order.

D. The Sale Should Be Approved as an Exercise of Sound Business Judgment.

53. Section 363(b)(1) of the Bankruptcy Code provides that a debtor, “after notice and a hearing, may use, sell or lease, other than in the ordinary course of business, property of the estate.” 11 U.S.C. § 363(b)(1). A sale of the debtor’s assets should be authorized pursuant to

section 363 of the Bankruptcy Code if a sound business purpose exists for the proposed transaction. *See, e.g., In re Schipper*, 933 F.2d 513, 515 (7th Cir. 1991) (“Under Section 363, the debtor in possession can sell property of the estate . . . if he has an ‘articulated business justification’”); *see also In re Martin*, 91 F.3d 389, 395 (3d. Cir. 1996) (same); *Comm. of Equity Sec. Holders v. Lionel Corp. (In re Lionel Corp.)*, 722 F.2d 1063, 1070 (2d Cir. 1983) (same); *In re Telesphere Commc’s, Inc.*, 179 B.R. 544, 552 (Bankr. N.D. Ill. 1999) (same).

54. Once the Debtors articulate a valid business justification, the business judgment rule “is a presumption that in making a business decision the directors of a corporation acted on an informed basis, in good faith, and in the honest belief that the action taken was in the best interests of the company.” *In re S.N.A. Nut Co.*, 186 B.R. 98, 102 (Bankr. N.D. Ill 1995) (citations omitted); *In re Filene’s Basement, LLC*, 11-13511 (KJC), 2014 WL 1713416, at *12 (Bankr. D. Del. Apr. 29, 2014) (“If a valid business justification exists, then a strong presumption follows that the agreement at issue was negotiated in good faith and is in the best interests of the estate”) (citations omitted); *In re Johns-Manville Corp.*, 60 B.R. 612, 615–16 (Bankr. S.D.N.Y. 1986) (“a presumption of reasonableness attaches to a debtor’s management decisions.”).

1. A Sound Business Purpose Exists for the Sale.

55. As set forth above, the Debtors have a sound business justification for selling their assets. *First*, the Debtors believe the sale of such assets will maximize the assets’ going-concern value by allowing a party to bid on business assets that would have substantially less value on a stand-alone basis. Moreover, because the Stalking Horse Agreements contemplate the assumption of certain contracts and other obligations of the Debtors’ estates, it will result in payment in full for a number of the Debtors’ estates’ creditors.

56. **Second**, the sale of the Debtors' assets will be subject to competing bids, enhancing the Debtors' ability to receive the highest or otherwise best value for such assets. Consequently, the ultimately successful bids, after being subject to a "market check" in the form of the relevant Auction, will constitute, in the Debtors' reasonable business judgment, the highest or otherwise best offers for the assets and will provide a greater recovery for their estates than any known or practicably available alternatives. *See, e.g., In re Trans World Airlines, Inc.*, No. 01-00056, 2001 WL 1820326, at *4 (Bankr. D. Del. 2001) (while a "section 363(b) sale transaction does not require an auction procedure," "the auction procedure has developed over the years as an effective means for producing an arm's length fair value transaction.").

57. Thus, the Debtors submit that the Successful Bidders' purchase agreements will constitute the highest or otherwise best offer for the assets and will provide a greater recovery for the Debtors' estates than would be provided by any other available alternatives. As such, the Debtors' determination to sell the assets through an Auction process and subsequently to enter into the Successful Bidders' purchase agreements will be a valid and sound exercise of the Debtors' business judgment. The Debtors will submit evidence at the Sale Hearing to support these conclusions. Therefore, the Debtors request that the Court make a finding that the proposed sale of the assets is a proper exercise of the Debtors' business judgment and is rightly authorized.

2. Adequate and Reasonable Notice of the Sale Will Be Provided.

58. The Sale Notice: (a) will be served in a manner that provides parties in interest notice of the date, time, and location of the applicable Sale Hearing; (b) informs parties in interest of the deadlines for objecting to the Sale Transactions or the assumption and assignment of contracts; and (c) otherwise includes all information relevant to parties interested in or affected by the Sale Transactions. Significantly, the form and manner of the Sale Notice will have been

approved by this Court pursuant to the Bidding Procedures Order after notice and a hearing before it is served on parties in interest.

3. The Sale Transactions and Purchase Price Reflects a Fair Value Transaction.

59. It is well-settled that, where there is a court-approved auction process, a full and fair price is presumed to have been obtained for the assets sold, as the best way to determine value is exposure to the market. *See Bank of Am. Nat'l Trust & Sav. Ass'n. v. 203 N. LaSalle St. P'ship*, 526 U.S. 434, 457 (1999); *see also In re Trans World Airlines, Inc.*, No. 01-00056, 2001 WL 1820326, *4 (Bankr. D. Del. 2001) (while a “section 363(b) sale transaction does not require an auction procedure,” “the auction procedure has developed over the years as an effective means for producing an arm’s length fair value transaction.”).

60. Moreover, as described herein, even as the Debtors move forward with the Sale Transactions, Greenhill will continue to market the Debtors’ assets and solicit other offers consistent with the Bidding Procedures, including, for example, by contacting presumably interested parties as well as previously solicited parties, continuing to provide acceptable bidders with data room access and requested information, considering a variety of alternative transaction structures, and otherwise assisting the Debtors with all efforts to increase transaction value. In this way, the number of bidders that are eligible to participate in a competitive Auction process will be maximized, or, if no Auction is held because no Auction is necessary, the Stalking Horse Agreements’ purchase prices will, conclusively, be fair value.

4. The Sale Transactions Have Been Proposed in Good Faith and Without Collusion, and the Stalking Horse Bidders or Successful Bidders Are “Good-Faith Purchasers.”

61. The Debtors request that the Court find the Stalking Horse Bidders and/or other Successful Bidders arising from the Auction(s), if any, are entitled to the benefits and protections provided by section 363(m) of the Bankruptcy Code in connection with the sale of the assets.

62. Section 363(m) of the Bankruptcy Code provides in pertinent part:

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

11 U.S.C. § 363(m).

63. Section 363(m) of the Bankruptcy Code thus protects the purchaser of assets sold pursuant to section 363 of the Bankruptcy Code from the risk that it will lose its interest in the purchased assets if the order allowing the sale is reversed on appeal, as long as such purchaser leased or purchased the assets in “good faith.” While the Bankruptcy Code does not define “good faith,” courts have held that a purchaser shows its good faith through the integrity of its conduct during the course of the sale proceedings, finding that where there is a lack of such integrity, a good-faith finding may not be made. *See, e.g., In re Abbotts Dairies of Pa., Inc.*, 788 F.2d 143 (3d Cir. 1986) (“Typically, the misconduct that would destroy a [buyer’s] good faith status at a judicial sale involves fraud, collusion between the [proposed buyer] and other bidders or the trustee, or an attempt to take grossly unfair advantage of other bidders.”); *In the Matter of Andy Frain Servs., Inc.*, 798 F.2d 1113, 1125 (7th Cir. 1986) (same); *In re Sasson Jeans, Inc.*, 90 B.R. 608, 610 (S.D.N.Y. 1988) (same).

64. The Debtors submit that the Stalking Horse Bidders, or any other Successful Bidders arising from the Auction(s), is or would be “good faith purchasers” within the meaning of section 363(m) of the Bankruptcy Code, and the Stalking Horse Agreements, or any marked versions thereof, are or would be good-faith agreements on arms’-length terms entitled to the protections of section 363(m) of the Bankruptcy Code.¹³ **First**, as set forth in more detail above, the consideration to be received by the Debtors pursuant to the Stalking Horse Agreements is substantial, fair, and reasonable. **Second**, the parties entered into the Stalking Horse Agreements in good faith and after extensive, arm’s-length negotiations, during which all parties were represented by competent counsel, and any sale agreement with a Successful Bidder will be the culmination of a competitive Auction process in which all parties will presumably be represented by counsel and all negotiations will be conducted on an arm’s-length, good-faith basis. **Third**, there is no indication of any “fraud, collusion between the purchaser and other bidders or the trustee, or an attempt to take grossly unfair advantage of other bidders” or similar conduct that would cause or permit the Sale Transactions or Stalking Horse Agreements to be avoided under section 363(n) of the Bankruptcy Code. And, with respect to potential bidders, the Bidding Procedures are designed to ensure that no party is able to exert undue influence over the process. **Finally**, the Stalking Horse Bidders’ offers were evaluated and approved by the Debtors in consultation with their advisors, and any other bids that the Debtors ultimately determine to be a successful bid will have been evaluated in a similar fashion. Accordingly, the Debtors believe that

¹³ The Debtors believe that a finding of good faith within the meaning of section 363(m) of the Bankruptcy Code will be appropriate for any Successful Bidder arising from the Auction(s). Pursuant to the Bidding Procedures, any Successful Bidder will have had to present a proposal in accordance with the Bidding Procedures. In addition, the Debtors will not choose as the Successful Bidder or Backup Bidder (as defined in the Bidding Procedures) any entity whose good faith under section 363(m) of the Bankruptcy Code can reasonably be doubted, and will be prepared to present the Court with sufficient evidence to allow the Court to find that the “good faith” standard of section 363(m) of the Bankruptcy Code has been satisfied.

the Stalking Horse Bidders (or other Successful Bidders arising from the Auction, if any) and Stalking Horse Agreements (or marked version thereof) should be entitled to the full protections of section 363(m) of the Bankruptcy Code.

5. The Sale Transactions Should be Approved “Free and Clear” Under Section 363(f).

65. Section 363(f) of the Bankruptcy Code permits a debtor to sell property free and clear of another party’s interest in the property if: (a) applicable nonbankruptcy law permits such a free and clear sale; (b) the holder of the interest consents; (c) the interest is a lien and the sale price of the property exceeds the value of all liens on the property; (d) the interest is the subject of a bona fide dispute; or (e) the holder of the interest could be compelled in a legal or equitable proceeding to accept a monetary satisfaction of its interest. *See* 11 U.S.C. § 363(f).

66. Section 363(f) of the Bankruptcy Code is drafted in the disjunctive. Thus, satisfaction of any of the requirements enumerated therein will suffice to warrant the Debtors’ sale of the assets free and clear of all interests (*i.e.*, all liens, claims, rights, interests, pledges, obligations, restrictions, limitations, charges, or encumbrances), except with respect to any interests that may constitute an assumed liability under the applicable purchase agreement. *See In re Kellstrom Indus., Inc.*, 282 B.R. 787, 793 (Bankr. D. Del. 2002) (“[I]f any of the five conditions are met, the debtor has the authority to conduct the sale free and clear of all liens.”).

67. The Debtors submit that any interest that will not be an assumed liability satisfies or will satisfy at least one of the five conditions of section 363(f) of the Bankruptcy Code, and that any such interest will be adequately protected by either being paid in full at the time of closing, or by having it attach to the net proceeds of the Sale Transactions, subject to any claims and defenses the Debtors may possess with respect thereto. The Debtors accordingly request authority to convey the assets to the Stalking Horse Bidders or other Successful Bidders arising from the Auction, if

any, free and clear of all liens, claims, rights, interests, pledges, obligations, restrictions, limitations, charges, or encumbrances, with any such liens, claims, rights, interests, pledges, obligations, restrictions, limitations, charges, or encumbrances to attach to the proceeds of the Sale Transactions, including without limitation, any such claims related to the CFPB Litigation.

6. Credit Bidding Should Be Authorized Under Section 363(k) of the Bankruptcy Code.

68. A secured creditor is allowed to “credit bid” the amount of its claim in a sale. Section 363(k) of the Bankruptcy Code provides, in relevant part, that unless the court for cause orders otherwise, the holder of a claim secured by property that is the subject of the sale “may bid at such sale, and, if the holder of such claim purchases such property, such holder may offset such claim against the purchase price of such property.” 11 U.S.C. § 363(k). Even if a secured creditor is undersecured as determined in accordance with section 506(a) of the Bankruptcy Code, section 363(k) of the Bankruptcy Code allows such secured creditor to bid the total face value of its claim and does not limit the credit bid to the claim’s economic value. *See In re Submicron Sys. Corp.*, 432 F.3d 448, 459-60 (3d Cir. 2006) (explaining that “[i]t is well settled among district court and bankruptcy courts that creditors can bid the full face value of their secured claims under section 363(k)”).

69. In this district, absent cause for restricting credit bidding, courts have consistently ruled in favor of reserving a secured creditor’s right to credit bid its claim. *See, e.g., In re Performance Powersports Group Holdings, Inc.*, No. 23-10047 (LSS) (Bankr. D. Del. Feb. 27, 2023); *In re PES Holdings, LLC*, No. 19-11626 (KG) (Bankr. D. Del. Nov. 14, 2019) (order approving bid procedures which authorized parties with secured claims to credit bid); *In re Z Gallerie, Inc.*, No. 19-10488 (LSS) (Bankr. D. Del. Apr. 11, 2019) (same); *In re Things Remembered, Inc.*, No. 19-10234 (KG) (Bankr. D. Del. Feb. 21, 2019) (same).

70. Here, the Progexion APA contemplates consideration in the form of a credit bid of the outstanding obligations under the Debtors' term loan credit facility. The administrative agent under the term loan credit facility, for itself and for and on behalf of the term loan lenders, is entitled to credit bid some or all of the claims secured by its collateral pursuant to section 363(k) of the Bankruptcy Code. Accordingly, the credit bid contemplated by the Progexion APA should be authorized.

E. The Assumption and Assignment of Contracts Should Be Approved.

1. The Assumption and Assignment of Contracts Reflects the Debtors' Reasonable Business Judgment.

71. To facilitate and effectuate the sale of the assets, the Debtors are seeking authority to assign or transfer executory contracts to the Stalking Horse Bidders or other Successful Bidders arising from the Auction(s), if any, to the extent required by such bidders.

72. Section 365 of the Bankruptcy Code authorizes a debtor to assume and/or assign their executory contracts and unexpired leases, subject to the approval of the court, provided that the defaults under such contracts and leases are cured and adequate assurance of future performance is provided. The Debtors' decision to assume or reject an executory contract or unexpired lease must only satisfy the "business judgment rule" and will not be subject to review unless such decision is clearly an unreasonable exercise of such judgment. *See, e.g., Grp. of Inst'l Invrs. v. Chicago, Milwaukee, St. Paul & Pacific Ry. Co.*, 318 U.S. 523 (1943) (applying Bankr. Act section 77(b), predecessor to Bankruptcy Code section 365, and rejecting test of whether executory contract was burdensome in favor of whether rejection is within debtor's business judgment); *Sharon Steel Corp. v. Nat'l Fuel Gas Distrib. Corp.*, 872 F.2d 36, 40 (3d Cir. 1989) (describing deference to a debtor's business judgment as "breathing space afforded [to] the debtor to consider whether to reject or assume executory contracts under the [Bankruptcy] Code."); *In re*

Exide Techs., 340 B.R. 222, 239 (Bankr. D. Del. 2006) (“The propriety of a decision to reject an executory contract is governed by the business judgment standard”); *In re Network Access Sols., Corp.*, 330 B.R. 67, 75 (Bankr. D. Del. 2005) (“The standard for approving the assumption of an executory contract is the business judgment rule”).

73. Here, the Court should approve the decision to assume and assign the Assigned Contracts in connection with the Sale Transactions as a sound exercise of the Debtors’ business judgment: **First**, the Assigned Contracts are necessary to operate the assets and, as such, they are essential to inducing the best offer for the assets. **Second**, it is unlikely that any purchaser would want to acquire the assets unless a significant number of the contracts and leases needed to manage the day-to-day operations were included in the transaction. **Third**, the Stalking Horse Agreements provide that the assumption and assignment of the Assigned Contracts is integral to, and inextricably integrated in, the Sale Transactions. **Finally**, the Assigned Contracts will be assumed and assigned through the process approved by the Court pursuant to the Bidding Procedures Order and, thus, will be reviewed by key constituents in the chapter 11 cases.

74. Accordingly, the Debtors submit that the assumption and assignment of the Assigned Contracts by way of the Assumption and Assignment Procedures should be approved as an exercise of their business judgment.

2. Defaults Under the Assigned Contracts Will Be Cured Through the Sale Transactions.

75. Upon finding that a debtor has exercised its business judgment in determining that assuming an executory contract is in the best interest of its estate, courts must then evaluate whether the assumption meets the requirements of section 365(b) of the Bankruptcy Code, specifically that a debtor (a) cure, or provide adequate assurance of promptly curing, prepetition defaults in the executory contract, (b) compensate parties for pecuniary losses arising therefrom,

and (c) provide adequate assurance of future performance thereunder. This section “attempts to strike a balance between two sometimes competing interests, the right of the contracting non-debtor to get the performance it bargained for and the right of the debtor’s creditors to get the benefit of the debtor’s bargain.” *In re Luce Indus., Inc.*, 8 B.R. 100, 107 (Bankr. S.D.N.Y. 1980).

76. The Debtors submit that the statutory requirements of section 365(b)(1)(A) of the Bankruptcy Code will be promptly satisfied because the Stalking Horse Agreements require that the Debtors cure all defaults associated with, or that are required to properly assume, the Assigned Contracts. *See* Progrexion APA § 2.5; Lexington Law APA § 2.5. Because the Assumption and Assignment Procedures (once approved) provide a clear process by which to resolve disputes over cure amounts or other defaults, the Debtors are confident that if defaults exist that must be cured, such cure will be achieved fairly, efficiently, and properly, consistent with the Bankruptcy Code and with due respect to the rights of non-debtor parties.

3. Non-Debtor Parties Will Be Adequately Assured of Future Performance.

77. Similarly, the Debtors submit that the third requirement of section 365(b) of the Bankruptcy Code—adequate assurance of future performance—is also satisfied given the facts and circumstances present here. “The phrase ‘adequate assurance of future performance’ was adopted from Uniform Commercial Code section 2-609” and is to be given a practical, pragmatic construction based upon the facts and circumstances of each case. *In re U.L. Radio Corp.*, 19 B.R. 537, 542 (Bankr. S.D.N.Y. 1982). Although no single solution will satisfy every case, “the degree of assurance necessary falls considerably short of an absolute guaranty.” *In re Decora Indus., Inc.*, No. 00-4459, 2002 WL 32332749, at *8 (D. Del. May 20, 2002) (citing *In re Prime Motor Inns, Inc.*, 166 B.R. 993, 997 (Bankr. S.D. Fla. 1994)). Among other things, adequate assurance may be given by demonstrating the assignee’s financial health and experience in managing the type of

enterprise or property assigned. *See Dura Auto.*, 2007 WL 7728109, at *97 (adequate assurance of future performance present where a prospective assignee has financial resources and has expressed a willingness to devote sufficient funding to a business to give it a strong likelihood of succeeding); *In re Bygaph, Inc.*, 56 B.R. 596, 605–06 (Bankr. S.D.N.Y. 1986) (same).

78. The Debtors believe that they can and will demonstrate that the requirements for assumption and assignment of the Assigned Contracts to the Stalking Horse Bidders (or other Successful Bidders arising from the Auction(s), if any) will be satisfied. As required by the Bidding Procedures, the Debtors will evaluate the financial wherewithal of potential bidders before designating such party a Qualified Bidder (*e.g.*, financial credibility, willingness, and ability of the interested party to perform under the Assigned Contracts) and will demonstrate such financial wherewithal, willingness, and ability to perform under the Assigned Contracts assigned to the Stalking Horse Bidders or any Successful Bidders arising from the Auction(s). Further, the Assumption and Assignment Procedures provide the Court and other interested parties ample opportunity to evaluate and, if necessary, challenge the ability of the Stalking Horse Bidders or any Successful Bidders arising from the Auction(s) to provide adequate assurance of future performance and object to the assumption of the Assigned Contracts or proposed cure amounts. The Court therefore should have a sufficient basis to authorize the Debtors to reject or assume and assign the Assigned Contracts as set forth in the Stalking Horse Agreements.

F. Relief Under Bankruptcy Rules 6004(h) and 6006(d) Is Appropriate.

79. Bankruptcy Rule 6004(h) provides that an “order authorizing the use, sale, or lease of property . . . is stayed until the expiration of fourteen days after the entry of the order, unless the court orders otherwise.” Additionally, Bankruptcy Rule 6006(d) provides that an “order authorizing the trustee to assign an executory contract or unexpired lease . . . is stayed until the

expiration of fourteen days after the entry of the order, unless the court orders otherwise.” The Debtors request that the sale order be effective immediately upon its entry by providing that the fourteen-day stays under Bankruptcy Rules 6004(h) and 6006(d) are waived.

80. The purpose of Bankruptcy Rules 6004(h) and 6006(d) is to provide sufficient time for an objecting party to appeal before an order can be implemented. *See* Advisory Committee Notes to Fed. R. Bankr. P. 6004(h) and 6006(d). Although Bankruptcy Rules 6004(h) and 6006(d) and the Advisory Committee Notes are silent as to when a court should “order otherwise” and eliminate or reduce the fourteen-day stay period, the leading treatise on bankruptcy suggests that the fourteen-day stay should be eliminated to allow a sale or other transaction to close immediately “where there has been no objection to procedure.” 10 *Collier on Bankruptcy* ¶ 6004.10 (15th rev. ed. 2006). Furthermore, if an objection is filed and overruled, and the objecting party informs the court of its intent to appeal, the stay may be reduced to the amount of time actually necessary to file such appeal. *Id.*

81. To maximize the value received for the assets, the Debtors seek to close the Sale Transactions as soon as possible after the Sale Hearings. Accordingly, the Debtors hereby request that the Court waive the fourteen-day stay period under Bankruptcy Rules 6004(h) and 6006(d).

Notice

82. The Debtors will provide notice of this motion to: (a) the United States Trustee for the District of Delaware; (b) the holders of the 30 largest unsecured claims against the Debtors (on a consolidated basis); (c) the office of the attorney general for each of the states in which the Debtors operate; (d) the United States Attorney’s Office for the District of Delaware; (e) the Internal Revenue Service; (f) the United States Securities and Exchange Commission; (g) the United States Department of Justice; (h) the DIP Agent and counsel thereto; (i) First Lien

Credit Agreement Agent and counsel thereto; (j) the Second Lien Credit Agreement Agent and counsel thereto; (k) counsel to the Stalking Horse Bidders; (l) all parties to executory contracts and leases to be assumed and assigned, or rejected as part of the proposed sale; (m) all parties who have expressed a written interest in some or all of the Debtors' assets; (n) all known holders of liens, encumbrances, and other claims secured by the Debtors' assets; (o) all applicable state and local taxing authorities; (p) each governmental agency that is an interested party with respect to the Sale Transactions; and (q) any party that has requested notice pursuant to Bankruptcy Rule 2002 (the "Notice Parties"). The Debtors submit that, in light of the nature of the relief requested, no other or further notice need be given.

No Prior Request

83. No prior request for the relief sought in this motion has been made to this or any other court.

[Remainder of page intentionally left blank]

WHEREFORE, the Debtors request entry of the Order, substantially in the form attached hereto as **Exhibit A**, (a) granting the relief requested herein and (b) granting such other relief as the Court deems appropriate under the circumstances.

Dated: June 6, 2023
Wilmington, Delaware

/s/ Domenic E. Pacitti

**KLEHR HARRISON HARVEY
BRANZBURG LLP**

Domenic E. Pacitti (DE Bar No. 3989)
Michael W. Yurkewicz (DE Bar No. 4165)
919 North Market Street, Suite 1000
Wilmington, Delaware 19801
Telephone: (302) 426-1189
Facsimile: (302) 426-9193
Email: dpacitti@klehr.com
myurkewicz@klehr.com

-and-

Morton R. Branzburg (admitted *pro hac vice*)
1835 Market Street, Suite 1400
Philadelphia, Pennsylvania 19103
Telephone: (215) 569-3007
Facsimile: (215) 568-6603
Email: mbranzburg@klehr.com

*Proposed Co-Counsel to the Debtors and Debtors
in Possession*

**KIRKLAND & ELLIS LLP
KIRKLAND & ELLIS INTERNATIONAL LLP**

Joshua A. Sussberg, P.C. (admitted *pro hac vice*)
601 Lexington Ave
New York, New York 10022
Telephone: (212) 446-4800
Facsimile: (212) 446-4900
Email: joshua.sussberg@kirkland.com

- and -

Spencer Winters (admitted *pro hac vice*)
Whitney C. Fogelberg (admitted *pro hac vice*)
Alison J. Wirtz (admitted *pro hac vice*)
300 North LaSalle
Chicago, Illinois 60654
Telephone: (312) 862-2000
Facsimile: (312) 862-2200
Email: spencer.winters@kirkland.com
whitney.fogelberg@kirkland.com
alison.wirtz@kirkland.com

*Proposed Co-Counsel to the Debtors and Debtors in
Possession*

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:	)	Chapter 11
PGX HOLDINGS, INC., <i>et al.</i> , ¹	)	Case No. 23-10718 (CTG)
Debtors.	)	(Jointly Administered)

NOTICE OF HEARING ON MOTION OF THE DEBTORS FOR ENTRY OF ORDERS (I)(A) APPROVING BIDDING PROCEDURES FOR SUBSTANTIALLY ALL OF THE DEBTORS’ ASSETS, (B) AUTHORIZING THE DEBTORS TO ENTER INTO ONE OR MORE STALKING HORSE AGREEMENTS AND TO PROVIDE BIDDING PROTECTIONS THEREUNDER, (C) SCHEDULING AN AUCTION AND APPROVING THE FORM AND MANNER OF NOTICE THEREOF, (D) APPROVING ASSUMPTION AND ASSIGNMENT PROCEDURES, AND (E) SCHEDULING A SALE HEARING AND APPROVING THE FORM AND MANNER OF NOTICE THEREOF; (II)(A) APPROVING THE SALE OF THE DEBTORS’ ASSETS FREE AND CLEAR OF LIENS, CLAIMS, INTERESTS AND ENCUMBRANCES AND (B) APPROVING THE ASSUMPTION AND ASSIGNMENT OF EXECUTORY CONTRACTS AND UNEXPIRED LEASES; AND (III) GRANTING RELATED RELIEF

PLEASE TAKE NOTICE THAT on June 6, 2023, the above-captioned debtors and debtors-in-possession (the “Debtors”), filed the *Motion of Debtors for Entry of Orders (I)(A) Approving Bidding Procedures for Substantially All of the Debtors’ Assets, (B) Authorizing the Debtors to Enter into One or More Stalking Horse Agreements and to Provide Bidding Protections Thereunder, (C) Scheduling an Auction and Approving the Form and Manner of Notice Thereof, (D) Approving Assumption and Assignment Procedures, and (E) Scheduling a Sale Hearing and Approving the Form and Manner of Notice Thereof; (II)(A) Approving the Sale of the Debtors’*

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, are: PGX Holdings, Inc. (2510); Credit Repair UK, Inc. (4798); Credit.com, Inc. (1580); Creditrepair.com Holdings, Inc. (7536); Creditrepair.com, Inc. (7680); eFolks Holdings, Inc. (5213); eFolks, LLC (5256); John C. Heath, Attorney At Law PC (8362); Progrexion ASG, Inc. (5153); Progrexion Holdings, Inc. (7123); Progrexion IP, Inc. (5179); Progrexion Marketing, Inc. (5073); and Progrexion Teleservices, Inc. (5110). The location of the Debtors’ service address for purposes of these chapter 11 cases is: 257 East 200 South, Suite 1200, Salt Lake City, Utah 84111.

Assets Free and Clear of Liens, Claims, Interests and Encumbrances and (B) Approving the Assumption and Assignment of Executory Contracts and Unexpired Lease; and (III) Granting Related Relief (the “Motion”) with the United States Bankruptcy Court for the District of Delaware (“Bankruptcy Court”).

PLEASE TAKE FURTHER NOTICE that any responses to the Motion must be in writing and filed with the Clerk of the United States Bankruptcy Court for the District of Delaware, 824 Market Street, Third Floor, Wilmington, Delaware 19801, and served upon the following: (a) counsel for the Debtors, (i) Kirkland & Ellis LLP, 300 North LaSalle, Chicago, Illinois 60654 (Attn: Spencer Winters (spencer.winters@kirkland.com); Whitney Fogelberg (whitney.fogelberg@kirkland.com); and Alison J. Wirtz (alison.wirtz@kirkland.com)) and (ii) Klehr Harrison Harvey Branzburg LLP, 919 N. Market Street, Suite 1000, Wilmington, DE 19801 (Attn: Domenic E. Pacitti (dpacitti@klehr.com) and Michael W. Yurkewicz (myurkewicz@klehr.com)); (b) counsel for the Prepetition First Lien Lenders and DIP Lenders, (i) King & Spalding, 1185 Avenue of the Americas, New York, NY 10036 (Attn: Roger Schwartz, Esq. (rschwartz@kslaw.com); Geoffrey Michael King, Esq. (gking&kslaw.com) and Timothy Fesenmyer, Esq. (tfesenmyer@kslaw.com); and (ii) Morris, Nichols, Arsht & Tunnell LLP, 1201 N. Market Street, Suite 1600, Wilmington, Delaware 19801, (Attn: Robert J. Dehney (rdehney@morrisnichols.com)); so as to be received **on or before 4:00 p.m. on June 21, 2023.**

PLEASE TAKE FURTHER NOTICE that if you fail to respond in accordance with this Notice, the Court may grant the relief demanded by the Motion without further notice or hearing.

PLEASE TAKE FURTHER NOTICE that if an objection is properly filed and served in accordance with the above procedure, a hearing will be held on **June 28, 2023 at 2:00 p.m.** before the Honorable Chief Judge Craig T. Goldblatt, United States Bankruptcy Judge for the District Of

Delaware, 824 North Market Street, 3rd Floor, Court Room #7, Wilmington, Delaware 19801.

Only objections made in writing and timely filed will be considered by the Bankruptcy Court at such hearing only objections made in writing and timely filed will be considered by the Bankruptcy Court at such hearing.

Dated: June 6, 2023
Wilmington, Delaware

/s/ Domenic E. Pacitti

**KLEHR HARRISON HARVEY
BRANZBURG LLP**

Domenic E. Pacitti (DE Bar No. 3989)
Michael W. Yurkewicz (DE Bar No. 4165)
919 North Market Street, Suite 1000
Wilmington, Delaware 19801
Telephone: (302) 426-1189
Facsimile: (302) 426-9193
Email: dpacitti@klehr.com
myurkewicz@klehr.com

-and-

Morton R. Branzburg (admitted *pro hac vice*)
1835 Market Street, Suite 1400
Philadelphia, Pennsylvania 19103
Telephone: (215) 569-3007
Facsimile: (215) 568-6603
Email: mbranzburg@klehr.com

*Proposed Co-Counsel to the Debtors and
Debtors in Possession*

KIRKLAND & ELLIS LLP

KIRKLAND & ELLIS INTERNATIONAL LLP

Joshua A. Sussberg, P.C. (admitted *pro hac vice*)
601 Lexington Ave
New York, New York 10022
Telephone: (212) 446-4800
Facsimile: (212) 446-4900
Email: joshua.sussberg@kirkland.com

- and -

Spencer Winters (admitted *pro hac vice*)
Whitney C. Fogelberg (admitted *pro hac vice*)
Alison J. Wirtz (admitted *pro hac vice*)
300 North LaSalle
Chicago, Illinois 60654
Telephone: (312) 862-2000
Facsimile: (312) 862-2200
Email: spencer.winters@kirkland.com
whitney.fogelberg@kirkland.com
alison.wirtz@kirkland.com

*Proposed Co-Counsel to the Debtors and Debtors in
Possession*

EXHIBIT A

Bidding Procedures Order

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

)	
In re:	)	Chapter 11
)	
PGX HOLDINGS, INC., <i>et al.</i> , ¹	)	Case No. 23-10718 (CTG)
)	
Debtors.	)	(Jointly Administered)
)	

**ORDER (I)(A) APPROVING BIDDING PROCEDURES FOR THE SALE OF
SUBSTANTIALLY ALL OF THE DEBTORS’ ASSETS; (B) AUTHORIZING
THE DEBTORS TO ENTER INTO ONE OR MORE STALKING HORSE
AGREEMENTS AND TO PROVIDE BIDDING PROTECTIONS THEREUNDER;
(C) SCHEDULING AN AUCTION AND APPROVING THE FORM AND MANNER
OF NOTICE THEREOF; (D) APPROVING ASSUMPTION AND ASSIGNMENT
PROCEDURES, (E) SCHEDULING A SALE HEARING AND APPROVING THE
FORM AND MANNER OF NOTICE THEREOF; (II)(A) APPROVING THE
SALE OF THE DEBTORS’ ASSETS FREE AND CLEAR OF LIENS,
CLAIMS, INTERESTS AND ENCUMBRANCES AND (B) APPROVING
APPROVING THE ASSUMPTION AND ASSIGNMENT OF EXECUTORY
CONTRACTS AND UNEXPIRED LEASES; AND (III) GRANTING RELATED RELIEF**

Upon the Motion of the Debtors for Entry of Orders (I)(A) Approving Bidding Procedures for the Sale of Substantially All of the Debtors’ Assets, (B) Authorizing the Debtors to Enter into One or More Stalking Horse Agreements and to Provide Bidding Protections Thereunder, (C) Scheduling an Auction and Approving the Form and Manner of Notice Thereof, (D) Approving Assumption and Assignment Procedures, and (E) Scheduling a Sale Hearing and Approving the Form and Manner of Notice Thereof; (II)(A) Approving the Sale of the Debtors’

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, are: PGX Holdings, Inc. (2510); Credit Repair UK, Inc. (4798); Credit.com, Inc. (1580); Creditrepair.com Holdings, Inc. (7536); Creditrepair.com, Inc. (7680); eFolks Holdings, Inc. (5213); eFolks, LLC (5256); John C. Heath, Attorney At Law PC (8362); Progrexion ASG, Inc. (5153); Progrexion Holdings, Inc. (7123); Progrexion IP, Inc. (5179); Progrexion Marketing, Inc. (5073); and Progrexion Teleservices, Inc. (5110). The location of the Debtors’ service address for purposes of these chapter 11 cases is: 257 East 200 South, Suite 1200, Salt Lake City, Utah 84111.

Assets Free and Clear of Liens, Claims, Interests and Encumbrances and (B) Approving the Assumption and Assignment of Executory Contracts and Unexpired Leases; and (III) Granting Related Relief [Docket No. [X]] (the “Motion”)² filed by the debtors and debtors in possession (collectively, the “Debtors”) in the above-captioned chapter 11 cases (the “Chapter 11 Cases”); the Court having reviewed the Motion, the First Day Declaration [Docket No. 12], the Augustine Declaration, and the Frejka Declaration, and having considered the statements of counsel and the evidence adduced with respect to the Motion at a hearing before the Court on [X], 2023 to consider certain of the relief requested in the Motion (the “Bidding Procedures Hearing”); and after due deliberation, this Court having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and it appearing that the relief requested in the Motion is in the best interests of the Debtors, their estates and their creditors, and the Debtors having demonstrated good, sufficient and sound business justifications for the relief granted herein;

IT IS HEREBY FOUND AND DETERMINED THAT:³

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

B. Statutory and Legal Predicates. The statutory and legal predicates for the relief requested in the Motion are sections 105(a), 363, 365, 503, and 507 of the Bankruptcy Code,

² Capitalized terms used but not defined herein shall have the respective meanings ascribed to such terms in the Motion or in the Bidding Procedures, as applicable.

³ The findings and conclusions set forth herein constitute the Court’s findings of fact and conclusions of law pursuant to Bankruptcy Rule 7052, made applicable to this proceeding pursuant to Bankruptcy Rule 9014. To the extent any of the following findings of fact constitute conclusions of law, they are adopted as such. To the extent any of the following conclusions of law constitute findings of fact, they are adopted as such.

Bankruptcy Rules 2002, 6004, 6006, 9007, 9008, and 9014 and Local Rules 2002-1, 6004-1, and 9006-1.C.

C. Sale Process. The Debtors and their advisors engaged pre-petition with a number of potential interested parties prior to the execution of the Stalking Horse Agreements to solicit and develop the highest and otherwise best offers for the Assets.

D. Bidding Procedures. The Debtors have articulated good and sufficient business reasons for the Court to approve the bidding procedures attached hereto as **Exhibit 1** (the “Bidding Procedures”). The Bidding Procedures are fair, reasonable and appropriate and are designed to maximize the value of the proceeds of one or more sales (each, a “Sale Transaction”) of all or substantially all of the Debtors’ assets (the “Assets”). The Bidding Procedures were negotiated in good faith and at arm’s-length and are reasonably designed to promote a competitive and robust bidding process to generate the greatest level of interest in the Debtors’ Assets. The process for selecting the Progrexion Stalking Horse Bidder and the Lexington Law Stalking Horse Bidder (each as defined below) as Stalking Horse Bidders (as defined below), respectively, was fair and appropriate under the circumstances and in the best interests of the Debtors’ estates. The Bidding Procedures comply with the requirements of Local Rule 6004-1(c).

E. Designation of the Progrexion Stalking Horse Bid. The Progrexion Stalking Horse Bid, as defined in the Progrexion APA,⁴ represents the highest and otherwise best offer the

⁴ “Progrexion APA” means that certain that certain *Asset Purchase Agreement*, substantially in the form attached hereto as **Exhibit 2**, between and among (A) (i) PGX Holdings, Inc., a Delaware corporation, (ii) Progrexion Holdings, Inc., a Delaware corporation, (iii) Credit.com, Inc. a Delaware corporation, (iv) eFolks Holdings, Inc., a Delaware corporation, (v) Creditrepair.com Holdings, Inc., a Delaware corporation, (vi) Progrexion ASG, Inc., a Delaware corporation, (vii) Progrexion IP, Inc., a Delaware corporation, (viii) Progrexion Marketing, Inc., a Delaware corporation, (ix) Progrexion Teleservices, Inc., a Delaware corporation, (x) eFolks, LLC, a Delaware limited liability company, (xi) Creditrepair.com, Inc., a Florida corporation and (xii) Credit Repair UK, Inc., a Delaware corporation, (B) Lender AcquisitionCo LLC (together with each of its permitted successors, assigns

Debtors have received to date to purchase the Transferred Assets, as defined and set forth in the Progrexion APA. The Progrexion APA provides the Debtors with the opportunity to sell the Transferred Assets in a manner designed to preserve and maximize their value and provide a floor for a further marketing and auction process. Without the Progrexion Stalking Horse Bid, the Debtors are at a significant risk of realizing a lower price for the Transferred Assets. As such, the contributions of the Progrexion Stalking Horse Bidder to the process have indisputably provided a substantial benefit to the Debtors, their estates, and the creditors in these Chapter 11 Cases. The Progrexion Stalking Horse Bid will enable the Debtors to minimize disruption to the Debtors' restructuring process and secure a fair and adequate Baseline Bid (as defined in the Bidding Procedures) for the Transferred Assets at the Auction(s) (if any), and, accordingly, will provide a clear benefit to the Debtors' estates, their creditors, and all other parties in interest.

F. Designation of the Progrexion Stalking Horse Bidder. The Progrexion Stalking Horse Bidder shall act as a "stalking horse bidder" pursuant to the Progrexion APA and the Progrexion Stalking Horse Bid shall be subject to higher or otherwise better offers in accordance with the Progrexion APA and the Bidding Procedures. Pursuit of the Progrexion Stalking Horse Bidder as a "stalking horse bidder" and the Progrexion APA as a "stalking horse

and designees, the "Progrexion Stalking Horse Bidder"), (C) Purchaser HoldCo (solely for the purposes stated expressly in the Progrexion APA) and (D) Blue Torch Finance LLC, in its capacity as administrative agent under that certain First Lien Financing Agreement (signing solely for the purposes stated expressly in the Progrexion APA). The "First Lien Financing Agreement" means that certain First Lien Financing Agreement, dated as of July 21, 2021, among the Borrowers (as defined therein), the guarantors from time to time party thereto, the lenders party thereto from time to time (the "Prepetition First Lien Lenders"), and Blue Torch Finance LLC as administrative agent and collateral agent (the "Prepetition First Lien Agent") (as amended by that certain Amendment No. 1 to First Lien Financing Agreement, dated as of July 20, 2022, that certain Amendment No. 2 to First Lien Financing Agreement, dated as of December 28, 2022, that certain Amendment No. 3 to First Lien Financing Agreement, dated as of March 31, 2023, and as further amended, restated, amended and restated, supplemented or otherwise modified through the Petition Date, the "Prepetition First Lien Financing Agreement" and, together with all related loan documents, the "Prepetition First Lien Loan Documents").

purchase agreement” is in the best interests of the Debtors and the Debtors’ estates and their creditors, and it reflects a sound exercise of the Debtors’ business judgment.

G. The Progrexion Stalking Horse Bidder and its counsel and advisors have acted in “good faith” within the meaning of section 363(m) of the Bankruptcy Code in connection with the Progrexion Stalking Horse Bidder’s negotiation of the Progrexion Expense Reimbursement (as defined below) and the Bidding Procedures and entry into the Progrexion APA.

H. Progrexion Stalking Horse Expense Reimbursement. The Debtors have articulated compelling and sufficient business reasons for the Court to approve the Debtors’ provision of the “Expense Reimbursement” as set forth and defined in the Progrexion APA (the “Progrexion Expense Reimbursement”). The Progrexion Expense Reimbursement is fair, reasonable and appropriate in light of, among other things, the size and nature of the proposed Sale Transaction, the substantial efforts that have been and will be expended by the Progrexion Stalking Horse Bidder, notwithstanding that the proposed Sale Transaction is subject to higher or better offers, and the substantial benefits that the Progrexion Stalking Horse Bidder has provided to the Debtors, their estates, their creditors and parties in interest herein, including, among other things, by increasing the likelihood that the best possible purchase price for the applicable assets will be received. The Progrexion Expense Reimbursement, to the extent payable under the Progrexion APA, (a) provides a substantial benefit to the Debtors’ estates and stakeholders and all parties in interest herein, (b)(x) is actual and necessary costs and expenses of preserving the Debtors’ estates within the meaning of section 503(b) of the Bankruptcy Code and (y) shall be treated as an allowed super priority administrative expense claim against the Debtors’ estates pursuant to sections 105(a), 364, 503(b), and 507(a)(2) of the Bankruptcy Code; *provided* that the priority of such super

priority administrative expense claims shall be junior to (i) the Carve-Out (as defined in the DIP Order) and (ii) claims arising under the DIP Financing Agreement, (c) are commensurate to the real and material benefits conferred upon the Debtors' estates by the Progrexion Stalking Horse Bidder, and (d) are fair, reasonable, and appropriate, including in light of the size and nature of the transactions and the efforts that have been and will be expended by the Progrexion Stalking Horse Bidder. The Progrexion Expense Reimbursement is a material inducement for, and condition of, the Progrexion Stalking Horse Bidder's execution of the Progrexion APA.

I. Designation of the Lexington Law Stalking Horse Bid. The Lexington Law Stalking Horse Bid, as defined in the Lexington Law APA,⁵ represents the highest and best offer the Debtors have received to date to purchase the Lexington Law Assets, as defined and set forth in the Lexington Law APA (the "Lexington Law Assets"). The Lexington Law APA provides the Debtors with the opportunity to sell the Lexington Law Assets in a manner designed to preserve and maximize their value and provide a floor for a further marketing and auction process. Without the Lexington Law Stalking Horse Bid, the Debtors are at a significant risk of realizing a lower price for the Lexington Law Assets. As such, the contributions of the Lexington Law Stalking Horse Bidder to the process have indisputably provided a substantial benefit to the Debtors, their estates, and the creditors in these Chapter 11 Cases. The Lexington Law Stalking Horse Bid will enable the Debtors to minimize disruption to the Debtors' restructuring process and secure a fair

⁵ "Lexington Law APA" means that certain *Asset Purchase Agreement*, substantially in the form attached hereto as **Exhibit 3**, between and among (A) John C. Heath, Attorney At Law PC d/b/a Lexington Law Firm (the "Lexington Law Firm") and (B) AcquisitionCo (together with each of his permitted successors, assigns and designees, the "Lexington Law Stalking Horse Bidder" and, together with the Progrexion Stalking Horse Bidder and any other "Additional Stalking Horse Bidder" as defined in Section II.B of the Bidding Procedures, collectively, the "Stalking Horse Bidders" and each a "Stalking Horse Bidder").

and adequate Baseline Bid for the Lexington Law Assets at the Auction(s) (if any), and, accordingly, will provide a clear benefit to the Debtors' estates, their creditors, and all other parties in interest.

J. Designation of the Lexington Law Stalking Horse Bidder. The Lexington Law Stalking Horse Bidder, or such other person or entity to which the Lexington Law APA is assigned, in whole or in part, pursuant to sections 11.03(a) or (b) thereof shall act as a "stalking horse bidder" pursuant to the Lexington Law APA and the Lexington Law Stalking Horse Bid shall be subject to higher or otherwise better offers in accordance with the Lexington Law APA and the Bidding Procedures. Pursuit of the Lexington Law Stalking Horse Bidder as a "stalking horse bidder" and the Lexington Law APA as a "stalking horse purchase agreement" is in the best interests of the Debtors and the Debtors' estates and their creditors, and it reflects a sound exercise of the Debtors' business judgment.

K. The Lexington Law Stalking Horse Bidder and its counsel and advisors have acted in "good faith" within the meaning of section 363(m) of the Bankruptcy Code in connection with the Lexington Law Stalking Horse Bidder's negotiation of the Bidding Procedures and entry into the Lexington Law APA.

L. Sale Notice. The sale notice, the form of which is attached as **Exhibit 4** (the "Sale Notice"), is appropriate and reasonably calculated to provide all interested parties with timely and proper notice of the Auction, the Sale Hearing (as defined in the Bidding Procedures), the Bidding Procedures, the Sale Transaction(s), and all relevant and important dates and objection deadlines with respect to the foregoing, and no other or further notice of the Sale Hearing, the Sale Transaction(s) or the Auction shall be required.

M. Assumption and Assignment Provisions. The Debtors have articulated good and sufficient business reasons for the Court to approve the assumption and assignment procedures set forth herein, in the Bidding Procedures and in the Stalking Horse Agreements (the “Assumption and Assignment Procedures”) and the assumption and assignment notice attached hereto as Exhibit 5 (the “Assumption and Assignment Notice”), which are fair, reasonable, and appropriate. The Assumption and Assignment Procedures comply with the provisions of section 365 of the Bankruptcy Code and Bankruptcy Rule 6006.

N. Assumption and Assignment Notice. The Assumption and Assignment Notice, the form of which is attached hereto as Exhibit 5, is appropriate and reasonably calculated to provide all interested parties with timely and proper notice of the Assumption and Assignment Procedures, as well as any and all objection deadlines related thereto, and no other or further notice shall be required for the Motion and the procedures described therein, except as expressly required herein.

O. Notice. Notice of the Motion, the proposed Bidding Procedures, the proposed designation of the Progexion Stalking Horse Bidder and the Lexington Law Stalking Horse Bidder, and the Bidding Procedures Hearing was (i) appropriate and reasonably calculated to provide all interested parties with timely and proper notice, (ii) in compliance with all applicable requirements of the Bankruptcy Code, the Bankruptcy Rules and the Local Rules and (iii) adequate and sufficient under the circumstances of the Debtors’ Chapter 11 Cases, such that no other or further notice need be provided except as set forth in the Bidding Procedures and the Assumption and Assignment Procedures. A reasonable opportunity to object and be heard regarding the relief granted herein has been afforded to all parties in interest.

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

1. The Motion is GRANTED as set forth herein.

2. All objections to the relief granted in this order (the “Order”) that have not been withdrawn, waived or settled, and all reservations of rights included therein, are hereby overruled and denied on the merits with prejudice.

A. The Bidding Procedures

3. The Bidding Procedures attached hereto as **Exhibit 1** are hereby approved, are incorporated herein by reference, and shall govern the bids and proceedings related to the sale(s) of the Assets and the Auctions. The procedures and requirements set forth in the Bidding Procedures, including those associated with submitting a “Qualified Bid,” are fair, reasonable and appropriate, and are designed to maximize recoveries for the benefit of the Debtors’ estates, creditors, and other parties in interests. The Debtors are authorized to take all actions necessary or appropriate to implement the Bidding Procedures.

4. The failure to specifically include or reference any particular provision of the Bidding Procedures in the Motion or this Order shall not diminish or otherwise impair the effectiveness of such procedures, it being the Court’s intent that the Bidding Procedures are approved in their entirety, as if fully set forth in this Order.

5. Subject to this Order and the Bidding Procedures, the Debtors, in the exercise of their reasonable business judgment and in a manner consistent with their fiduciary duties and applicable law, shall have the right to (a) determine which bidders qualify as Qualified Bidders and which bids qualify as Qualified Bids, (b) make final determinations as to Auction Packages (as defined in the Bidding Procedures), (c) select the Baseline Bid for each Auction Package; (d) determine the amount of each Minimum Overbid (as defined in the Bidding

Procedures), (e) determine the Leading Bid (as defined in the Bidding Procedures) for each Auction Package; (f) determine which Qualified Bid is the Successful Bid and which Qualified Bid is the Backup Bid (each as defined in the Bidding Procedures) after the Successful Bid for an Auction Package; (g) reject any bid that is (i) inadequate or insufficient, (ii) not in conformity with the requirements of this Order or any other applicable order of the Court, the Bidding Procedures, the Bankruptcy Code or other applicable law, and/or (iii) contrary to the best interests of the Debtors and their estates; (h) schedule and conduct Sub-Auctions for each Auction Package that has at least one Qualified Bid; (i) cancel the Auction with respect to any or all of the Assets in accordance with the Bidding Procedures; and (j) adjourn or reschedule the Sale Hearing with respect to a Sale Transaction involving any or all of the Assets in accordance with the Bidding Procedures.

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

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

8. Without prejudice to the rights of any Stalking Horse Bidder under the applicable Stalking Horse Agreement, the Debtors shall have the right to, in their reasonable business judgment, and in a manner consistent with their fiduciary duties and applicable law, modify the Bidding Procedures, including to, among other things, (a) extend or waive deadlines or other terms and conditions set forth therein, (b) adopt new rules and procedures for conducting the bidding and Auction process, (c) if applicable, provide reasonable accommodations to a

Stalking Horse Bidder, or (d) otherwise modify the Bidding Procedures to further promote competitive bidding for and maximizing the value of the Assets; provided, that such extensions, waivers, new rules and procedures, accommodations and modifications (i) do not conflict with and are not inconsistent with this Order, the Bidding Procedures, the DIP Orders, the Bankruptcy Code or any order of the Bankruptcy Court, (ii) are promptly communicated to each Qualified Bidder and (iii) are in form and substance acceptable to the DIP Lenders (as defined in the Bidding Procedures).

B. The Progexion Stalking Horse Bid and the Progexion Expense Reimbursement

9. Lender AcquisitionCo LLC is approved as the Progexion Stalking Horse Bidder for the Transferred Assets pursuant to the terms of the Progexion APA.

10. The Debtors entry into the Progexion APA is authorized and approved, and the Progexion Stalking Horse Bid shall be subject to higher or better Qualified Bids, in accordance with the terms and procedures of the Progexion APA and the Bidding Procedures.

11. The Debtors are authorized to perform any obligations under the Progexion APA that are intended to be performed prior to the entry of the order approving the Sale Transaction.

12. The Progexion Expense Reimbursement is approved in its entirety. The Progexion Expense Reimbursement shall be payable in accordance with, and subject to the terms of, the Progexion APA. The automatic stay provided by section 362 of the Bankruptcy Code shall be automatically lifted and/or vacated to permit any Progexion Stalking Horse Bidder action expressly permitted or provided in the Progexion APA, without further action or order of the Court.

13. The Progrexion Expense Reimbursement (to the extent payable under the Progrexion APA) shall constitute an allowed super priority administrative expense claim pursuant to sections 105(a), 503(b)(1)(A), and 507(a)(2) of the Bankruptcy Code in the Debtors' cases, which shall be senior to and have priority over all other administrative expense claims of the kind specified in section 503(b) of the Bankruptcy Code; *provided* that the priority of such super priority administrative expense claims shall be junior to (i) the Carve-Out (as defined in the DIP Order) and (ii) claims arising under the DIP Financing Agreement. Debtors are hereby authorized and directed to pay the Progrexion Expense Reimbursement, if and when due, in accordance with the terms of the Progrexion APA and this Order without further order of the Court. The Debtors' obligation to pay the Progrexion Expense Reimbursement shall survive termination of the Progrexion APA, dismissal or conversion of any of the Chapter 11 Cases, and confirmation of any plan of reorganization or liquidation.

C. The Lexington Law Stalking Horse Bid

14. AcquisitionCo is approved as the Lexington Law Stalking Horse Bidder for the Lexington Law Assets pursuant to the terms of the Lexington Law APA.

15. The Debtors entry into the Lexington Law APA is authorized and approved, and the Lexington Law Stalking Horse Bid shall be subject to higher or better Qualified Bids, in accordance with the terms and procedures of the Lexington Law APA and the Bidding Procedures.

16. The Debtors are authorized to perform any obligations under the Lexington Law APA that are intended to be performed prior to the entry of the order approving the Sale Transaction.

D. Bid Deadline and Auction

17. Any Prospective Bidder (as defined in the Bidding Procedures) that intends to participate in the Auction must submit in writing to the Bid Notice Parties (as defined in Section X.A of the Bidding Procedures) a Bid on or before , 2023 at 5 p.m. (prevailing Eastern Time) (the “Bid Deadline”).

18. Subject to the terms of the Bidding Procedures, if the Debtors receive more than one Qualified Bid for an Asset, the Debtors shall conduct an Auction for such Asset. With respect to Assets for which the Debtors only receive one Qualified Bid, the Debtors, in their reasonable business judgment, may determine to consummate a Sale Transaction with the applicable Qualified Bidder (subject to Court approval).

19. The Auction, if required, will be conducted on , 2023, at 5 p.m. (prevailing Eastern Time), virtually through Zoom, after providing notice to the Sale Notice Parties (as defined in Section X.B of the Bidding Procedures). If held, the Auction proceedings shall be transcribed or video recorded.

20. Only a Qualified Bidder that has submitted a Qualified Bid shall be eligible to participate in the Auction, subject to any other limitations as the Debtors may reasonably impose in accordance with the Bidding Procedures. Qualified Bidders participating in the Auction must appear virtually at the Auction or through a duly authorized representative. The Debtors may establish a reasonable limit on the number of representatives and/or professional advisors that may appear on behalf of or accompany each Qualified Bidder at the Auction. Notwithstanding the foregoing, the Auction shall be conducted openly, and all creditors shall be permitted to attend.

21. Each Qualified Bidder participating in the Auction shall confirm in writing on the record at the Auction that (a) it has not engaged in any collusion with respect to the Auction

or the submission of any bid for any of the Assets and (b) its Qualified Bid that gained the Qualified Bidder admission to participate in the Auction and each Qualified Bid submitted by the Qualified Bidder at the Auction constitutes a binding, good-faith and *bona fide* offer to purchase the Assets identified in such bids.

22. In the event the Debtors determine not to hold an Auction for some or all of the Assets, the Debtors shall file with the Court, serve on the Sale Notice Parties and cause to be published on the website maintained by Kurtzman Carson Consultants LLC located at www.kccllc.net/PGX (the “Claims Agent Website”), a notice containing the following information (as applicable): (a) a description of the Assets available for sale in accordance with the Bidding Procedures, (b) the date, time and location of the Sale Hearing, (c) the Sale Objection Deadline and Post-Auction Objection Deadline (each as defined in Section X.D of the Bidding Procedures) and the procedures for filing such objections, and, if applicable, (d) a summary of the material terms of any Stalking Horse Agreement, including the terms and conditions of any “Expense Reimbursement” to be provided thereunder, as of the date of the Sale Notice.

23. By the **later of (a) [X], 2023 and (b) one day after the conclusion of the Auction**, the Debtors will file with the Court, serve on the Sale Notice Parties and cause to be published on the Claims Agent Website, a notice setting forth the results of the Auction (the “Notice of Auction Results”), which shall (i) identify each Successful Bidder and each Backup Bidder, (ii) include a copy of each Successful Bid and each Backup Bid or a summary of the material terms of such bids, including any assumption and assignment of Contracts (as defined in the Bidding Procedures) contemplated thereby, and (iii) set forth the Post-Auction Objection Deadline, the date, time and location of the Sale Hearing and any other relevant dates or other information necessary to reasonably apprise the Sale Notice Parties of the outcome of the Auction.

E. Credit Bidding

24. Any bidder holding a perfected security interest in any of the Assets may seek to credit bid all, or a portion of, such bidder's claims for its respective collateral in accordance with section 363(k) of the Bankruptcy Code (each such bid, a "Credit Bid"); *provided*, that such Credit Bid complies with the terms of the Bidding Procedures.

25. Pursuant to the terms and conditions of the DIP Loan Agreement (as defined in the DIP Motion), both the DIP Agent (acting at the direction of the Required DIP Lenders) and the Prepetition Agents (acting at the direction of the applicable required lenders) (each as defined in the DIP Motion), acting on behalf of the Progexion Stalking Horse Bidder and/or the Lexington Law Stalking Horse Bidder (as applicable) are entitled, but not required, to credit bid up to the full amount of the Prepetition Secured Loan Obligations, Adequate Protection Obligations and/or the DIP Obligations (each as defined in the DIP Motion) (including the Roll-Up Amount (as defined in the DIP Motion)), as applicable, pursuant to section 363(k) of the Bankruptcy Code without further challenges from the Debtors or any other party. Further, any credit bids by the Progexion Stalking Horse Bid and/or the Lexington Law Stalking Horse Bid shall both be deemed Credit Bids in compliance with the applicable requirements of the Bidding Procedures.

F. Sale Hearing and Objection Procedures

26. Consummation of any Sale Transaction pursuant to a Successful Bid shall be subject to Court approval. The Sale Hearing shall be held before the Court on [X], 2023, at 5 p.m. (prevailing Eastern Time); *provided*, that the Debtors may seek an adjournment or rescheduling of the Sale Hearing, consistent with the Bidding Procedures and without prejudice to the rights of the Progexion Stalking Horse Bidder or Lexington Law Stalking Horse Bidder under the Progexion APA and Lexington Law APA, respectively.

27. All general objections to any Sale Transaction (each, a “Sale Objection”) shall be (i) in writing and state, with specificity, the legal and factual bases thereof and include any appropriate documentation in support thereof, (ii) be filed with the Court, and (iii) served on the Objection Notice Parties (as defined in Section X.D of the Bidding Procedures) by no later than **[X], 2023, at 5 p.m. (prevailing Eastern Time)** (the “Sale Objection Deadline”).

28. Following service of the Notice of Auction Results, parties may object to the conduct of the Auction and/or the particular terms of any proposed Sale Transaction in a Successful Bid, other than with respect to the Progexion Stalking Horse Bid, the Lexington Law Stalking Horse Bid, or any other Stalking Horse Bid (each such objection, a “Post-Auction Objection”). Any Post-Auction Objection shall be (a) in writing and state, with specificity, the legal and factual bases thereof and include any appropriate documentation in support thereof, (b) be filed with the Court, and (c) served on the Objection Notice Parties by no later than the later of **(i) [X], 2023, at 5 p.m. (prevailing Eastern Time)** and **(ii) three days prior to the Sale Hearing** (the “Post-Auction Objection Deadline”).

29. Any party who fails to file and serve a timely Sale Objection or Post-Auction Objection in accordance with the terms of this Order shall be forever barred from asserting, at the Sale Hearing or thereafter, any Sale Objection or Post-Auction Objection to the relief requested in the Motion, or to the consummation or performance of the applicable Sale Transaction(s), including the transfer of Assets to the applicable Successful Bidder free and clear of liens, claims, interests and encumbrances pursuant to section 363(f) of the Bankruptcy Code, and shall be deemed to “consent” to such sale for purposes of section 363(f) of the Bankruptcy Code.

G. Notice of Sale Transaction

30. The Sale Notice, substantially in the form attached hereto as **Exhibit 4**, is approved, and no other or further notice of the proposed sale of the Assets, the Auction, the Sale Hearing, the Sale Objection Deadline or the Post-Auction Objection Deadline shall be required if the Debtors serve and publish the Sale Notice in the manner provided in the Bidding Procedures and this Order.

31. By **no later than the later of (a) [X], 2023 and (b) two business days after the entry of this Order**, the Debtors shall file with the Court, serve on the Sale Notice Parties and cause to be published on the Claims Agent Website, the Sale Notice.

32. Within four business days, or as soon reasonably practicable after the entry of this Order, the Debtors shall cause the information contained in the Sale Notice to be published once in *The New York Times* (national edition) (the "**Publication Notice**").

33. The Publication Notice complies with the provisions of Bankruptcy Rule 9008 and is deemed sufficient and proper notice of the proposed sale of the Assets, the Auction, the Sale Hearing, the Sale Objection Deadline, and the Post-Auction Objection Deadline to any other interested parties whose identities are unknown to the Debtors.

H. Assumption and Assignment Procedures

34. The Assumption and Assignment Procedures are reasonable and appropriate under the circumstances, fair to all non-Debtor parties, comply in all respects with the Bankruptcy Code, Bankruptcy Rules and Local Rules, and are approved.

35. The Assumption and Assignment Notice, substantially in the form attached hereto as **Exhibit 5**, is approved, and no other or further notice of the Debtors' proposed Cure

Amounts (as defined below) with respect to Contracts listed on an Assumption and Assignment Notice is necessary or required.

1. By **no later than the later of (a) [X], 2023 and (b) three business days after the entry of this Order**, the Debtors shall file with the Court, serve on the applicable Counterparties, (as defined in the Bidding Procedures) and cause to be published on the Claims Agent Website, the Assumption and Assignment Notice. In the event that the Debtors later identify any Counterparty which was not served with the Assumption and Assignment Notice, the Debtors may subsequently serve such Counterparty with the Assumption and Assignment Notice substantially in the form attached hereto as the Assumption and Assignment Notice (each, a “Supplemental Assumption Notice”), and the Assumption and Assignment Procedures will nevertheless apply to such Counterparty; provided, that the Contract Objection Deadline (as defined below) with respect to such Counterparty listed on a Supplemental Assumption Notice shall be the later of the Contract Objection Deadline or fourteen (14) days following the date of service of a Supplemental Assumption Notice (each, a “Supplemental Contract Objection Deadline”). Each Supplemental Assumption Notice shall (i) identify the relevant Contract(s), (ii) set forth a good faith estimate of the Cure Amount(s), (iii) include a statement that assumption and assignment of each such Contract is not required nor guaranteed, and (iv) inform such Counterparty of the requirement to file any Contract Objection(s) by the Supplemental Contract Objection Deadline.

36. Any objection to the Debtors’ proposed Cure Amounts (as defined in the Stalking Horse Agreements) or assumption and assignment on any basis (each such objection, a “Contract Objection”) (except objections solely related to adequate assurance of future performance by a Successful Bidder other than a Stalking Horse Bidder) shall (a) be in writing and state, with specificity, the legal and factual bases thereof and include any appropriate

documentation in support thereof, (b) be filed with the Court; and (c) served on the Objection Notice Parties by no later than the date that is **14 calendar days after service of the applicable Assumption and Assignment Notice** (the “Contract Objection Deadline”).

37. The Debtors and any objecting Counterparty shall first confer in good faith to attempt to resolve the Contract Objection without Court intervention. If the parties are unable to consensually resolve the Contract Objection prior to the commencement of the Sale Hearing, the Court shall make all necessary determinations relating to the applicable Cure Amounts or assumption and assignment and the Contract Objection at a hearing scheduled pursuant to paragraph 39 of this Order. If a Contract Objection is resolved in a manner that is not in the best interests of the Debtors and their estates, whether or not such resolution occurs prior to or after the closing of the applicable Sale Transaction, the Debtors may determine that any Contract subject to such resolved Contract Objection no longer will be assumed and assigned in connection with the applicable Sale Transaction (subject to the terms of the applicable Sale Transaction). All other objections to the Debtors’ proposed assumption and assignment of the Debtors’ right, title and interest in, to and under a Contract shall be heard at the Sale Hearing.

38. If a timely Contract Objection cannot otherwise be resolved by the parties, the Contract Objection may be heard at the Sale Hearing or, at the Debtors’ option and with the consent of the applicable Successful Bidder, be adjourned to a subsequent hearing (each such Contract Objection, an “Adjourned Contract Objection”). An Adjourned Contract Objection may be resolved after the closing date of the applicable Sale Transaction. Upon resolution of an Adjourned Contract Objection and the payment of the applicable Cure Amount or resolution of the assumption and assignment issue, if any, the Contract that was the subject of such Adjourned

Contract Objection shall be deemed assumed and assigned to the applicable Successful Bidder as of the closing date of the applicable Sale Transaction.

39. If a Counterparty fails to file with the Court and serve on the Objection Notice Parties a timely Contract Objection, the Counterparty forever shall be barred from asserting any objection with regard to the proposed assumption and assignment of such Contract and the cost to cure any defaults under the applicable Contract and shall be deemed to have consented to the assumption and assignment of the Contract in connection therewith. The Cure Amounts set forth in the applicable Assumption and Assignment Notice shall be controlling and will be the only amount necessary to cure outstanding defaults under the Contract and satisfy the requirements of section 365(b) of the Bankruptcy Code, and the Counterparty to the Contract shall be bound by and deemed to have consented to the Cure Amounts.

40. In accordance with the Bidding Procedures, Qualified Bids shall be accompanied by Adequate Assurance Information (as defined in the Bidding Procedures). The Debtors shall use commercially reasonable efforts to furnish all available Adequate Assurance Information to applicable Counterparties as soon as reasonably practicable following their receipt of such information.

41. Any objection to the proposed assumption and assignment of a Contract, other than with respect to a Stalking Horse Bidder, the subject of which objection is: (a) a Successful Bidder's (or any other relevant assignee's) proposed form of adequate assurance of future performance with respect to the Contract (each, such objection, an "Adequate Assurance Objection"), shall (a) be in writing and state, with specificity, the legal and factual bases thereof and include any appropriate documentation in support thereof, (b) be filed with the Court, and (c) served on the Objection Notice Parties by no later than the Post-Auction Objection Deadline.

42. The Debtors and any Counterparty that has filed an Adequate Assurance Objection shall first confer in good faith to attempt to resolve the Adequate Assurance Objection without Court intervention. If the parties are unable to consensually resolve the Adequate Assurance Objection prior to the commencement of the Sale Hearing, the Adequate Assurance Objection and all issues of adequate assurance of future performance of the applicable Successful Bidder shall be determined by the Court at the Sale Hearing.

43. If a Counterparty fails to file with the Court and serve on the Objection Notice Parties a timely Adequate Assurance Objection, the Counterparty shall be forever barred from asserting any objection to the assumption and/or assignment of a Contract with regard to adequate assurance of future performance. The applicable Successful Bidder (or any other relevant assignee) shall be deemed to have provided adequate assurance of future performance with respect to a Contract in accordance with sections 365(b)(1)(C) and 365(f)(2)(B) of the Bankruptcy Code and, if applicable, section 365(b)(3) of the Bankruptcy Code, notwithstanding anything to the contrary in the Contract or any other document.

44. Successful Bidders (including any Stalking Horse Bidder or Backup Bidder ultimately named a Successful Bidder) may, pursuant to the terms of an applicable asset purchase agreement executed with the Debtors (including any applicable Stalking Horse Agreement), designate (a) for assumption and assignment Contracts that were not originally included in the Assets to be acquired in connection with the applicable Successful Bid and (b) Contracts that previously were included among the Assets to be acquired in connection with the applicable Successful Bid as “excluded assets” that will not be assigned to or otherwise acquired by the Successful Bidder. The Debtors shall use commercially reasonable efforts to, as soon as reasonably practicable after the Debtors receive notice of any such designation, file with the Court,

serve on the applicable Counterparties and cause to be published on the Claims Agent Website, a notice of such designation containing sufficient information to apprise Counterparties of the designation of their respective Contracts.

45. As soon as reasonably practicable after the closing of a Sale Transaction, the Debtors will file with the Court, serve on the applicable Counterparties and cause to be published on the Claims Agent Website, a notice containing the list of Contracts that the Debtors assumed and assigned pursuant to any asset purchase agreement with a Successful Bidder.

46. The inclusion of a Contract or Cure Amounts with respect to any Contract on any Assumption and Assignment Notice or any Notice of Auction Results, shall not constitute or be deemed a determination or admission by the Debtors, any Successful Bidder or any other party that such Contract is an executory contract or an unexpired lease within the meaning of the Bankruptcy Code, and shall not be a guarantee that such Contract ultimately will be assumed or assigned. The Debtors reserve all of their rights, claims and causes of action with respect to each Contract listed on any Assumption and Assignment Notice.

I. Other Related Relief

47. In the ordinary course of business, the Lexington Law Firm maintain certain records relating to the clients of Lexington Law that are customary and appropriate for law firms of a similar nature to the Lexington Law Firm (the "Lexington Law Records"). It is anticipated that the Lexington Law Records will be transferred to the Successful Bidder for the Lexington Law Assets as part of the Sale Transaction. In connection with such Sale Transaction, the Lexington Law Records will be maintained and transferred in accordance with any and all applicable rules of professional conduct.

48. All persons and entities that participate in the Auction or bidding for any Asset during the Sale Transaction process shall be deemed to have knowingly and voluntarily (i) consented to the core jurisdiction of the Court to enter any order related to the Bidding Procedures, the Auction or any other relief requested in the Motion or granted in this Order, (ii) waived any right to a jury trial in connection with any disputes relating to the Bidding Procedures, the Auction or any other relief requested in the Motion or granted in this Order, and (iii) consented to the entry of a final order or judgment in connection with any disputes relating to the Bidding Procedures, the Auction or any other relief requested in the Motion or granted in this Order, if it is determined that the Court would lack Article III jurisdiction to enter such a final order or judgment absent the consent of the relevant parties.

49. The Debtors are authorized to take all steps and pay all amounts necessary or appropriate to implement the relief granted in this Order.

50. This Order shall be binding on the Debtors and its successors and assigns, including any chapter 7 or chapter 11 trustee or other fiducially appointed for the estates of the Debtors.

51. All time periods set forth in this Order shall be calculated in accordance with Bankruptcy Rule 9006(a).

52. To the extent any provisions of this Order are inconsistent with the Motion, the terms of this Order shall control. To the extent any provisions of this Order are inconsistent with the Bidding Procedures, the terms of this Order shall control.

53. Notwithstanding the applicability of any of Bankruptcy Rules 6004(h), 6006(d), 7062, 9014 or any other provisions of the Bankruptcy Rules or the Local Rules stating the contrary, the terms and provisions of this Order shall be immediately effective and enforceable

upon its entry, and any applicable stay of the effectiveness and enforceability of this Order is hereby waived.

54. The Debtors are authorized to make non-substantive changes to the Bidding Procedures, the Assumption and Assignment Procedures, and any related documents without further order of the Court, including, without limitation, changes to correct typographical and grammatical errors.

55. This Court shall retain exclusive jurisdiction over any and all matters arising from or related to the implementation, interpretation, and/or enforcement of this Order.

EXHIBIT 1

Bidding Procedures

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

)	
In re:	)	Chapter 11
)	
PGX HOLDINGS, INC., <i>et al.</i> , ¹	)	Case No. 23-10718 (CTG)
)	
Debtors.	)	(Jointly Administered)
)	

BIDDING PROCEDURES

The debtors and debtors in possession (collectively, the “Debtors”) in the above-captioned chapter 11 cases (collectively, the “Chapter 11 Cases”) will use the procedures set forth herein (the “Bidding Procedures”) in connection with a sale or disposition of all or substantially all of the Debtors’ assets (the “Assets”) in one or more sale transactions (each, a “Sale Transaction”).

On June 6, 2023, the Debtors filed with the United States Bankruptcy Court for the District of Delaware (the “Court”) the *Motion of the Debtors for Entry of Orders (I)(A) Approving Bidding Procedures for the Sale of All or Substantially All of the Debtors’ Assets, (B) Authorizing the Debtors to Enter into One or More Stalking Horse Agreements and to Provide Bidding Protections Thereunder, (C) Scheduling an Auction and Approving the Form and Manner of Notice Thereof, (D) Approving Assumption and Assignment Procedures and (E) Scheduling a Sale Hearing and Approving the Form and Manner of Notice Thereof; (II)(A) Approving the Sale of the Debtors’ Assets Free and Clear of Liens, Claims, Interests and Encumbrances and (B) Approving the Assumption and Assignment of Executory Contracts and Unexpired Leases; and (III) Granting Related Relief* [Docket No. [X]] (the “Motion”). By the Motion, the Debtors sought, among other things, entry of an order approving Bidding Procedures² for soliciting bids for, conducting an auction (the “Auction”) of, and consummating one or more Sale Transactions of, the Assets, as further described herein.

On [X], 2023, the Court entered an *Order (I) Approving Bidding Procedures for the Sale of Substantially All of the Debtors’ Assets, (II) Authorizing the Debtors to Enter into One or More Stalking Horse Agreements and to Provide Bidding Protections Thereunder, (III) Scheduling an Auction and Approving the Form and Manner of Notice Thereof, (IV) Approving Assumption and*

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, are: PGX Holdings, Inc. (2510); Credit Repair UK, Inc. (4798); Credit.com, Inc. (1580); Creditrepair.com Holdings, Inc. (7536); Creditrepair.com, Inc. (7680); eFolks Holdings, Inc. (5213); eFolks, LLC (5256); John C. Heath, Attorney At Law PC (8362); Progrexion ASG, Inc. (5153); Progrexion Holdings, Inc. (7123); Progrexion IP, Inc. (5179); Progrexion Marketing, Inc. (5073); and Progrexion Teleservices, Inc. (5110). The location of the Debtors’ service address for purposes of these chapter 11 cases is: 257 East 200 South, Suite 1200, Salt Lake City, Utah 84111.

² All capitalized terms not herein defined shall have the meanings ascribed to them in the Motion and/or the Bidding Procedures Order (as defined below), as applicable.

Assignment Procedures, (V) Scheduling a Sale Hearing and Approving the Form and Manner of Notice Thereof and (VI) Granting Related Relief [Docket No. [X]] (the “Bidding Procedures Order”).

I. ASSETS FOR SALE

The sale of the Assets shall be subject to a competitive bidding process as set forth herein and approval by the Court pursuant to sections 105, 363, and 365 of title 11 of the United States Code (the “Bankruptcy Code”), Rules 2002, 6003, 6004, 6006, 9007, 9008 and 9014 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), and Rules 2002-1, 6004-1 and 9006-1 of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware (the “Local Rules”).

Subject to the remaining terms of these Bidding Procedures, a Prospective Bidder (as defined in Section IV below) may bid on the Assets (i) in individual lots (by brand and/or by division or any other combination), (ii) as a collective whole, or (iii) in any combination.

The ability to undertake and consummate any sale of the Assets shall be subject to competitive bidding as set forth herein and approval by the Court. In addition to any Stalking Horse Bid, and as set forth herein, the Debtors will consider bids for any or all of the Assets in a single bid from a single bidder or in multiple bids from multiple bidders. Any bid for an individual Asset, even if such bid is the highest or otherwise best bid for such individual Asset, is subject to higher or otherwise better bids (including any Credit Bid (as defined in Section VI.A.3 below)) on packages of Assets that include the individual Asset. Additionally, any bid on all of the Assets is subject to bids on individual Assets or packages of Assets (including Credit Bids) that are, in the aggregate, higher or otherwise better bids. Any party interested in submitting a bid for any of the Debtors’ Assets should contact Greenhill & Co., LLC, ProjectPretzel@greenhill.com Attn: Neil Augustine.

II. STALKING HORSE PROCEDURES

A. The Stalking Horse Bidders

On June [●], 2023, the Debtors entered into:

- an asset purchase agreement with Lender AcquisitionCo LLC (together with each of its permitted successors, assigns and designees) (the “Progrexion Stalking Horse Bidder” and such asset purchase agreement, the “Progrexion APA”), whereby the Progrexion Stalking Horse Bidder will serve as the stalking horse bidder for the Transferred Assets (as defined in the Progrexion APA); and
- an asset purchase agreement with AcquisitionCo (together with each of his permitted successors, assigns and designees) (the “Lexington Law Stalking Horse Bidder” and such asset purchase agreement, the “Lexington Law APA”), whereby the Lexington Law Stalking Horse Bidder will serve as the stalking horse bidder for the Lexington Law Assets (as defined in the Lexington Law APA).

Pursuant to the Bidding Procedures Order, the Debtors obtained approval of:

- the Progexion APA, as a Stalking Horse Bid for the Transferred Assets (the “Progexion Stalking Horse Bid”), and the Progexion Expense Reimbursement, provided for by the Progexion APA; and
- the Lexington Law APA, as a Stalking Horse Bid for the Lexington Law Assets (the “Lexington Law Stalking Horse Bid”).

B. Designating Additional Stalking Horse Bidders

The Debtors may, as they deem necessary or appropriate and in accordance with the terms of the Bidding Procedures Order, these Bidding Procedures and the DIP Orders (as defined in the DIP Motion (as defined below)), enter into one or more additional agreements (each, an “Additional Stalking Horse APA” and, together with the Progexion APA and the Lexington Law APA, the “Stalking Horse Agreements” and each a “Stalking Horse Agreement”) with one or more other bidders that the Debtors designate to serve as a stalking horse bidder (each, an “Additional Stalking Horse Bidder” and, together with the Progexion Stalking Horse Bidder and the Lexington Law Stalking Horse Bidder, the “Stalking Horse Bidders” and each a “Stalking Horse Bidder”) for Assets other than those Assets subject to the Stalking Horse Agreements set forth in Section II.A above. Recognizing an Additional Stalking Horse Bidder’s expenditure of time, energy and resources, the Debtors may determine to provide certain bidding protections to any designated Additional Stalking Horse Bidder, including a “break-up” fee and/or an expense reimbursement, in each case, in accordance with the terms of the Bidding Procedures Order and the applicable Additional Stalking Horse APA. Any Additional Stalking Horse Bidder designated by the Debtors in accordance with these Bidding Procedures will be so designated by no later than **the later of (A) [X], 2023 and (B) seven calendar days prior to the Bid Deadline.**

1. Additional Stalking Horse Notice

Within two (2) days after executing an Additional Stalking Horse APA, the Debtors will file with the Court, serve on the Sale Notice Parties (as defined in Section X.B below) and cause to be published on the website maintained by Kurtzman Carson Consultants LLC, the Debtors’ claims and noticing agent in these Chapter 11 Cases, located at www.kccllc.net/PGX (the “Claims Agent Website”), a notice (each such notice, an “Additional Stalking Horse Notice”) setting forth the material terms of the proposed Additional Stalking Horse APA, including:

- a. The identity of the Additional Stalking Horse Bidder, the Assets that are subject to the Additional Stalking Horse Bid, and the purchase price payable for the applicable Assets; and
- b. The terms and conditions of any “break-up” fee and/or expense reimbursement to be provided thereunder.

2. Additional Stalking Horse Hearing

No hearing shall be necessary for the Debtors to designate an Additional Stalking Horse Bidder unless the Debtors, the DIP Lenders, and the Consultation parties cannot agree regarding the designation of or bidding protections for an Additional Stalking Horse Bidder. In such case, the Debtor may file a motion to designate an Additional Stalking Horse Bidder (each, an “Additional Stalking Horse Motion”) with the Court upon fourteen (14) days’ notice to all Consultation Parties. The Debtors will request that the Court schedule a hearing (each, an “Additional Stalking Horse Hearing”), in each case, to be held within five (5) business days, or as soon as reasonably practicable, after service of the applicable Additional Stalking Horse Motion, to consider approval of the applicable Additional Stalking Horse APA and the provision of bidding protections thereunder.

3. Additional Stalking Horse Bidding Protection Objections

Any objection to the provision of a “break-up” fee and/or expense reimbursement offered to an Additional Stalking Horse Bidder in accordance with this Section II.B.3 (each such objection, a “Bidding Protection Objection”) must (a) be in writing and state, with specificity, the legal and factual bases thereof and include any appropriate documentation in support thereof; and (b) be filed with the Court and served on the applicable Objection Notice Parties (as defined in Section X.D below) within three (3) calendar days after service of the applicable Additional Stalking Horse Notice. If the parties are unable to consensually resolve a Bidding Protection Objection, such Bidding Protection Objection will be heard and resolved by the Court at the applicable Additional Stalking Horse Hearing. If no timely Bidding Protection Objection is filed and served in accordance with these Bidding Procedures, the Debtors may seek permission from the Court to file, upon certification of counsel and the consent of the United States Trustee for the District of Delaware (the “U.S. Trustee”) and the Consultation Parties (as defined in Section XI below), a proposed order authorizing and approving the Debtors’ entry into the applicable Additional Stalking Horse APA and the provision of a “break-up” fee and/or expense reimbursement thereunder in lieu of holding an Additional Stalking Horse Hearing.

III. KEY DATES AND DEADLINES

<u>SALE PROCESS KEY DATES AND DEADLINES</u>	
The later of (i) [X], 2023 and (ii) two business days after the entry of the Bidding Procedures Order	Deadline for Debtors to file and serve Sale Notice
The later of (i) [X], 2023 and (ii) three business days after the entry of the Bidding Procedures Order	Deadline for Debtors to file and serve Assumption and Assignment Notice

Four business days after the entry of the Bidding Procedures Order	Deadline for the Debtors to publish the Publication Notice
The later of (i) [X], 2023 and (ii) seven days prior to the Bid Deadline	Deadline to designate Additional Stalking Horse Bidders
[X], 2023, at 5 p.m. (prevailing Eastern Time)	Sale Objection Deadline
[X], 2023, at 5 p.m. (prevailing Eastern Time) (No later than 60 days after the Petition Date)	Bid Deadline
[X], 2023, at 5 p.m. (prevailing Eastern Time)	Deadline for Debtors to Notify Bidders of Status as Qualified Bidders
[X], 2023, at 5 p.m. (prevailing Eastern Time) (No later than 65 days after the Petition Date)	Auction (if any)
The later of (i) [X], 2023 at 5 p.m. (prevailing Eastern Time) and (ii) one day after the conclusion of the Auction	Deadline for Debtors to file Notice of Auction Results
The later of (i) [X], 2023, at 5 p.m. (prevailing Eastern Time) and (ii) three days prior to the Sale Hearing	Post-Auction Objection Deadline
[X], 2023, at 5 p.m. (prevailing Eastern Time)	Sale Hearing
[X], 2023 (No later than 70 days after the Petition Date)	Deadline for Court to enter Sale Order
[X], 2023 (No later than 105 days after the Petition Date)	Deadline to consummate approved Sale Transactions

IV. DUE DILIGENCE

The Debtors have posted copies of all material documents related to the Assets to the Debtors' confidential electronic data room (the "Data Room"). Each person or entity (other than the Stalking Horse Bidders identified in Section II.A above) that desires to participate in the Auction process (each, a "Prospective Bidder") and seeks access to the Data Room must first deliver to each of the Bid Notice Parties (as defined in Section X.A below) the following:

- A. An executed confidentiality agreement, in form and substance satisfactory to the Debtors and containing terms no more favorable to the Prospective Bidder than those contained in any confidentiality agreement executed by the Stalking Horse Bidder identified in Section II.A above (unless such party is already a party to an existing confidentiality agreement with the Debtors that is acceptable to the Debtors for this due diligence process, in which case such agreement shall govern); and
- B. Sufficient information, as reasonably determined by the Debtors, to allow the Debtors to determine that the interested party intends to access the Data Room for a purpose consistent with these Bidding Procedures.
- C. With respect to Prospective Bidders that desire to participate in an Auction (if any) that includes the Lexington Law Assets, sufficient information, as reasonably determined by the Debtors, to allow the Debtors to determine that the interested party's ownership and/or profit-sharing arrangements would comply with applicable rules of professional conduct and/or other applicable laws or regulations if such interested party were to in fact acquire the Lexington Law Assets.

The Debtors shall grant all Stalking Horse Bidders identified in Section II.A above and, upon execution of a valid confidentiality agreement and up to and including the Bid Deadline, any Prospective Bidder, access to the Data Room or additional information allowing such Prospective Bidder to conduct due diligence on the potential acquisition of some or all of the Assets. Neither the Debtors nor any of their representatives shall be obligated to furnish any information of any kind whatsoever relating to the Assets (a) to any person or entity who (i) is not a Prospective Bidder, (ii) does not comply with the participation requirements set forth above, or (iii) in the case of competitively sensitive information, is a competitor of the Debtors and (b) if and to the extent doing so would (1) violate any law to which the Debtors are subject, including any privacy law, (2) result in the disclosure of any trade secrets of third parties in breach of any contract with such third party, (3) violate any legally-binding obligation of any Debtor with respect to confidentiality, non-disclosure or privacy or (4) jeopardize protections afforded to any Debtor under the attorney-client privilege or the attorney work product doctrine (provided that, in case of each of clauses (1) through (4), the Debtors shall use commercially reasonable efforts to (x) provide such access as can be provided (or otherwise convey such information regarding the applicable matter as can be conveyed) without violating such privilege, doctrine, contract, obligation or law and (y) provide such information in a manner without violating such privilege, doctrine, contract, obligation or law). Notwithstanding the foregoing, the Debtors reserve the right, in their discretion, to withhold or limit access to any information that the Debtors determine to be sensitive or otherwise not appropriate to disclose to any Prospective Bidder. The Debtors shall provide the

Stalking Horse Bidders identified in Section II.A above with any information provided to a Prospective Bidder that has not already been provided to the Stalking Horse Bidders.

The Debtors may terminate access to the Data Room and any other non-public information in their reasonable discretion at any time, including if (a) a Prospective Bidder fails to become a Qualified Bidder (as defined below) or (b) these Bidding Procedures are terminated. The Prospective Bidder shall return or destroy any non-public information the Debtors or their advisors provided to the Prospective Bidder in accordance with the terms of the confidentiality agreement executed by the Debtors and the Prospective Bidder.

The Debtors will work to accommodate all reasonable requests from the Stalking Horse Bidders and any Prospective Bidders for additional information and due diligence access. Each Prospective Bidder shall be required to acknowledge that it has had an opportunity to conduct any and all due diligence regarding the Assets in conjunction with submitting its Bid (as defined below). All due diligence requests shall be directed to Greenhill & Co., LLC, ProjectPretzel@greenhill.com Attn: Neil Augustine.

V. BID DEADLINE

Any Prospective Bidder that intends to participate in the Auction must submit in writing to the Bid Notice Parties a bid (a "Bid") on or before **[X], 2023, at 5 p.m. (prevailing Eastern Time)** (the "Bid Deadline").

The Debtors may, in their reasonable judgment, and in consultation with the Consultation Parties, extend the Bid Deadline for all or certain Prospective Bidders (provided that the Bid Deadline for Assets subject to a Stalking Horse Bid shall not be extended beyond 55 days after the Petition Date without the consent of the applicable Stalking Horse Bidder for such Assets).

VI. BID REQUIREMENTS

A. Qualified Bid Requirements

To qualify as a "**Qualified Bid**," a Bid must be in writing and determined by the Debtors to satisfy the following requirements:

1. Identification of Bidder. A Qualified Bid must fully disclose the following: (a) the legal identity of each person or entity bidding for the applicable Assets and/or otherwise sponsoring, financing (including through the issuance of debt in connection with such Bid) or participating in (including through license or similar arrangement with respect to the Assets to be acquired in connection with such Bid) the Auction in connection with such Bid and the complete terms of any such participation; (b) any past or present connections or agreements with the Debtors or their non-Debtor affiliates, any Stalking Horse Bidder(s), any other known Prospective Bidder or Qualified Bidder, the Prepetition First Lien Lenders (as defined in the Bidding Procedures Order) or any officer or director of any of the foregoing (including any current or former officer or director of the Debtors or their non-Debtor affiliates) and (c) with respect to any Bid that includes the

Lexington Law Assets, the legal identity of each person that holds, as of the date the Bid is being submitted, any equitable interest whatsoever in the Prospective Bidder (including, without limitation, any capital stock, convertible securities, options, warrants or similar instruments), and the status of each such person as a “lawyer” (as such term is defined in any applicable rules of professional conduct).

2. Purchased Assets. A Qualified Bid must identify the following:
 - a. the Assets to be purchased (including any then-known executory contracts and unexpired leases (collectively, the “Contracts”)) such Prospective Bidder wishes to bid on. For the avoidance of doubt, a Bid may be a bid on the Assets in either (i) individual lots (by brand and/or by division or any other combination), (ii) as a collective whole, or (iii) in any combination;
 - b. the liabilities (including applicable Cure Amounts (as defined in the Stalking Horse Agreements),) if any, to be assumed by the Prospective Bidder in the Sale Transaction, including any debt to be assumed; and
 - c. if a Bid is for more than one Asset, an allocation of the purchase price across the individual Assets.

3. Form of Consideration.
 - a. Credit Bidding. A Stalking Horse Bidder or Prospective Bidder holding a perfected security interest in any of the Assets may seek to credit bid all or a portion of the Stalking Horse Bidder’s or the Prospective Bidder’s claims for the collateral in which it holds a perfected security interest (each such Bid, a “Credit Bid”) in accordance with section 363(k) of the Bankruptcy Code. A Credit Bid may be applied only with respect to those Assets in which the party submitting such Credit Bid holds a perfected security interest.

For the avoidance of doubt, (i) Blue Torch Finance LLC, as administrative agent and collateral agent (in such capacities, the “Prepetition First Lien Agent”), on behalf of the Prepetition First Lien Lenders, (ii) the Prepetition First Lien Lenders, (iii) Lender AcquisitionCo LLC, (iii) the DIP Agent, on behalf of the DIP Lenders (each as defined in the DIP Motion³) or (iv) the DIP Lenders, as applicable, will be deemed to be a Qualified Bidder, for all purposes and requirements pursuant to these Bidding Procedures,

³ “DIP Motion” means the *Motion of the Debtors for Entry of Interim and Final Orders (I) Authorizing the Debtors to (A) Obtain Postpetition Financing and (B) Utilize Cash Collateral, (II) Granting Liens and Superpriority Administrative Expense Claims, (III) Modifying the Automatic Stay, (VI) Scheduling a Final Hearing, and (V) Granting Related Relief* [Docket No. 17].

notwithstanding the requirements that a Prospective Bidder must satisfy to be a Qualified Bidder, and any Bid submitted by any party identified in this paragraph will be deemed to be a Qualified Bid, for all purposes and requirements pursuant to these Bidding Procedures, notwithstanding the requirements that a Bid must satisfy to be a Qualified Bid, including the requirements, among others, that each Bid must be irrevocable and to deliver a confidentiality agreement and post a Good Faith Deposit (as defined herein).

- b. Form of Consideration and Allocation. A Bid must specify whether the Bid is an all cash offer (including confirmation that the cash component is in U.S. Dollars) or consists of certain non-cash components, such as a credit bid, assumption of liabilities, or other forms of consideration (and including a detailed analysis of the value of any non-cash component of the Bid) as well as the allocation of the purchase price among the Assets to be acquired and the liabilities to be assumed. Subject to Section VI.A.4 below, to be a Qualified Bid, a Bid (whether on an individual Asset, a package of Assets or all Assets) must include sufficient cash consideration to pay any applicable termination payment, expense reimbursement, or similar payment payable to any Stalking Horse Bidder under the terms of any Stalking Horse Agreement applicable to one or more of the Assets for which the Bid is submitted.
4. Minimum Bid for Stalking Horse Assets. Each Bid submitted in connection with Assets that are the subject of a particular Stalking Horse Bid (any such Assets, the “Stalking Horse Assets”) must either (a) (i) be a Bid for all of the particular Stalking Horse Assets that are the subject of a particular Stalking Horse Bid, (ii) include cash consideration of not less than the sum of the purchase price set forth in the applicable Stalking Horse Agreement (excluding, for the avoidance of doubt, any “Assumed Liabilities” to be assumed by the Stalking Horse Bidder pursuant to the applicable Stalking Horse Bid Agreement) *plus* (A) all “Obligations” outstanding under the DIP Documents (as defined in the DIP Motion) which are not included in the purchase price set forth in the applicable Stalking Horse Agreement, *plus* (B) the any applicable termination payment and/or expense reimbursement, *plus* (C) an Initial Bid Increment (as defined below), and (iii) assume the Assumed Liabilities (as defined in the applicable Stalking Horse Agreement) or (b) propose an alternative transaction that, in the Debtors’ business judgment, provides higher value or better terms than the applicable Stalking Horse Bid, including by exceeding the purchase price of such Stalking Horse Bid *plus* any applicable termination payment and/or expense reimbursement *plus* any applicable Initial Bid Increment, and after taking into account, among other things, in light of all the Bids submitted for the Assets or any combination of Assets, whether there is sufficient cash to pay (x) any applicable termination payment and/or expense reimbursement, (y) any amounts necessary to fund a wind-down of the Debtors estate and, if

determined by the Debtors to be in the best interests of the Debtors' estates, confirmation and administration of a liquidating plan, in an amount not to exceed the Wind Down Amount (as defined in the Progrexion APA), (z) and any DIP financing amount (the "DIP Financing Amount"), in each case, as applicable. For the avoidance of doubt, as to clause (b) in this Section VI.A.4, the Debtors may evaluate each Bid in light of each of the factors set forth therein, but a Bid is not required to meet each factor in order to be determined a Qualified Bid.

The Debtors may consider a Bid for a portion of any applicable Stalking Horse Assets (each such bid, a "Partial Bid") if (a) the Debtors receive one or more other Partial Bids for the remaining applicable Stalking Horse Assets such that, when taken together, and after considering the risks associated with consummating several individual Bids, the Partial Bids collectively constitute a higher or otherwise better bid than the applicable Stalking Horse Bid (taking into account any applicable termination payment, expense reimbursement, and the Initial Bid Increment) or (b) the Partial Bid proposes a purchase price for the applicable Stalking Horse Assets that, when taken together with the liquidation or alternative sale value of the remaining applicable Stalking Horse Assets, as determined by the Debtors in good faith with the advice of their legal and financial advisors, exceeds the purchase price in the Stalking Horse Bid *plus* any applicable termination payment and/or expense reimbursement *plus* any applicable Initial Bid Increment, and after taking into account, among other things, in light of all the Bids submitted for the Assets or any combination of Assets, whether there is sufficient cash to pay (x) any applicable termination payment and/or expense reimbursement, (y) the Wind-Down Amount, (z) and the DIP Financing Amount, in each case, as applicable. For the avoidance of doubt, notwithstanding the foregoing, in evaluating any Partial Bid, the Debtors may also consider the factors set forth in Section IV.B.

If the value of a competing Qualified Bid (whether such Qualified Bid is for all of the applicable Stalking Horse Assets or is a Partial Bid) relative to the Stalking Horse Bid includes additional non-cash components (such as fewer contingencies than are in the applicable Stalking Horse Agreement), the bidder should include an analysis or description of the value of any such additional non-cash components, including any supporting documentation, to assist the Debtors in better evaluating the competing Qualified Bid.

"Initial Bid Increment" shall mean (a) with respect to the Progrexion Stalking Horse Bid, \$5 million and (b) with respect to the Lexington Law Stalking Horse Bid, \$500,000.

5. Proposed Asset Purchase Agreement and Sale Order: A Qualified Bid must constitute a *binding and irrevocable* offer and be in the form of an asset purchase agreement reflecting the terms and conditions of the Bid (each, a

“Proposed Asset Purchase Agreement”). A Proposed Asset Purchase Agreement shall (a) be duly authorized and executed, (b) be based on, and marked against, (i) in the case of Assets subject to a Stalking Horse Agreement, the applicable Stalking Horse Agreement, and (ii) in the case of Assets not subject to a Stalking Horse Agreement, a form asset purchase agreement provided by the Debtors to Prospective Bidders to reflect the proposed Sale Transaction and to show any other proposed modifications to the form purchase agreement, (c) specify the proposed purchase price for the applicable Assets, and (d) identify any then-known Contracts proposed for or that may be proposed for assumption and assignment in connection with the proposed Sale Transaction. A Qualified Bid must also contain a sale order based on, and marked against, the applicable Sale Order(s) (as defined below) (which Sale Orders are to be filed by the Debtors no later than five (5) days prior to the Bidding Procedures Hearing) for the applicable assets to reflect the proposed Sale Transaction and to show any other proposed modifications to the applicable Sale Order(s).

6. Financial Information. A Qualified Bid must include the following:
 - a. a statement that the Prospective Bidder is financially capable of timely consummating the Sale Transaction contemplated by the Prospective Bidder’s Proposed Asset Purchase Agreement;
 - b. sufficient evidence, as reasonably determined by the Debtors (in consultation with the Consultation Parties), to determine that the Prospective Bidder has, or can obtain, the financial wherewithal to timely consummate the Sale Transaction contemplated by the Prospective Bidder’s Proposed Asset Purchase Agreement; and
 - c. Adequate Assurance Information (as defined in Section VI.A.8 below) with respect to any Contracts included or that may be included in the Prospective Bidder’s Bid.

7. Good Faith Deposit. Each Qualified Bid must be accompanied by a good faith deposit (each, a “Good Faith Deposit”) in the form of cash (or other form acceptable to the Debtors in their sole discretion) in an amount equal to ten percent (10%) of the proposed purchase price for the applicable Assets (inclusive of any amount thereof comprising any applicable Credit Bid consideration); *provided*, that no Good Faith Deposit shall be required for any Qualified Bid from any Stalking Horse Bidder or any Qualified Bid that solely contains Credit Bid consideration.

Good Faith Deposits shall be deposited into a trust account maintained on behalf of the Debtors (and to be designated by Debtors) and handled in accordance with Section VII.E of these Bidding Procedures. To the extent a Qualified Bidder increases the purchase price before, during, or after the Auction, the Debtors reserve the right to require that such Qualified Bidder

adjust its Good Faith Deposit so that it equals ten percent (10%) of the increased purchase price. The Debtors reserve the right to increase or decrease the Good Faith Deposit for one or more Qualified Bidders in their sole discretion except with respect to any Qualified Bid from any Stalking Horse Bidder or any Qualified Bid that solely contains Credit Bid consideration as set forth above; *provided*, the Debtors may not decrease or waive any Good Faith Deposit without consulting with the Consultation Parties.

8. Adequate Assurance. A Qualified Bid must include evidence of the Prospective Bidder's (or any other relevant assignee's) ability to comply with section 365 of the Bankruptcy Code (to the extent applicable), including providing adequate assurance of such Prospective Bidder's (or any other relevant assignee's) ability to perform future obligations arising under any Contracts included in its Bid. The Debtors may require the following information in connection with demonstrating adequate assurance of future performance: information evidencing the Prospective Bidder's (or any other relevant assignee's) financial wherewithal and willingness to perform under any Contracts included in the Bid, which information may include (i) a corporate organizational chart or similar disclosure identifying corporate ownership and control, (ii) financial statements, (iii) tax returns, (iv) annual reports and (v) with respect to Qualified Bid's including a Bid on the Lexington Law Assets, certificate(s) of good standing and/or other written certification evidencing the Prospective Bidder's (and the Prospective Bidder's interest holders') qualification(s) as a lawyer (the information described in this Section VI.A.8, the "Adequate Assurance Information"). All Adequate Assurance Information must be in a form that will permit its immediate dissemination to the applicable Counterparties (as defined below).
9. Representations and Warranties. A Qualified Bid must include the following representations and warranties:
 - a. a statement that the Prospective Bidder has had an opportunity to conduct any and all due diligence regarding the Debtors' businesses and the applicable Assets prior to submitting its bid;
 - b. a statement that the Prospective Bidder has relied solely upon its own independent review, investigation and/or inspection of any relevant documents and the Assets in making its bid and did not rely on any written or oral statements, representations, promises, warranties or guaranties whatsoever, whether express or implied, by operation of law or otherwise, regarding the Debtors' businesses or the applicable Assets or the completeness of any information provided in connection therewith, except as expressly stated in the representations and warranties contained in a Stalking Horse Agreement;

- c. a statement that all proof of financial ability to consummate the applicable Sale Transaction in a timely manner and all information provided to support adequate assurance of future performance is true and correct; and
 - d. a statement that the Prospective Bidder agrees to be bound by the terms of the Bidding Procedures.
10. Authorization. A Qualified Bid must (a) include evidence of authorization and approval from the Prospective Bidder's board of directors (or comparable governing body) with respect to the submission, execution and delivery of any bid for the Assets, participation in the Auction and closing of the Sale Transaction contemplated by the Prospective Bidder's Proposed Asset Purchase Agreement or (b) if the Prospective Bidder is an entity formed for the purpose of effecting the proposed Sale Transaction, a Qualified Bid must provide written evidence acceptable to the Debtors of authorization and the approval by the equity holder(s) of such Prospective Bidder.
11. Joint Bids. The Debtors will be authorized to approve joint Bids in their discretion on a case-by-case basis.
12. Other Requirements. A Qualified Bid must:
- a. state that the Prospective Bidder agrees to serve as a backup bidder (a "Backup Bidder") if such bidder's Qualified Bid is selected at the Auction as the next highest or next best bid after the Successful Bid (as defined in Section VII.C.1 below) for the applicable Assets (each such bid, a "Backup Bid"); provided, that as to any Stalking Horse Bidder, the terms of any applicable Stalking Horse Agreement shall control as to any Backup Bidder and Backup Bid requirement, and no Stalking Horse Bidder shall be required to serve as a Backup Bidder, notwithstanding such Stalking Horse Bidder's Stalking Horse Bid being the next highest or next best bid after a Successful Bid for the applicable Assets, without its prior written consent.
 - b. state that the bid, as may be modified before or during the Auction, represents a binding, irrevocable, good-faith and *bona fide* offer to purchase the applicable Assets and is not subject to or conditioned on any due diligence, financing, or other contingency (other than the conditions to closing under the applicable agreement), and is irrevocable until the later of (i) the applicable outside date for consummation of the applicable Sale Transaction or (ii) the Backup Bid Expiration Date (as defined in Section VII.C.2 below);
 - c. except as otherwise may be provided in a Stalking Horse Agreement, expressly state and acknowledge that the Prospective Bidder shall

not be entitled to a break-up fee, termination fee, expense reimbursement or other “bidding protection” in connection with the submission of a bid for the Assets or otherwise participating in the Auction or the Sale Transaction process, unless otherwise granted by the Debtors and approved by an order of the Court;

- d. state that the Prospective Bidder is committed to closing the Sale Transaction contemplated in its Bid as soon as practicable and in any case no later than the applicable deadline to consummate an approved Sale Transaction set forth herein;
- e. specify (i) whether the Qualified Bidder intends to hire any of the Debtors’ employees and (ii) the proposed treatment of the Debtors’ prepetition compensation, incentive, retention, bonus or other compensatory arrangements, plans, or agreements, including offer letters, employment agreements, consulting agreements, retiree benefits, and any other employment related agreements (collectively, the “Employee Obligations”);
- f. expressly waive any claim or right to assert any substantial contribution administrative expense claim under section 503(b) of the Bankruptcy Code or the payment of any broker fees or costs in connection with bidding for any of the Assets and/or otherwise participating in the Auction or the Sale Transaction process;
- g. include a covenant to cooperate with the Debtors (i) to provide pertinent factual information regarding the Prospective Bidder’s operations reasonably required to analyze issues arising with respect to any applicable antitrust laws and any other applicable regulatory requirements and (ii) to obtain Court approval of the Sale Transaction;
- h. state or otherwise estimate the types of transition services, if any, the Prospective Bidder would require of and/or provide to the Debtors, including an estimate of the time any such transition services would be required of and/or provided to the Debtors, if the Prospective Bidder’s Bid were selected as the Successful Bid for the applicable Assets;
- i. certify that the Prospective Bidder did not collude with any other bidders and is not otherwise a partnership, joint venture or other entity in which more than one bidder (or any affiliates of a bidder) has a direct or indirect interest, unless consented to in writing by the Debtors;
- j. include a covenant to comply with the terms of these Bidding Procedures and the Bidding Procedures Order; and

- k. include contact information for the specific person(s) the Debtors should contact in the event they have any questions about the Prospective Bidder's bid.

B. Bid Review Process

The Debtors will review each Bid received from a Prospective Bidder to determine whether it meets the requirements set forth above. Based upon their evaluation of the content of each Bid, the Debtors may, as they deem appropriate in their business judgment and in a manner consistent with their fiduciary duties and applicable law, engage in negotiations with any Prospective Bidder for the purposes of (i) curing any deficiencies in a Bid that prevents it from constituting a Qualified Bid, (ii) improving the terms of the Prospective Bidder's Bid or (iii) otherwise promoting a more competitive bidding and Auction process with the ultimate goal of maximizing the value of the Assets.

A Bid received from a Prospective Bidder for all or any portion of the Assets that the Debtors determine meets the requirements set forth in Section V and VI above, and is otherwise satisfactory to the Debtors, will be considered a Qualified Bid and each Prospective Bidder that submits a Qualified Bid will be considered a "Qualified Bidder." The Debtors shall inform Qualified Bidders that their Bids have been designated as Qualified Bids as reasonably in advance of the commencement of the Auction as is practicable.

For the avoidance of doubt, any Stalking Horse Agreement will be deemed a Qualified Bid, and the Stalking Horse Bidder will be deemed a Qualified Bidder, for all purposes and requirements pursuant to the Bidding Procedures, notwithstanding the requirements that a Prospective Bidder must satisfy to be a Qualified Bidder. The Debtors shall, within two (2) calendar days following the Bid Deadline, inform any Stalking Horse Bidder of the Baseline Bid (as defined in Section VII.B.2) received relevant to the Assets under such Stalking Horse Bidder's Stalking Horse Agreement and shall provide copies of the Baseline Bid at the same time other Qualified Bidders receive such information.

In evaluating a Bid, the Debtors may take into consideration any and all factors that the Debtors deem reasonably pertinent, including, without limitation:

- (i) the amount of the proposed purchase price and proposed form of consideration;
- (ii) any Assets and liabilities included in, or excluded from, the Bid, including any Contracts marked for assumption and assignment;
- (iii) the value to be provided to the Debtors under the Bid, including the net economic effect on the Debtors' estates (taking into account any Stalking Horse Bidder's rights with respect to any termination payment, expense reimbursement, any Wind-Down Amount, and the DIP Financing Amount, in each case, as applicable);
- (iv) any benefit to the Debtors' estates from any assumption or waiver of liabilities contemplated by the Bid; (v) any benefit to the Debtors' estates arising from the avoidance of additional costs that may be incurred as a result of the Bid;

- (vi) the structure of the proposed Sale Transaction and any attendant execution risk, including conditions to, timing of and certainty of closing, termination provisions, financing contingencies, availability of financing and general financial wherewithal to meet all commitments, and any required governmental approvals;
- (vii) the impact of the proposed Sale Transaction on employees and the proposed treatment of the Employee Obligations;
- (viii) the impact of the proposed Sale Transaction on the Debtors' trade creditors, licensees, clients and any other parties in interest; and (ix) any other factors the Debtors may reasonably deem relevant and consistent with their fiduciary duties; provided that in conjunction with any Credit Bid, the Debtors must have sufficient cash to pay any applicable termination payment and/or expense reimbursement pursuant to the terms of any Stalking Horse Agreement.

The Debtors will make a determination regarding the Bids that qualify as Qualified Bids and as Baseline Bids and will notify bidders whether they have been selected as Qualified Bidders as reasonably in advance of the commencement of the Auction as is practicable. A Qualified Bidder shall not (without the consent of the Debtors), modify, amend or withdraw its Qualified Bid, unless for the purposes of increasing the purchase price or otherwise improving the terms of the bid, as determined by the Debtors in their business judgment.

The Debtors, in their business judgment reserve the right to reject any Bid (other than any Stalking Horse Bid) if such Bid, among other things, (i) is on terms that are more burdensome or conditional than the terms of any applicable Stalking Horse Agreement, (ii) requires any indemnification of the Prospective Bidder in its asset purchase agreement, (iii) is not received by the Bid Deadline, (iv) is subject to any contingencies (including representations, warranties, covenants and timing requirements) of any kind or any other conditions precedent to such party's obligation to acquire the relevant Assets, (v) seeks any bid protections, or (vi) does not, in the Debtors' determination, include a fair and adequate price or the acceptance of which would not be in the best interests of the Debtors' estates.

Without prejudice to the rights of a Stalking Horse Bidder under the applicable Stalking Horse Agreement, the Debtors may, in their sole discretion, among other things (i) amend or waive the conditions precedent to qualifying as a Qualified Bidder, (ii) extend the Bid Deadline as to any party or with respect to any Assets (provided the Bid Deadline may not be extended beyond 55 days after the Petition Date without the consent of the Stalking Horse Purchasers identified in Section II.A above), (iii) with respect to any Bid that is not a Qualified Bid, the Debtors may provide (but shall not be obligated to provide) the Bidder with the opportunity to remedy any deficiencies prior to the Auction, and/or (iv) postpone or cancel the Auction and terminate the proposed sale(s) for any Assets.

C. Bidding Protections

In recognition of their expenditure of time, energy, and resources, the Debtors have agreed, subject to the Bidding Procedures Order, the Progrexion APA and the Lexington Law APA, to

provide the following bidding protections to the Progrexion Stalking Horse Bidder and the Lexington Law Stalking Horse Bidder, each in its capacity as a Stalking Horse Bidder:

- the payment of the Expense Reimbursement, under and as defined in the Progrexion APA (the “Progrexion Expense Reimbursement”), in the event that the Progrexion APA is terminated under certain circumstances;

Other than the Progrexion Expense Reimbursement and any other bid protections provided to a Stalking Horse Bidder, as applicable, no bidder or any other party shall be entitled to any termination or “break-up” fee, expense reimbursement or any other bidding protections in connection with the submission of a bid for the Assets or for otherwise participating in the Auction or the Sale Transaction process, unless otherwise granted by the Debtors and approved by an order of the Court.

VII. THE AUCTION

If the Debtors receive more than one Qualified Bid (including any Stalking Horse Bid) for an Asset or combination of Assets, the Debtors will conduct an Auction for such Asset(s). If more than one Qualified Bid exists for acquiring specific combinations of the Assets, then the Debtors may, in the exercise of their reasonable business judgment, first conduct a separate Auction (a “Sub-Auction”) for such Assets that have at least one Qualified Bid pursuant to the Bid Procedures; *provided*, that in the event that the Debtors elect to conduct any such Sub-Auction and select an Alternate Transaction (as defined in the applicable Asset Purchase Agreement) for any Asset, any Stalking Horse Bidder, including, without limitation, the Progrexion Stalking Horse Bidder and the Lexington Law Stalking Horse Bidder, may, in its sole discretion, immediately or at any time thereafter terminate such Stalking Horse Bidder’s applicable Stalking Horse Purchase Agreement upon written notice of termination to the Debtors, and, upon delivery of such written notice of termination, the applicable Stalking Horse Purchase Agreement will become void and have no further force and effect and all further obligations of the parties to each other under such Stalking Horse Purchase Agreement will terminate without further obligation or liability of the parties (the “Sub-Auction Stalking Horse Purchaser’s Option”); *provided, further*, that notwithstanding anything to the contrary in these Bidding Procedures or the Progrexion Stalking Horse Purchase Agreement, if the Progrexion Stalking Horse Purchase Agreement is terminated pursuant to the Sub-Auction Stalking Horse Purchaser’s Option, then the Progrexion Stalking Horse Bidder shall be entitled to payment of the Expense Reimbursement, if approved by the Bankruptcy Court, upon consummation of an Alternate Transaction from the proceeds of such Alternate Transaction in accordance with the terms of the Bid Procedures Order. With respect to any particular Asset for which the Debtors receive only one Qualified Bid by the Bid Deadline, the Debtors may, in their business judgment, determine to consummate a Sale Transaction with the applicable Qualified Bidder without conducting an Auction.

In the event the Debtors determine not to hold an Auction for some or all of the Assets, the Debtors will file with the Court, serve on the Sale Notice Parties and cause to be published on the Claims Agent Website, a notice containing the following information, as applicable: (i) a statement that the Auction for the relevant Assets has been canceled, (ii) the identity of the Successful Bidder,

(iii) a copy of the Successful Bid or a summary of the material terms of such Successful Bid, including any assumption and assignment of Contracts contemplated thereby, and (iv) the date, time and location of the applicable Sale Hearing.

The Auction, if required, will be conducted on **[X], 2023, at 5 p.m. (prevailing Eastern Time)**, virtually through Zoom, after providing notice to the Sale Notice Parties; provided, however, the Debtors shall have the right to hold the Auction remotely, including telephonically or by other electronic means (including, without limitation, video conferencing) as the Debtors may choose in their sole discretion so as to comply with all applicable federal, state and local laws, orders, ordinances, guidelines and guidance, including any shelter-in-place, social distancing and non-essential business orders and guidelines. If held, the Auction proceedings will be transcribed and/or video recorded.

A. Participants and Attendees

Only Qualified Bidders are eligible to participate in the Auction or any Sub-Auction, subject to other limitations as may be reasonably imposed by the Debtors in accordance with these Bidding Procedures. At least one (1) day prior to the Auction or any Sub-Auction, each Qualified Bidder must inform the Debtors in writing whether it intends to participate in the Auction. Qualified Bidders participating in the Auction or specific Sub-Auction must appear via video conferencing at the Auction or specific Sub-Auction, as applicable, or through a duly authorized representative. Subject to the Auction procedures set forth in Section VII of these Bidding Procedures, all Qualified Bidders and the Consultation Parties are permitted to attend the Auction or any Sub-Auction; provided, that the Debtors may, in their sole discretion, establish a reasonable limit on the number of representatives and/or professional advisors that may appear on behalf of or accompany each Qualified Bidder at the Auction or specific Sub-Auction. Any creditor and its advisors wishing to attend the Auction may do so by contacting, no later than one (1) day prior to the start of the Auction, the Debtors' advisors.

Each Qualified Bidder participating in the Auction or specific Sub-Auction will be required to confirm in writing and on the record at the Auction or Sub-Auction, as applicable, that (i) it has not engaged in any collusion with respect to the Auction or the submission of any bid for any of the Assets and (ii) its Qualified Bid that gained the Qualified Bidder admission to participate in the Auction and each Qualified Bid submitted by the Qualified Bidder at the Auction or specific Sub-Auction is a binding, good-faith and *bona fide* offer to purchase the Assets identified in such bids.

All Prospective Bidders and Qualified Bidders (including any Stalking Horse Bidder, Successful Bidder and Backup Bidder) shall be deemed to have (i) consented to the core jurisdiction of the Court to enter any order related to these Bidding Procedures, the Auction or, any other relief requested in the Motion or granted pursuant to the Bidding Procedures Order or the construction or enforcement of any agreement or any other document relating to any Sale Transaction, (ii) waived any right to a jury trial in connection with any disputes relating to these Bidding Procedures, the Auction or the construction or enforcement of any agreement or any other document relating to any Sale Transaction, and (iii) consented to the entry of a final order or judgment in connection with any disputes relating to these Bidding Procedures, the Auction or specific Sub-Auction, the construction or enforcement of any agreement or any other document

relating to any Sale Transaction, if it is determined that the Court would lack Article III jurisdiction to enter such a final order or judgment absent the consent of the relevant parties.

B. Auction Procedures

The Auction or Sub-Auction shall be governed by the following procedures, subject to the Debtors' right to modify such procedures in their business judgment, subject to and in accordance with these Bidding Procedures and the applicable parties' rights under any Stalking Horse Agreement:

1. Auction Packages. Prior to the commencement of the Auction or specific Sub-Auction, the Debtors will make a determination regarding the Assets and/or combinations of Assets for which the Debtors will conduct an Auction (each such Asset or group of Assets, an "Auction Package"). For the avoidance of doubt, the Debtors may, in their business judgment determine to (i) include an individual Asset in more than one Auction Package and (ii) have an Auction Package for all or substantially all of the Debtors' Assets.
2. Baseline Bids. Prior to the commencement of the Auction or specific Sub-Auction, the Debtors will determine, in their business judgment, the highest and/or best Qualified Bid submitted for each Auction Package (each such Qualified Bid, a "Baseline Bid"). Bidding for each Auction Package at the Auction shall commence at the amount of the applicable Baseline Bid.
3. Minimum Overbid. Bidding at the Auction or Sub-Auction for an Auction Package (or subset thereof) that is subject to Qualified Bids will begin with the Baseline Bid and continue, in one or more rounds of bidding, so long as during each round at least one subsequent bid (a "Subsequent Bid") is submitted by a Qualified Bidder that (i) improves on such Qualified Bidder's immediately prior Qualified Bid and (ii) the Debtors determine that such Subsequent Bid is (A) for the first round, a higher or otherwise better offer than the Baseline Bid, and (B) for subsequent rounds, a higher or otherwise better offer than the Leading Bid (as defined below).

The Debtors will announce at the outset of the Auction or Sub-Auction the minimum required increments for successive Bids (each, such Bid, a "Minimum Overbid"). The Debtors may, in their discretion, announce increases or reductions to Minimum Overbids at any time during the Auction or Sub-Auction.

Upon a Qualified Bidder's declaration of a Bid at the Auction or specific Sub-Auction, the Qualified Bidder must state on the record its commitment to pay within two (2) business days following the Auction or Sub-Auction, if such Bid were to be selected as the Successful Bid or as the Backup Bid for the applicable Auction Package, the incremental amount of the Qualified Bidder's Good Faith Deposit calculated based on the increased purchase

price of such bid (such Good Faith Deposit so increased, the “Incremental Deposit Amount”) if applicable. Except as specifically set forth herein, for the purpose of evaluating the value of the consideration provided by any Bid subsequent to a Baseline Bid, the Debtors will, at each round of bidding, consider and/or give effect to (a) any termination payment or expense reimbursement (only if such amount has not previously been paid) payable to any Stalking Horse Bidder under an applicable Stalking Horse Agreement, including the crediting of such amounts to the applicable Stalking Horse Bidder, (b) any additional liabilities to be assumed by a Qualified Bidder under the Bid, including whether such liabilities are secured or unsecured, (c) any additional costs that may be imposed on the Debtors, and (d) the provision of any Wind- Down Amount and treatment of the DIP Financing Amount, as applicable.

4. Leading Bid. After the first round of bidding and between each subsequent round of bidding, the Debtors will announce the bid that they believe to be the highest or otherwise best offer for the applicable Auction Package (each such bid, a “Leading Bid”) and describe the material terms thereof. Each round of bidding will conclude after each participating Qualified Bidder has had the opportunity to submit a Subsequent Bid with full knowledge of the material terms of the Leading Bid, subject to the Debtors’ authority to revise the Auction procedures to the extent permitted hereby.

The Auction or any Sub-Auction will be conducted by open bidding in the presence of all other Qualified Bidders and each Qualified Bidder shall have the right to be present for all rounds of open bidding and to submit additional bids and make modifications to its Proposed Asset Purchase Agreement at the Auction to improve its bid. The Debtors may, in their business judgment, engage in discussions and negotiate with any and all Qualified Bidders participating in the Auction or Sub-Auction outside the presence of other bidders before each round of bidding, including to improve or clarify the terms of bids made.

The Debtors shall have the right to determine, in their business judgment, which bid is the highest or otherwise best bid with respect to an applicable Auction Package (including, without limitation, with respect to an Auction Package that includes all or substantially all of the Debtors’ Assets) and, in accordance with the terms of these Bidding Procedures, reject, at any time, without liability (except for any requirement to pay any termination payment or expense reimbursement under a Stalking Horse Agreement, as applicable), any bid that the Debtors deem to be inadequate or insufficient, not in conformity with the requirements of the Bankruptcy Code, the Bankruptcy Rules, the Local Rules, these Bidding Procedures, any order of the Court, or the best interests of the Debtors and their estates, including, without limitation, the provision of any Wind-Down Amount and treatment of the DIP Financing Amount, as applicable.

C. Auction Results

1. Successful Bids. Immediately prior to the conclusion of the Auction or a specific Sub-Auction for an Auction Package, the Debtors will (a) determine, consistent with these Bidding Procedures, which Qualified Bid constitutes the highest or otherwise best bid(s) for the Auction Package (each such bid, a “Successful Bid”) and (b) notify all Qualified Bidders at the Auction or Sub-Auction of the identity of the bidder that submitted the Successful Bid for the Auction Package (each such bidder, a “Successful Bidder”) and the amount of the purchase price and other material terms of the Successful Bid. As a condition to remaining the Successful Bidder, the Successful Bidder shall, within two (2) business days after the conclusion of the Auction or Sub-Auction, (i) if applicable, wire to the Debtors in immediately available funds the Incremental Deposit Amount, calculated based on the purchase price in the Successful Bid(s) and (ii) submit to the Debtors fully executed documentation memorializing the terms of the Successful Bid(s).

2. Backup Bids. Immediately prior to the conclusion of the Auction or Sub-Auction for an Auction Package, the Debtors will (a) determine, in a manner consistent with these Bidding Procedures, which Qualified Bid is the Backup Bid for the Auction Package and (b) notify all Qualified Bidders at the Auction or Sub-Auction for the Auction Package of the identity of the Backup Bidder for the Auction Package and the amount of the purchase price and other material terms of the Backup Bid. Within two (2) business days after the Auction or Sub-Auction, the Backup Bidder shall submit to the Debtors execution versions of the documentation memorializing the terms of the Backup Bid(s).

A Backup Bid will remain binding on the applicable Backup Bidder until the earlier of (a) the first business day after the closing of a Sale Transaction with the Successful Bidder for the applicable Auction Package and (b) 30 days after the Sale Hearing (or such other date as may be set forth in a Stalking Horse Agreement, the “Backup Bid Expiration Date”). If the Sale Transaction with the applicable Successful Bidder is terminated prior to the Backup Bid Expiration Date, the Backup Bidder shall be deemed the new Successful Bidder for the applicable Auction Package and shall be obligated to consummate the Backup Bid as if it were the Successful Bid at the Auction or Sub-Auction; provided, that the Debtors may, in their business judgment and after providing notice to the Sale Notice Parties, elect not to pursue the Sale Transaction contemplated by the Backup Bid.

3. Notice of Auction or Sub-Auction Results. By the later of (a) , 2023 and (b) one day after the conclusion of the Auction or Sub-Auction, or as soon as is reasonably practicable thereafter, the Debtors will file with the Court, serve on the Sale Notice Parties and cause to be published on the Claims Agent Website, a notice setting forth the results of the Auction or Sub-Auction (the “Notice of Auction Results”), which will (a) identify each Successful

Bidder and each Backup Bidder, (b) include a copy of each Successful Bid and each Backup Bid or a summary of the material terms of such bids, including any proposed assumption and assignment of Contracts contemplated thereby, and (c) set forth the Post-Auction Objection Deadline (as defined in Section X.D below), the date, time and location of the Sale Hearing and any other relevant dates or other information necessary to reasonably apprise the Sale Notice Parties of the outcome of the Auction or any Sub-Auction.

4. The Debtors' presentation to the Bankruptcy Court for approval of a selected Qualified Bid as a Successful Bid does not constitute the Debtors' acceptance of such Bid. The Debtors will have accepted a Successful Bid only when such Successful Bid has been approved by the Bankruptcy Court at the Sale Hearing.

D. Additional Auction Procedures

The Debtors may announce at the Auction or a specific Sub-Auction additional procedural rules (*e.g.*, among other things, the amount of time to make Subsequent Bids, the amount of the Minimum Overbid, or the requirement that parties submit "best and final" Bids) for conducting the Auction or specific Sub-Auction or otherwise modify these Bidding Procedures; provided, that such rules (i) are not materially inconsistent with the Bidding Procedures Order, the DIP Orders, these Bidding Procedures, the Bankruptcy Code or any order of the Bankruptcy Court, (ii) are disclosed to each Qualified Bidder during the Auction or Sub-Auction, and (iii) are in form and substance acceptable to the DIP Lenders (as defined in the Bidding Procedures). For the avoidance of doubt, any bid for any Assets included in any Auction Package shall be subject to a determination by the Debtors, in their business judgment and in accordance with the other provisions of these Bidding Procedures, that (i) a bid for substantially all of the Debtors' Assets and/or (ii) a combination of bids that groups the Assets together differently is the highest or otherwise best offer for such Assets.

E. Disposition of Good Faith Deposit

1. Prospective Bidders. Within five business days after the Debtors make final determinations as to which Prospective Bidders qualify as Qualified Bidders, a Prospective Bidder's Good Faith Deposit shall be returned to any such Prospective Bidder that did not qualify as a Qualified Bidder, as confirmed by the Debtors. Upon the authorized return of a Prospective Bidder's Good Faith Deposit in accordance with this Section VII.E, the bid of such Prospective Bidder shall be deemed terminated and no longer binding against the Prospective Bidder.
2. Qualified Bidders.
 - a. Forfeiture of Good Faith Deposit. The Good Faith Deposit of a Qualified Bidder shall be forfeited if the Qualified Bidder attempts to withdraw its Qualified Bid, except as may be permitted by these

Bidding Procedures, during the time the Qualified Bid remains binding and irrevocable under these Bidding Procedures. The Debtors and their estates shall be entitled to retain the Qualified Bidder's Good Faith Deposit as partial compensation for the damages caused to the Debtors and their estates as a result of the Qualified Bidder's failure to adhere to the terms of these Bidding Procedures and/or the relevant Qualified Bid. In the event that a Qualified Bidder's Good Faith Deposit is deemed forfeited, such Qualified Bidder's Good Faith Deposit shall be released by wire transfer of immediately available funds to an account designated by the Debtors within two (2) business days after receipt of written notice by an authorized officer of the Debtors stating that the applicable Qualified Bidder has breached or otherwise failed to satisfy its obligations in accordance with these Bidding Procedures and the applicable Qualified Bid.

- b. Return of Good Faith Deposit. With the exception of the Good Faith Deposits of Successful Bidders and Backup Bidders and any forfeiture of a Good Faith Deposit as described above, any other Qualified Bidder's Good Faith Deposit shall be returned within 5 business days after the conclusion of the Auction for the applicable Auction Package.
- c. Backup Bidder. Any Backup Bidder's Good Faith Deposit shall be returned within 5 business days after the occurrence of the applicable Backup Bid Expiration Date.
- d. Successful Bidder. At the closing of a Sale Transaction, the Successful Bidder shall be entitled to a credit against the purchase price for the applicable Assets in the amount of the Successful Bidder's Good Faith Deposit (and, in the case of a Successful Bidder that was a Stalking Horse Bidder where there is bidding on the Assets subject to the Stalking Horse Agreement, that Successful Bidder shall be entitled to a credit against the purchase price in an amount equal to any termination payment and/or expense reimbursement that would have been payable under the applicable Stalking Horse Agreement had the Stalking Horse Bidder not participated in the Auction). The Good Faith Deposit of a Successful Bidder shall be forfeited if the Successful Bidder fails to consummate the applicable Sale Transaction because of a breach that entitles the Debtors to terminate the applicable asset purchase agreement with such Successful Bidder, and the Debtors and their estates shall be entitled to retain the Successful Bidder's Good Faith Deposit as partial compensation for the damages caused to the Debtors and their estates as a result of such breach. In the event that a Successful Bidder's Good Faith Deposit is deemed forfeited, such Good Faith Deposit shall be released by wire transfer of immediately available funds to an account designated by the Debtors within two (2) business days after receipt of written notice by an authorized officer of the Debtors stating that the applicable Successful Bidder has breached or otherwise failed to satisfy its obligations in accordance with these Bidding Procedures and the applicable Successful Bid.

VIII. SALE HEARING

Each Successful Bid (including any Backup Bid that is subsequently deemed a Successful Bid) will be subject to approval by the Bankruptcy Court. The hearing to approve any Sale Transaction consummated in accordance with these Bidding Procedures (except in the case of a Sale Transaction contemplated by a Backup Bid that subsequently is deemed a Successful Bid) shall take place on **[X], 2023, at 5 p.m. (prevailing Eastern Time)** (the “Sale Hearing”) before the Honorable Craig T. Goldblatt, United States Bankruptcy Judge, in the United States Bankruptcy Court for the District of Delaware.

At the Sale Hearing, the Debtors will seek entry of one or more orders (each, a “Sale Order”) approving, among other things, one or more sales of the Assets to the Successful Bidder(s).

Without prejudice to the rights of a Stalking Horse Bidder under the applicable Stalking Horse Agreement, the Debtors may, in their business judgment (after consulting with the Successful Bidder(s)), adjourn or reschedule the Sale Hearing with sufficient notice to the Sale Notice Parties, including by announcing such adjournment or rescheduling at the Auction or Sub-Auction or in Court on the date of the originally scheduled Sale Hearing.

At the Sale Hearing, the Debtors will seek entry of an order that, among other things: (i) authorizes and approves the Sale Transaction(s) to the Successful Bidder(s) and/or the Backup Bidder(s), (ii) includes a finding that the Successful Bidder(s) and/or the Backup Bidder(s) is a good faith purchaser pursuant to section 363(m) of the Bankruptcy Code, and (iii) as appropriate, exempts the Sale Transaction(s) and conveyance(s) of the Assets from any transfer tax, stamp tax or similar tax, or deposit under any applicable bulk sales statute.

IX. RESERVATION OF RIGHTS TO MODIFY BIDDING PROCEDURES

Without prejudice to the rights of a Stalking Horse Bidder under the applicable Stalking Horse Agreement, the Debtors reserve the right to, in their business judgment, in a manner consistent with their fiduciary duties and applicable law, modify these Bidding Procedures, including to, among other things, (a) extend or waive deadlines or other terms and conditions set forth herein, (b) adopt new rules and procedures for conducting the bidding and Auction process, (c) if applicable, provide reasonable accommodations to a Stalking Horse Bidder, or (d) otherwise modify these Bidding Procedures to further promote competitive bidding for and maximizing the of value of the Assets; provided, that such extensions, waivers, new rules and procedures, accommodations and modifications (i) do not conflict with and are not inconsistent with the Bidding Procedures Order, these Bidding Procedures, the Bankruptcy Code or any order of the Bankruptcy Court, (ii) are promptly communicated to each Qualified Bidder, and (iii) do not extend the Bid Deadline, the date of the Auction or the closing of the Auction, unless the DIP Lenders give their prior written consent to do so.

X. NOTICING

A. Bid Notice Parties

Qualified Bids must be submitted in writing to the following parties (collectively, the “Bid Notice Parties”):

- the Debtors, c/o PGX Holdings, Inc., 257 East 200 South, Suite 1200, Salt Lake City, Utah 84111 (Attn: Eric Kamerath) or (as applicable), c/o John C. Heath, Attorney At Law PC, P.O. Box 1173, Salt Lake City, Utah 84110 (Attn: John C. Heath);
- counsel for the Debtors, Kirkland & Ellis LLP, 601 Lexington Avenue, New York, New York 10022 (Attn.: Joshua A. Sussberg, P.C. (joshua.sussberg@kirkland.com) and Chris Ceresa (chris.ceresa@kirkland.com)); and Kirkland & Ellis LLP, 300 North LaSalle, Chicago, Illinois 60654 (Attn: Spencer Winters (spencer.winters@kirkland.com); Whitney Fogelberg (whitney.fogelberg@kirkland.com); and Alison J. Wirtz (alison.wirtz@kirkland.com)); and
- solely to the extent they are not an active or prospective bidder with respect to the relevant Asset(s), counsel for the Prepetition First Lien Agent, (i) King & Spalding, 1185 Avenue of the Americas, New York, NY 10036 (Attn: Roger Schwartz, Esq. (rschwartz@kslaw.com); Geoffrey King, Esq. (gking@kslaw.com) and Timothy Fesenmyer, Esq. (tfesenmyer@kslaw.com)) and (ii) Morris, Nichols, Arsht & Tunnell LLP, 1201 N. Market Street, Suite 1600, Wilmington, Delaware 19801, (Attn: Robert J. Dehney (rdehney@morrisonichols.com)).

B. Sale Notice Parties

The “Sale Notice Parties” shall include the following persons and entities:

- counsel to any Stalking Horse Bidder;
- all persons and entities known by the Debtors to have expressed an interest to the Debtors in a Sale Transaction involving any of the Assets during the past 12 months, including any person or entity that has submitted a Bid for any of the Assets;
- all persons and entities known by the Debtors to have asserted any lien, claim, interest or encumbrance in the Assets (for whom identifying information and addresses are available to the Debtors), including, for the avoidance of doubt, the Prepetition First Lien Agent (on behalf of the Prepetition First Lien Lenders);

- with respect to any Sale of the Lexington Law Assets, all persons and entities currently and/or formerly represented by the Lexington Law Firm;
- counsel to the Prepetition First Lien Agent, (i) King & Spalding, 1185 Avenue of the Americas, New York, NY 10036 (Attn: Roger Schwartz, Esq. (rschwartz@kslaw.com); Geoffrey King, Esq. (gking&kslaw.com) and Timothy Fesenmyer, Esq. (tfesenmyer@kslaw.com)) and (ii) Morris, Nichols, Arsht & Tunnell LLP, 1201 N. Market Street, Suite 1600, Wilmington, Delaware 19801, (Attn: Robert J. Dehney (rdehney@morrisnichols.com));
- all relevant non-Debtor parties (each, a “Counterparty”) to any Contract that may be assumed or rejected in connection with a Sale Transaction;
- all of the Debtors’ known creditors (for whom identifying information and addresses are available to the Debtors);
- any governmental authority known to have a claim against the Debtors in these Chapter 11 Cases;
- the Federal Trade Commission;
- the Bureau of Consumer Protection;
- the Consumer Protection Financial Bureau;
- the office of the U.S. Trustee;
- all applicable federal, state and local taxing authorities, including the Internal Revenue Service;
- the United States Securities and Exchange Commission;
- the United States Attorney’s Office for the District of Delaware;
- United States Attorney General’s Office for the District of Delaware;
- the Office of the Attorney General and the Secretary of State in each state in which the Debtors operate;
- counsel for any official committee appointed in these Chapter 11 Cases;
- all of the parties entitled to notice pursuant to Bankruptcy Rule 2002; and
- all other parties as directed by the Court.

C. Sale Notice and Publication Notice

By the later of (i) **[X]**, **2023** and (ii) two (2) business days after entry of the Bidding Procedures Order, the Debtors will file with the Court, serve on the Sale Notice Parties and cause to be published on the Claims Agent Website a notice (the “Sale Notice”) setting forth (A) a description of the Assets available for sale in accordance with these Bidding Procedures, (B) the date, time and location of the Auction and Sale Hearing, (C) the Sale Objection Deadline and Post-Auction Objection Deadline (each as defined in Section X.D below) and the procedures for filing such objections, and, if applicable, (D) a summary of the material terms of any Stalking Horse Agreement, including the terms and conditions of any termination payment or expense reimbursement to be provided thereunder, as of the date of the Sale Notice.

Within four business days after entry of the Bidding Procedures Order, or as soon as reasonably practicable thereafter, the Debtors will cause the information contained in the Sale Notice to be published once in *The New York Times* (national edition) (the “Publication Notice”).

D. Sale Objections and Post-Auction Objections

Objections to a sale of the Assets, including (i) any objection to a sale of the Assets free and clear of all liens, claims, interests and encumbrances pursuant to section 363(f) of the Bankruptcy Code and (ii) entry of any Sale Order shall, by **no later than [X], 2023, at 5 p.m. (prevailing Eastern Time)** (the “Sale Objection Deadline”), be filed with the Court and served on the following parties (collectively, the “Objection Notice Parties”):

- the Debtors, c/o PGX Holdings, Inc., 257 East 200 South, Suite 1200, Salt Lake City, Utah 84111 (Attn: Eric Kamerath) or (as applicable), c/o John C. Heath, Attorney At Law PC, P.O. Box 1173, Salt Lake City, Utah 84110 (Attn: John C. Heath);
- counsel for the Debtors, Kirkland & Ellis LLP, 601 Lexington Avenue, New York, New York 10022 (Attn.: Joshua A. Sussberg, P.C. (joshua.sussberg@kirkland.com) and Chris Ceresa (chris.ceresa@kirkland.com)); Kirkland & Ellis LLP, 300 North LaSalle, Chicago, Illinois 60654 (Attn: Spencer Winters (spencer.winters@kirkland.com); Whitney Fogelberg (whitney.fogelberg@kirkland.com); and Alison J. Wirtz (alison.wirtz@kirkland.com)); and Klehr Harrison Harvey Branzburg LLP, 919 North Market Street, Suite 1000, Wilmington, Delaware 19801 (Attn.: Domenic E. Pacitti (dpacitti@klehr.com) and Michael W. Yurkewicz (myurkewicz@klehr.com));
- counsel for any official committee appointed in these Chapter 11 Cases;
- counsel for the Prepetition First Lien Lenders and DIP Lenders, (i) King & Spalding, 1185 Avenue of the Americas, New York, NY 10036 (Attn: Roger Schwartz, Esq. (rschwartz@kslaw.com); Geoffrey Michael King,

Esq. (gking&kslaw.com) and Timothy Fesenmyer, Esq. (tfesenmyer@kslaw.com)); and (ii) Morris, Nichols, Arsht & Tunnell LLP, 1201 N. Market Street, Suite 1600, Wilmington, Delaware 19801, (Attn: Robert J. Dehney (rdehney@morrisonichols.com));

- counsel for any relevant Successful Bidder(s); and
- counsel for any relevant Backup Bidder(s).

Following service of the Notice of Auction Results, Sale Notice Parties may object to the conduct of the Auction and/or the particular terms of any proposed Sale Transaction in a Successful Bid, other than with respect to a Stalking Horse Bid (each such objection, a “Post-Auction Objection”) by no later than **later of (i) [X], 2023, at 5 p.m. (prevailing Eastern Time) and (ii) three (3) days prior to the Sale Hearing** (the “Post-Auction Objection Deadline”). Each Post-Auction Objection shall be filed with the Court and served on the Objection Notice Parties.

E. Notices Regarding Assumption and Assignment of Contracts

The Debtors will provide all notices regarding the proposed assumption and assignment of Contracts in accordance with the Assumption and Assignment Procedures (as defined in the Bidding Procedures Order).

XI. CONSULTATION BY THE DEBTORS

Throughout the Sale Transaction process, the Debtors and their advisors will consult with the following parties (collectively, the “Consultation Parties”), as provided in these Bidding Procedures, or as is otherwise necessary or appropriate, as determined in the Debtors’ business judgment: (i) the legal and financial advisors for any official committee appointed in these Chapter 11 Cases and (ii) solely to the extent they are not an active or prospective bidder with respect to the relevant Asset(s), or are participating in any way in any active or prospective bid with respect to such Asset(s), the legal and financial advisors for the Prepetition First Lien Lenders.

Notwithstanding the foregoing, the Debtors will not consult with or provide copies of any Bids or other confidential information to any Consultation Party or any insider or affiliate of the Debtors if such party is an active or prospective bidder for the relevant Asset(s) at the applicable time. If, however, a member of an official committee appointed in these Chapter 11 Cases submits a Qualified Bid for any of the Assets, the applicable committee will maintain its consultation rights as a Consultation Party, provided, that such committee excludes the bidding committee member from any discussions or deliberations regarding a transaction involving the relevant Assets, and shall not provide any confidential information regarding the Assets or otherwise involving the Sale Transaction process to the bidding committee member.

For the avoidance of doubt, any consultation rights afforded to the Consultation Parties by these Bidding Procedures or the Bidding Procedures Order shall not in any way limit the Debtors’ discretion and shall not include the right to veto any decision made by the Debtors in the exercise of their business judgment.

EXHIBIT 2

Progrexion APA

ASSET PURCHASE AGREEMENT

by and among

[LENDER ACQUISITIONCO LLC],

as Buyer,

THE SELLERS PARTY HERETO

and

solely for the purposes stated expressly herein,

BLUE TORCH FINANCE LLC,

as Administrative Agent

Dated as of [●], 2023

TABLE OF CONTENTS

**ARTICLE I
DEFINITIONS**

1.1 Defined Terms2
 1.2 Index of Defined Terms14
 1.3 Other Definitional Provisions and Rules of Interpretation.15

ARTICLE II

TRANSFER OF ASSETS AND LIABILITIES

2.1 Purchased Assets.....17
 2.2 Excluded Assets18
 2.3 Assumed Liabilities20
 2.4 Excluded Liabilities21
 2.5 Assumption and Assignment of Assumed Contracts.....22

ARTICLE III

CLOSING AND PURCHASE PRICE

3.1 Closing; Transfer of Possession; Certain Deliveries25
 3.2 Purchase Price; Related Matters26
 3.3 Allocation of Purchase Price.....27
 3.4 Withholding27

ARTICLE IV

REPRESENTATIONS AND WARRANTIES OF SELLERS

4.1 Organization and Good Standing.....27
 4.2 Power and Authority27
 4.3 Litigation.....28
 4.4 No Contravention.....28
 4.5 Consents and Approvals28
 4.6 Title to Purchased Assets; Sufficiency29
 4.7 Validity of Available Contracts29
 4.8 Intellectual Property.....29
 4.9 Employee Benefits30
 4.10 Labor Matters.....30
 4.11 Conduct of Business31
 4.12 Compliance with Laws; Permits31
 4.13 Financial Statements32
 4.14 Financial Advisors32
 4.16 Tax Matters32
 4.17 Condition and Suitability of Purchased Assets.....33

4.18 Related Party Transactions33
 4.19 Disclaimer of Other Representations and Warranties.....33

ARTICLE V
 REPRESENTATIONS AND WARRANTIES OF BUYER

5.1 Organization and Good Standing.....34
 5.2 Power and Authority34
 5.3 No Contravention.....34
 5.4 Consents and Approvals34
 5.5 Litigation.....34
 5.6 Financial Advisors34
 5.7 Sufficient Funds; Adequate Assurances34
 5.8 Credit Bid.....35
 5.9 Acknowledgements; “As Is” “Where Is” Transaction.....35

ARTICLE VI
 COVENANTS OF THE PARTIES

6.1 Conduct of Business Pending the Closing36
 6.2 Negative Covenants37
 6.3 Access39
 6.4 Confidentiality40
 6.5 Public Announcements40
 6.6 Employment Matters.....40
 6.7 Reasonable Efforts; Approvals43
 6.8 Corporate Name Change.....43
 6.9 Assignment of Contracts and Rights.....44
 6.10 Tax Matters44
 6.11 Available Contracts List45
 6.12 HSR Act; Antitrust Laws45

ARTICLE VII
 BANKRUPTCY PROVISIONS

7.1 Expense Reimbursement.....46
 7.2 Bankruptcy Court Orders and Related Matters.....46
 7.3 Bankruptcy Milestones48

ARTICLE VIII
 CONDITIONS TO OBLIGATIONS OF THE PARTIES

8.1 Conditions Precedent to Obligations of Buyer49
 8.2 Conditions Precedent to the Obligations of the Sellers50
 8.3 Conditions Precedent to Obligations of Buyer and the Sellers.....51
 8.4 Frustration of Closing Conditions.....51

ARTICLE IX
TERMINATION

9.1 Termination of Agreement.....51
9.2 Consequences of Termination.....53

ARTICLE X
MISCELLANEOUS

10.1 Expenses53
10.2 Assignment53
10.3 Parties in Interest.....54
10.4 Matters Related to the Administrative Agent54
10.5 Risk of Loss55
10.6 Notices55
10.7 Entire Agreement; Amendments and Waivers56
10.8 Counterparts56
10.9 Invalidity56
10.10 Governing Law57
10.11 Dispute Resolution; Consent to Jurisdiction.....57
10.12 WAIVER OF RIGHT TO TRIAL BY JURY.....57
10.13 Specific Performance58
10.14 Third Party Beneficiaries58
10.15 Counting.....58
10.16 Survival.....58
10.17 Non-Recourse58
10.18 Preparation of this Agreement58
10.19 Schedules59
10.20 Fiduciary Obligation59
10.21 Sellers’ Representative.....59

Exhibits

Exhibit A Bidding Procedures
Exhibit B Bidding Procedures Order
Exhibit C Form of Bill of Sale, Assignment and Assumption Agreement

ASSET PURCHASE AGREEMENT

This ASSET PURCHASE AGREEMENT (the “Agreement”), dated as of [●], 2023 (the “Agreement Date”), is made and entered into by and among (i) [Lender AcquisitionCo LLC], a Delaware limited liability company (together with any assignee(s) or designee(s) pursuant to Section 10.2, “Buyer”), (ii) PGX Holdings, Inc., a Delaware corporation (the “Parent”), Progrexion Holdings, Inc., a Delaware corporation (“Progrexion”), Credit.com, Inc., a Delaware corporation (“Credit.com”), eFolks Holdings, Inc., a Delaware corporation (“eFolks Holdco”), Creditrepair.com Holdings, Inc., a Delaware corporation (“Creditrepair.com Holdco”), Progrexion ASG, Inc., a Delaware corporation (“Progrexion ASG”), Progrexion IP, Inc., a Delaware corporation (“Progrexion IP”), Progrexion Marketing, Inc., a Delaware corporation (“Progrexion Marketing”), Progrexion Teleservices, Inc., a Delaware corporation (“Progrexion Teleservices”), eFolks, LLC, a Delaware limited liability company (“eFolks”), Creditrepair.com, Inc., a Florida corporation (“Creditrepair.com”), Credit Repair UK, Inc., a Delaware corporation (“Credit Repair UK”) (each a “Seller,” and collectively, the “Sellers”), and (iii) Blue Torch Finance LLC, a Delaware limited liability company, solely in its capacity as administrative agent for the lenders under the Prepetition First Lien Financing Agreement (defined below) and signing solely with respect to Section 3.2, Section 10.4, and Sections 10.7 to 10.21 of this Agreement (the “Administrative Agent”). The Administrative Agent, Buyer and Sellers collectively are referred to herein as the “Parties” and each, a “Party.”

RECITALS:

A. The Sellers are engaged in the business of providing credit repair services to consumers (the “Business”).

B. Reference is made to that certain First Lien Financing Agreement, dated as of July 21, 2021, by and among the borrowers from time to time party thereto, the guarantors from time to time party thereto, the lenders from time to time party thereto (the “Prepetition First Lien Lenders”), and the Administrative Agent (as amended by that certain Amendment No. 1 to First Lien Financing Agreement, dated as of July 20, 2022, that certain Amendment No. 2 to First Lien Financing Agreement, dated as of December 28, 2022, that certain Amendment No. 3 to First Lien Financing Agreement, dated as of March 31, 2023, and as further amended, restated, amended and restated, supplemented or otherwise modified from time to time, the “Prepetition First Lien Financing Agreement”). The obligations under the Prepetition First Lien Financing Agreement and the other Loan Documents (as defined below) are secured by valid and duly perfected liens, mortgages and other Encumbrances in and upon all property and assets of, among other parties, the Sellers.

C. Buyer is an entity organized for the purpose of effecting the rights and interests of the Lenders in accordance with the terms and conditions of the Loan Documents and that certain Credit Bid Direction Letter, dated as of [●], 2023 (the “Credit Bid Letter”), executed by the Lenders.

D. Prior to the execution of this Agreement, each of the Sellers filed voluntary petitions for relief under chapter 11 of Title 11 of the United States Code, 11 U.S.C. Sections 101 et seq.

(as amended, the “Bankruptcy Code”), in the United States Bankruptcy Court for the [District of Delaware] (the “Bankruptcy Court”) (such cases, the “Cases”).

E. Upon the terms and subject to the conditions set forth in this Agreement, and as authorized under sections 105, 363 and 365 of the Bankruptcy Code as relates to the Sellers, the Sellers propose to sell, transfer and assign to Buyer, and Buyer proposes to purchase, acquire and assume from the Sellers, respectively, the Purchased Assets and Assumed Liabilities.

NOW, THEREFORE, in consideration of the mutual representations, warranties, covenants and agreements contained herein, and upon the terms and subject to the conditions hereof, the Parties, intending to be legally bound, hereby agree as follows:

ARTICLE I DEFINITIONS

1.1 Defined Terms. As used herein, the terms below shall have the following respective meanings:

“Acquired Bank Accounts” shall mean any bank accounts of Sellers that Buyer elects to acquire by written notice to Sellers on or before the date that is ten (10) days prior to Closing; provided that the Parties shall agree in good faith as to one or more bank accounts that the Debtors shall retain in connection with the wind down and liquidation of the Debtor entities and businesses following the Closing.

“Acquired Intellectual Property” shall mean, collectively, all Owned Intellectual Property and Licensed Intellectual Property.

“Administrative Expenses” shall mean, collectively, the administrative expenses incurred by Sellers in the Cases, including expenses of the kind specified in Sections 105, 326, 328, 330, 331, 365, 503(a), 503(b), 546(c), 546(d), or 726 (to the extent permitted by Law) of the Bankruptcy Code, and any other provision of the Bankruptcy Code (including, subject to entry of the DIP Order, Section 506(c) of the Bankruptcy Code).

“Affiliate” shall mean, with respect to any Person, any other Person that, directly or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, such Person, and the term “control” (including the terms “controlled by” and “under common control with”) means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such Person, whether through ownership of voting securities, by contract or otherwise.

“Allocation Schedule” shall mean the schedule allocating the Purchase Price and the Assumed Liabilities in accordance with Section 1060 of the Code and the Treasury Regulations thereunder and any corresponding requirements of any state, local, or foreign Tax Laws, as applicable.

“Alternate Transaction” shall mean a transaction or transactions pursuant to which any of the Sellers or any of its Affiliates, in one or a series of transactions, sells, transfers, exchanges, leases or otherwise disposes of, directly or indirectly, all or any material portion of the Purchased

Assets, including any transaction effected in connection with the Auction or through any other asset sale, stock sale, share exchange, debt-for-equity swap, joint venture, credit bid, financing, merger, amalgamation, business combination, reorganization, restructuring or recapitalization, a plan of reorganization, a plan of arrangement or any similar transaction, in each case that would not involve a sale or disposition of all or any material portion of the Purchased Assets or the Business to Buyer; provided that neither any disposition of Purchased Assets that is expressly permitted by Section 6.2 of this Agreement, nor the liquidation, dismissal or conversion of the Cases and the dissolution of the Sellers, shall be deemed an Alternate Transaction.

“Approved Budget” shall have the meaning ascribed thereto in the DIP Documents.

“Auction” shall mean the auction for the Purchased Assets to be conducted on the Auction Date in accordance with the terms and provisions of the Bidding Procedures Order and as defined in the Bidding Procedures.

“Auction Date” shall mean the date of the Auction scheduled by the Bankruptcy Court and set forth in the Bidding Procedures Order or such later date as shall be announced by the Sellers in accordance with the Bidding Procedures Order.

“Avoidance Actions” shall mean those actual and/or potential claims and causes of action under sections 502(d), 544, 545, 547, 548 and 550 of the Bankruptcy Code, or any other avoidance actions under the Bankruptcy Code.

“Bankruptcy Rules” shall mean the Federal Rules of Bankruptcy Procedure originally promulgated pursuant to 28 U.S.C. § 2075.

“Benefit Plan” shall mean any “employee benefit plan” (within the meaning of Section 3(3) of ERISA) and all pension, severance, retirement, consulting, compensation, profit sharing, commission, employment, change in control, retention, fringe benefit, bonus, stock or other equity, equitybased, option, incentive compensation, restricted stock, stock appreciation right or similar right, phantom equity, profits interests, deferred compensation, employee loan, vacation, paid time off, welfare, medical, dental, vision, flexible benefit, cafeteria, dependent care, disability or wage continuation benefits during periods of absence from work (including short-term disability, long-term disability and worker’s compensation benefits), supplemental unemployment, hospitalization, life insurance, death or survivor benefits, employment insurance, and all other employee benefit plans, programs, policies, practices, agreements and other arrangements, and any funding vehicle therefor now in effect, in each case, whether or not subject to ERISA, whether formal or informal, written or oral, insured or self-insured, funded or unfunded, binding or not, that (i) provides benefits or compensation to, or which has any application to, any present or former employee, director, independent contractor or other individual service provider of any Seller or any beneficiary or dependent of such persons, (ii) is adopted, maintained, sponsored, contributed to, or required to be contributed to by any Seller, or (iii) with respect to which any Seller is a party, is bound, participates in, or has or could reasonably be expected to have any Liability.

“Bid” shall have the meaning ascribed to such term in the Bidding Procedures.

“Bidding Procedures” shall mean the Bidding Procedures filed with the Bankruptcy Court in the form attached hereto as Exhibit A or otherwise in form and substance reasonably acceptable to Buyer.

“Bidding Procedures Motion” shall mean the motion filed in the Cases, which motion shall be in form and substance satisfactory to Buyer (together with all exhibits thereto), (i) seeking approval of (A) this Agreement and the Transactions and (B) the Bidding Procedures and scheduling certain dates, deadlines and forms of notice in connection therewith, (ii) authorizing the payment of the Expense Reimbursement to Buyer, and (iii) granting other related relief, in each case, in form and substance acceptable to Buyer.

“Bidding Procedures Order” shall mean the order entered by the Bankruptcy Court approving the Bidding Procedures Motion, the Bidding Procedures and granting the relief requested therein in the form set forth in Exhibit B and with such modifications or supplements satisfactory to Buyer.

“Business Day” shall mean any day other than a Saturday, Sunday or a legal holiday on which banking institutions in New York City, New York are authorized or obligated by Law or executive order to close.

“Business Employee” means each employee of a Seller as of immediately prior to the Closing.

“Buyer Group” means Buyer, any Affiliate of Buyer and each of their respective former, current or future Affiliates, officers, directors, employees, partners, members, managers, agents, advisors, successors or permitted assigns.

“Claims” shall have the meaning as defined in the Bankruptcy Code.

“Closing” shall mean the consummation of the Transactions.

“Code” shall mean the Internal Revenue Code of 1986, as amended, and the regulations promulgated thereunder.

“Confidential Information” shall mean all information in any form or medium that relates to the Business, the Purchased Assets or the Assumed Liabilities, including financial information, projections, pricing structures, technical data, Trade Secrets, know-how, ideas, inventions, designs, research, development plans, identities of, and arrangements with, customers and suppliers, software and databases, but shall not include any information that (i) at the time of disclosure thereof is generally available to the public (other than as a result of disclosure in violation of this Agreement), or (ii) is independently developed by the receiving party following the Closing Date without reliance on or use of any Confidential Information.

“Consumer Financial Laws” shall mean the Consumer Financial Protection Act, 12 U.S.C. § 5481 *et seq.*, the Telemarketing and Consumer Fraud and Abuse Prevention Act, 15 U.S.C. § 6101 *et seq.*, the Telemarketing Sales Rule, 16 C.F.R. § 310.3 *et seq.*, and all other applicable Laws concerning or relating to consumer financial products or services in any jurisdiction in which any Seller or any of its Affiliates is located or is doing business.

“Contract” shall mean any lease, sublease, license, sublicense, agreement, contract, contract right, obligation, trust, purchase order, sale order, instrument and other similar arrangements, whether or not in written form, that is binding upon a Person or its property (including any commitment to enter into any of the foregoing).

“Credit Documents” shall mean, collectively, the Loan Documents and the DIP Documents.

“Cure Amounts” shall mean all amounts payable that must be paid or otherwise satisfied to cure all of the Sellers’ monetary defaults under the Assumed Contracts at the time of the assumption thereof and assignment to Buyer pursuant to section 365 of the Bankruptcy Code.

“Dataroom” shall mean that certain datasite administered by Box.

“Debt” shall mean, without duplication, (i) indebtedness or other obligations for borrowed money or in respect of loans or advances or issued in substitution for or exchange of indebtedness for borrowed money or loans or advances, whether short-term or long-term, secured or unsecured, (ii) any indebtedness or other obligations evidenced by any note, bond, debenture or other debt security or instrument, (iii) all obligations to pay the deferred purchase price of property or services, contingent or otherwise (including all “earn-out” obligations), (iv) all obligations under interest rate and currency hedging agreements, including swap breakage or associated fees, (v) all obligations arising from bankers’ acceptances, letters of credit (to the extent drawn) and cash/book overdrafts or similar facilities, (vi) all obligations for the payment of which a Person is responsible or liable, directly or indirectly, as obligor, guarantor or otherwise, including guarantees of such obligations, (vii) any obligations under leases that have been or are required to be, in accordance with GAAP, recorded as capital leases, (viii) any indebtedness or other obligations secured by an Encumbrance on any Seller’s interest in any assets, and (ix) all accrued interest, premiums, penalties (including any prepayment penalties or premiums) and other obligations related to any of the foregoing.

“Debtors” shall mean the Sellers and their affiliated debtors and debtors in possession that filed the Cases.

“DIP Documents” shall mean that certain Superpriority Secured Debtor-in-Possession Credit Facility by and among the DIP Lenders, the Sellers, and the Administrative Agent, together with the schedules and exhibits attached thereto and all agreements, documents, orders, instruments and/or amendments executed, delivered or entered in connection therewith.

“DIP Facility” shall mean the debtor-in-possession term loan facility pursuant to which the DIP Lenders agreed to provide up to \$19,925,000 million in debtor-in-possession financing commitments on the terms set forth in the DIP Documents.

“DIP Lenders” shall mean the lenders providing the DIP Facility.

“Documents” means all of the Sellers’ written files, documents, instruments, papers, books, reports, records, tapes, microfilms, photographs, letters, budgets, forecasts, plans, operating records, safety and environmental reports, data, studies, and documents, Tax Returns, ledgers, journals, title policies, customer lists, regulatory filings, operating data and plans, research

material, technical documentation (design specifications, engineering information, test results, maintenance schedules, functional requirements, operating instructions, logic manuals, processes, flow charts, etc.), user documentation (installation guides, user manuals, training materials, release notes, working papers, etc.), marketing documentation (sales brochures, flyers, pamphlets, web pages, etc.), and other similar materials, in each case whether or not in electronic form.

“Encumbrance” means any lien (as defined in section 101(37) of the Bankruptcy Code), encumbrance, claim (as defined in section 101(5) of the Bankruptcy Code), charge, mortgage, deed of trust, option, pledge, security interest or similar interests, title defects, hypothecations, easements, rights of way, encroachments, Orders, conditional sale or other title retention agreements and other similar impositions, imperfections or defects of title or restrictions on transfer or use.

“Equity Interests” of any Person shall mean all (i) shares of capital stock, rights to purchase shares of capital stock, warrants, options, calls or restricted stock (whether or not currently exercisable), (ii) equity appreciation, phantom stock, stock plans, profit participation plans, profit units, profit interests, equity plans or similar rights, (iii) participations or other equivalents of or interests in (however designated, including units thereof) the equity (including common stock, preferred stock and limited liability company, partnership and joint venture interests) of such Person and (iv) securities exchangeable for or convertible or exercisable into any of the foregoing.

“ERISA” shall mean the Employee Retirement Income Security Act of 1974, as amended, and the regulations promulgated thereunder.

“Excluded Cash” shall mean, collectively, all cash on hand and cash drawn under the DIP Facility to the extent necessary to, subject to the terms of the DIP Orders and Approved Budget (each as approved by the Bankruptcy Court in connection with the DIP Facility), (a) satisfy the allowed Professional Fees and Expenses that have accrued, are undisputed and are unpaid as of the Closing Date, (b) pay all Administrative Expenses of the Sellers that are accrued, unpaid, allowed and undisputed as of the effective date in the Cases, subject to the DIP Orders and Approved Budget, (c) fund an orderly liquidation, dismissal or conversion of the Cases and the dissolution of the Sellers (which amount shall be equal to \$2,625,000 (the “Wind Down Amount”)), to be used in accordance with a budget acceptable to the Debtors and Buyer (the “Wind Down Budget”) (to be finalized prior to the Sale Hearing and attached as an exhibit to the Sale Order).

“Expense Reimbursement” shall mean all reasonable and documented out-of-pocket fees and expenses, including all professional fees and expenses and travel expenses, incurred by Buyer or the Administrative Agent in connection with the diligence, negotiation, execution, delivery, performance and enforcement of this Agreement and the Transactions contemplated hereby, in each case, without duplication and to the extent not otherwise payable to, and received by, the Administrative Agent pursuant to the DIP Documents or the Loan Documents, which aggregate total amount shall not, in any event, exceed \$1,000,000.

“Final DIP Order” shall mean an Order of the Bankruptcy Court acceptable to the Administrative Agent in its sole discretion, authorizing and approving on a final basis, among other things, the DIP Documents and the DIP Facility on a final basis (as the same may be

amended, supplemented, or modified from time to time after entry thereof with the consent of Administrative Agent, in its sole discretion) as to which no stay has been entered.

“Final Order” shall mean an Order of the Bankruptcy Court or other applicable court (a) that is not the subject of a pending appeal, petition for certiorari, motion for reconsideration or leave to appeal or other proceeding for review, rehearing or reargument, (b) that has not been reversed, vacated, modified or amended, is not stayed and remains in full force and effect, and (c) with respect to which the time to appeal, to petition for certiorari, to move for reconsideration or to seek review, rehearing or reargument shall have expired, as a result of which such order shall have become final in accordance with Rule 8002 of the Federal Rules of Bankruptcy Procedure or other applicable Laws, as applicable.

“GAAP” shall mean United States generally accepted accounting principles.

“Governmental Entity” shall mean any (i) federal, state, provincial, local, municipal, foreign or other government, (ii) governmental or quasi-governmental authority of any nature (including any governmental agency, branch, department, official, or entity and any court, arbitrator or other tribunal) or (iii) body exercising, or entitled to exercise, any administrative, executive, judicial, legislative, police, regulatory, or taxing authority or power of any nature, including any arbitral tribunal.

“HSR Act” means the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended.

“Insider Avoidance Actions” shall mean any actual and/or potential Avoidance Actions or other Claim by the Sellers against the individuals listed on Schedule 1.1(a) as of the Petition Date.

“Intellectual Property” shall mean all intellectual property and industrial property, whether protected, created or arising under the Laws of the United States or any other jurisdiction, including all: (i) patents and patent applications, all continuations, divisionals, and continuations-in-part of any of the foregoing, all patents issuing on any of the foregoing, and all reissues, renewals, substitutions, reexaminations and extensions of any of the foregoing; (ii) trademarks, service marks, trade names, service names, brand names, trade dress rights, logos, corporate names, trade styles, logos and other source or business identifiers and general intangibles of a like nature, together with the goodwill associated with any of the foregoing, and all applications, registrations, renewals and extensions of any of the foregoing (collectively, “Marks”); (iii) internet domain names; (iv) copyrights, works of authorship, and all mask work, database and design rights, whether or not registered or published, all applications, registrations, reversions, extensions and renewals of any of the foregoing, and all moral rights, however denominated (collectively, “Copyrights”); (v) trade secrets and other confidential or proprietary information (collectively, “Trade Secrets”); (vi) rights of publicity, persona rights or other rights to use indicia of any Person’s personality; and (vii) Technology and other intellectual property or industrial property rights arising from or relating to any Technology.

“Interim DIP Order” shall mean an Order of the Bankruptcy Court (as the same may be amended, supplemented, or modified from time to time after entry thereof in accordance with the

terms thereof), in form and substance acceptable to the Administrative Agent in its sole discretion, authorizing on an interim basis, among other things, the DIP Documents and the DIP Facility.

“Knowledge of the Sellers” shall mean, as to a particular matter, the actual knowledge of Chad Wallace or Jared Hartley.

“Law” shall mean any federal, state, provincial, local or foreign statute, law, ordinance, regulation, rule, code, order, treaty, administrative interpretation, guideline, principle of common law or equity, judgment enacted, promulgated, issued, enforced or entered by any Governmental Entity.

“Leased Real Property” shall mean each parcel of real property leased by a Seller, together with all rights, title and interest of each such Seller in and to leasehold improvements relating thereto.

“Leases” shall mean all leases, subleases, licenses, concessions and other agreements pursuant to which a Seller holds any Leased Real Property.

“Lenders” shall mean the Prepetition First Lien Lenders and the DIP Lenders, as applicable.

“Lexington Law” shall mean John C. Heath, Attorney At Law, Professional Limited Liability Company, a Utah professional limited liability company.

“Liabilities” shall mean, as to any Person, all debts, adverse claims, liabilities, commitments, responsibilities, and obligations of any kind or nature whatsoever, direct, indirect, asserted or unasserted, absolute or contingent, of such Person, whether accrued, vested or otherwise, whether known or unknown, and whether or not actually reflected, or required to be reflected, in such Person’s balance sheets or other books and records, including any liability for Taxes.

“Licensed Intellectual Property” shall mean all Intellectual Property (other than Owned Intellectual Property) used, held for use or practiced in connection with the Business.

“Loan Documents” shall mean the Prepetition First Lien Financing Agreement, together with the Loan Documents (as defined therein) related thereto, and all other documents, agreements and certificates executed or delivered in connection with or contemplated by the Prepetition First Lien Financing Agreement.

“Material Adverse Effect” shall mean any matter, event, change, occurrence, circumstance, development, condition, fact or effect (each an “Effect”), which, when considered either individually or in the aggregate together with other Effects is or would reasonably be expected to be materially adverse to the Business, the Purchased Assets and the Assumed Liabilities, taken as a whole, or any Seller’s ability to consummate the Transactions; provided that none of the following (or the consequences thereof), either alone or in combination, shall constitute or be taken into account in determining whether or not there has been, a Material Adverse Effect: (i) any Effect arising out of, resulting from or attributable to general business or economic conditions affecting (A) the United States or those countries within which any of the Sellers operate, or (B) the industries in which any of the Sellers operate, including Effects arising from or relating to

competition or ordinary course matters and other Effects within such industry, new entrants into such industry, new products from other participants in such industry, changes in product pricing due to competition, changes in market share or financial results due to such competition, and other related changes resulting from such competition; (ii) Effects in, arising from, or relating to any change in GAAP or regulatory accounting principles or interpretations thereof after the date hereof, or a change in applicable Laws or other binding directives or determinations issued or made by or agreements with or consents of any Governmental Entity (including, for the avoidance of doubt, any such items related to Section 6.5) and any increase (or decrease) in the terms or enforcement of (or negotiations or disputes with respect to) any of the foregoing after the date hereof; (iii) Effects in, arising from or relating to national or international political or social conditions, including tariffs, riots, protests, the engagement by the United States or another country in hostilities or the escalation thereof, whether or not pursuant to the declaration of a national emergency or war, or the occurrence or the escalation of any military, cyber or terrorist (whether or not state-sponsored) terrorist act or attack upon the United States or any other country, or any of its territories, possessions, or diplomatic or consular offices or upon any military installation, asset, equipment or personnel of the United States or any other country; (iv) Effects in, arising from or relating to any global or national health concern, pandemic, or epidemic, (whether or not declared as such by any Governmental Entity), viral outbreak (including “Coronavirus” or “COVID-19” or the worsening thereof) or any quarantine or trade restrictions related thereto; (v) Effects in, arising from or relating to any natural disaster, fire, flood, hurricane, earthquake, tornado, windstorm, other calamity or act of God or any other *force majeure*; (vi) Effects in, arising from or relating to the decline or rise in price of any currency or any equipment, machines, computers, furniture, furnishings, fixtures, supplies, vehicles or other fixed assets necessary to or used in the provision of services by any Seller or their Affiliates (including any resulting inability to meet customer demands and any resulting breaches of Contracts); (vii) Effects in, arising from, or relating to financial, banking, or securities markets (including (A) any disruption of any of the foregoing markets, (B) any change in currency exchange rates, (C) any decline or rise in the price of any security, commodity, Contract, or index, and (D) any increased cost, or decreased availability, of capital or pricing or terms related to any financing for the Transactions), except in each case covered by clauses (i) through (vii) to the extent such Effect disproportionately and adversely affects any Seller as compared to other companies in a business similarly situated to that of the Business; (viii) Effects in, arising from or relating to the negotiation, announcement, or pendency of this Agreement or the Transactions, the identity, nature, or ownership of Buyer or Buyer’s plans with respect to the Purchased Assets and Assumed Liabilities, including the impact thereof on the relationships, contractual or otherwise, of the business of Sellers or their Affiliates with employees, customers, lessors, suppliers, vendors, or other commercial partners or litigation arising from or relating to this Agreement or the Transactions; (ix) Effects in, arising from or relating to any action required to be taken under any existing Contract to which Sellers or their Affiliates (or any of their assets or properties) is bound; (x) Effects that arise from any seasonal fluctuations in the Business; (xi) any failure, in and of itself, to achieve any budgets, projections, forecasts, estimates, plans, predictions, performance metrics or operating statistics or the inputs into such items (whether or not shared with Buyer or its Affiliates or Representatives) and any other failure to win or maintain customers or business; (xii) the Effect of any action taken by Buyer or its Affiliates with respect to the Transactions or the financing thereof or any breach by Buyer of this Agreement; or (xiii) (A) the commencement or pendency of the Cases; (B) any objections in the Bankruptcy Court to (1) this Agreement or any of the Transactions, (2) the Sale Order or the

reorganization or liquidation of the Sellers or their Affiliates, or (3) the assumption or rejection of any Available Contract; or (C) any Order of the Bankruptcy Court or any actions or omissions of Sellers or their Affiliates in compliance therewith.

“Order” shall mean any judgment, order, injunction, writ, ruling, decree, stipulation, award or other binding obligation, pronouncement or determination of any Governmental Entity or arbitration tribunal.

“Ordinary Course of Business” shall mean the conduct and operation of the Business, taken as a whole, in the ordinary course, consistent with past practice and taking into account the commencement and pendency of the Cases.

“Organizational Documents” shall mean, with respect to any Person (other than a natural Person), (i) the certificate or articles of incorporation, formation or organization and any limited liability company, operating or partnership agreement, or similar organizational document adopted or filed in connection with the creation, formation or organization of such Person and (ii) all bylaws and equity holders agreements or similar arrangements to which such Person (or holders of its Equity Interests) is a party relating to the organization or governance of such Person, in each case, as amended or supplemented.

“Owned Intellectual Property” shall mean all Intellectual Property owned or purported to be owned by any Seller.

[“Owned Real Property” shall mean each parcel of real property owned by any Seller and used in or necessary for the conduct of the Business as currently conducted, together with all buildings, fixtures, structures and improvements situated thereon and all easements, rights-of-way and other rights and privileges appurtenant thereto.]

“Permits” shall mean all licenses, certificates, consents, permits, registrations, quotas, and other authorizations of any Governmental Entity relating to the Purchased Assets or used by the Sellers in connection with the Business, and all pending applications therefor.

“Permitted Encumbrances” shall mean (i) liens for utilities and Taxes, assessments or other governmental charges not yet due and payable, the amount or validity of which is being contested in good faith, or the nonpayment of which is permitted or required by the Bankruptcy Code, (ii) building codes, zoning Laws, entitlement and other land use restrictions, environmental regulations and other similar restrictions imposed by Law or by any Governmental Entity having jurisdiction over any Real Property which are not violated by the current use, occupancy or operation of any Real Property, (iii) easements, rights of way, restrictive covenants, encroachments, and similar non-monetary encumbrances or non-monetary impediments against any of the Purchased Assets which do not, individually or in the aggregate, adversely affect the operation of the Purchased Assets and, in the case of the Leased Real Property, which do not, individually or in the aggregate, adversely affect the use or occupancy of such Leased Real Property as it relates to the operation of the Purchased Assets, (iv) materialmans’, mechanics’, artisans’, shippers’, warehousemans’ or other similar common law or statutory liens incurred in the Ordinary Course of Business for amounts not yet due and payable, (v) licenses granted on a non-exclusive basis, (vi) such other defects, exceptions, restrictions, imperfections in title, charges,

easements, restrictions and encumbrances which do not, individually or in the aggregate, materially and adversely affect the operation of the Purchased Assets, (vii) title of a lessor under a capital or operating lease if such lease is an Assumed Contract; and (viii) solely prior to the Closing, any Encumbrances that will be removed or released by operation of the Sale Order.

“Person” shall mean an individual, partnership, joint venture, corporation, business trust, limited liability company, trust, unincorporated organization, association, joint stock company, estate, Governmental Entity or other entity.

“Personal Information” shall mean, in addition to any definition for any similar term (e.g., “personal data” or “personally identifiable information” or “PII”) provided by applicable Law or by the Sellers in any of their privacy policies, notices or contracts, all information that identifies, could be used to identify or is otherwise associated with an individual person or device, whether or not such information is associated with an identified individual. Personal Information may relate to any individual, including a current, prospective, or former customer, end user or employee of any Person, and includes information in any form or media, whether paper, electronic, or otherwise.

“Petition Date” shall mean the date on which the Sellers file voluntary petitions for relief under chapter 11 of the Bankruptcy Code.

“Post-Closing Tax Period” shall mean all taxable years or other taxable periods that end after the Closing Date and, with respect to any taxable year or other taxable period beginning on or before and ending after the Closing Date, the portion of such taxable year or period beginning after the Closing Date.

“Pre-Closing Tax Period” shall mean all taxable years or other taxable periods that end on or before the Closing Date and, with respect to any taxable year or other taxable period beginning on or before and ending after the Closing Date, the portion of such taxable year or period ending on and including the Closing Date.

“Privacy Laws” shall mean any and all applicable Laws, legal requirements and self-regulatory guidelines (including of any applicable foreign jurisdiction) relating to the receipt, collection, compilation, use, storage, processing, sharing, safeguarding, security (technical, physical or administrative), disposal, destruction, disclosure or transfer (including cross-border) of any Personal Information, including the Federal Trade Commission Act, Health Insurance Portability and Accountability Act (HIPAA), California Consumer Privacy Act (CCPA), Payment Card Industry Data Security Standard (PCI-DSS), and any and all applicable Laws relating to breach notification or marketing in connection with any Personal Information.

“Proceeding” shall mean any action, claim, complaint, arbitration, governmental investigation, prosecution, order, litigation, proceeding, or suit (whether civil, criminal, administrative, investigative, appellate, or informal) of any kind whatsoever, regardless of the legal theory under which such Liability or obligation may be sought to be imposed, whether sounding in Contract or tort, or whether at law or in equity, or otherwise under any legal or equitable theory, commenced, brought, conducted, or heard by or before, or otherwise involving, any Governmental Entity or arbitrator.

“Professional Fees and Expenses” shall mean the reasonable and documented fees and expenses of professionals of Sellers and any committee appointed in the Cases pursuant to section 1102 of the Bankruptcy Code that are accrued and unpaid as of the Closing Date, whether or not included in a fee statement or fee application at such time and whether or not allowed by the Bankruptcy Court at such time.

“Purchased Assets” shall mean all right, title and interest of each of the Sellers, as of the Closing, in, to and under all of the assets, properties, interests, rights and claims of the Sellers as of the Closing (whether owned, leased, licensed, used or held for use by the Sellers), wherever situated and of whatever kind and nature, real or personal, tangible or intangible, and whether or not reflected on the books and records of the Sellers, including the assets, properties, rights and claims as of the Closing described in Section 2.1, other than the Excluded Assets.

“Real Property” shall mean Owned Real Property and Leased Real Property.

“Representative” shall mean, with respect to any Person, such Person’s officers, managers, directors, employees, agents and representatives (including any investment banker, financial advisor, accountant, legal counsel or expert retained by or acting on behalf of such Person or its Affiliates).

“Sale Order” shall mean, collectively, the Order or Orders which shall be in a form and substance acceptable to Buyer and Sellers in their sole discretion and which shall, among other things: (i) approve, pursuant to sections 105, 363 and 365 of the Bankruptcy Code (A) the execution, delivery and performance by the Sellers of this Agreement, including each and every term and condition hereof, and the other instruments and agreements contemplated hereby, (B) the sale of the applicable Purchased Assets of the Sellers to Buyer free and clear of all Encumbrances and Liabilities (other than Permitted Encumbrances), on the terms set forth herein, (C) the assumption of the Assumed Liabilities of the Sellers by Buyer on the terms set forth herein and (D) effective as of the Closing, the release of Sellers from amounts due and owing under the Loan Documents up to an amount equal to the Credit Bid Amount; (ii) authorize the Sellers to assume and assign to Buyer the Assumed Contracts; (iii) find that Buyer has provided adequate assurance of future performance with respect to the Assumed Contracts to which any Seller is a party; (iv) find that Buyer is a “good faith” buyer within the meaning of section 363(m) of the Bankruptcy Code; (v) provide that neither Buyer nor any of its Affiliates or equityholders will have any derivative, successor, transferee or vicarious liability of any kind or character, whether fixed or contingent, for Liabilities of the Sellers (whether under federal or state Law or otherwise), including 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 Business prior to the Closing (except for such Taxes that constitute Assumed Liabilities); (vi) waive in all necessary jurisdictions, (A) the so-called “bulk sales,” “bulk transfer” and similar Laws, including those related to Taxes and (B) the imposition of any Taxes incurred in connection with the Transactions and the Sale Order; (vii) enjoin all Persons from commencing any proceeding or taking any action against Buyer or any of its Affiliates to recover any claim that such Person has solely against the Sellers or their Affiliates; and (viii) provide that the obligations of the Sellers relating to Taxes, whether arising under Law, by this Agreement (except as specifically set forth in this Agreement), or otherwise, shall be fulfilled by the Sellers.

“Sellers’ Disclosure Schedules” shall have the meaning ascribed to such term in the opening paragraph of Article IV.

“Software” shall mean, collectively, any and all (i) computer programs, including any and all software implementations of algorithms, models and methodologies, whether in source code or object code, (ii) databases and compilations, including any and all data and collections of data, whether machine readable or otherwise, (iii) descriptions, flow-charts and other work product used to design, plan, organize and develop any of the foregoing, screens, user interfaces, report formats, firmware, development tools, templates, menus, buttons and icons, and (iv) all documentation including user manuals and other training documentation related to any of the foregoing.

“Successful Bidder” shall mean the winning bidder at the Auction.

“Tax” or “Taxes” shall mean (i) all U.S. federal, state, local, foreign and other taxes, assessments, duties or charges of any kind whatsoever, including, income, profits, gains, net worth, sales and use, *ad valorem*, gross receipts, sales, use, business and occupation, license, premium, minimum, alternative or add-on minimum, environmental, estimated, stamp, customs duties, occupation, property (real or personal), franchise, capital stock, license, excise, value added, payroll, employment, social security (or similar), escheat, unclaimed property, unemployment, transfer, severance, registration, lease, service, recording, documentary, permit or authorization, intangibles or other tax (whether payable directly or by withholding), together with any penalty, fine, addition to tax or interest on the foregoing; (ii) any liability in respect of any items described in clause (i) payable by reason of contract, assumption, transferee or successor liability, operation of Law, Treasury Regulations Section 1.1502-6(a) or any analogous or similar provision of Law (or any predecessor or successor thereof) or otherwise; and (iii) any Liability in respect of any items described in clause (i) as a result of being a “transferee” of the taxpayer or entity or a number of a related, non-arm’s length, affiliated or combined group.

“Tax Return” shall mean any return, declaration, report, claim for refund, or information return or statement (including elections, declarations, disclaimers, notices, disclosures, schedules, estimates) relating to Taxes, including any schedule or attachment thereto, and including any amendment or supplement thereof.

“Technology” shall mean all technology, formulae, algorithms, procedures, processes, methods, techniques, ideas, know-how, creations, inventions (whether patentable or unpatentable and whether or not reduced to practice), discoveries, improvements, product, servicing, business, financial and supplier information and materials, specifications, designs, models, devices, prototypes, schematics and development tools, Software, websites, recordings, graphs, drawings, reports, analyses and other writings and other tangible embodiments of any of the foregoing, in any form or media whether or not specifically listed in this definition.

“Transactions” shall mean the sale of the Purchased Assets pursuant to this Agreement and the other transactions contemplated by this Agreement.

“Transfer Tax” or “Transfer Taxes” shall mean any stamp, sales, use, transfer, conveyance, recording, registration, filing or other similar non-income Tax, fee, duty or charge imposed upon

the sale, transfer or assignment of property or any interest therein or the recording thereof, and any penalty, addition to Tax or interest with respect thereto.

“Treasury Regulations” shall mean the regulations promulgated under the Code, as such regulations may be amended from time to time.

“WARN Act” shall mean the Worker Adjustment and Retraining Notification Act of 1988, as amended.

1.2 Index of Defined Terms.

Administrative Agent.....	4
Agreement.....	4
Agreement Date	4
Antitrust Laws.....	50
Assumed Benefit Plans	24
Assumed Contracts	26
Assumed Cure Amounts	24
Assumed Liabilities	23
Assumption Notice.....	27
Audited Financial Statements	36
Available Contracts.....	26
Balance Sheets	36
Bankruptcy Code	5
Bankruptcy Court.....	5
Bankruptcy Milestones	52
Bill of Sale and Assignment and Assumption Agreement.....	29
Business	4
Buyer.....	4
Cases	5
Closing Date.....	29
Contracting Parties.....	62
Copyrights.....	11
Credit Bid Amount.....	30
Credit Bid Letter	4
Credit Repair UK	4
Credit.com.....	4
Creditrepair.com	4
Creditrepair.com Holdco.....	4
Designation Notice.....	26
Determination Date.....	26
Effect.....	11
eFolks.....	4
eFolks Holdco	4
Enforceability Exceptions	32
Excluded Assets.....	22

Excluded Contracts	22
Excluded Liabilities	24
Express Representations	39
Extended Contract Period	26
Financial Statements	36
Increase	27
Interim Financial Statements	36
Key Employee Agreements	24
Marks	10
Non-Recourse Persons	62
Notices	59
Outside Date.....	56
Parent	4
Pre-Closing Taxes.....	48
Prepetition First Lien Financing Agreement.....	4
Prepetition First Lien Lenders	4
Previously Omitted Contract.....	28
Previously Omitted Contract Notice.....	28
Progrexion.....	4
Progrexion ASG.....	4
Progrexion IP	4
Progrexion Marketing	4
Progrexion Teleservices.....	4
Projections.....	39
Purchase Price.....	30
Related Party	37
Related Party Transaction	37
RSA.....	55
Sellers.....	4
Sellers' Disclosure Schedules	31
Third Party Consents.....	47
Trade Secrets.....	11
Transaction Dispute	61
Transfer Offer	44
Transferred Employees	44
Wind Down Amount.....	9
Wind Down Budget	9

1.3 Other Definitional Provisions and Rules of Interpretation.

(a) The words “hereof,” “herein” and “hereunder” and words of similar import when used in this Agreement shall refer to this Agreement as a whole and not to any particular provision of this Agreement, and Section, Schedule and Exhibit references are to this Agreement unless otherwise specified.

(b) All Exhibits and Schedules annexed hereto or referred to herein are hereby incorporated in and made a part of this Agreement as if set forth in full herein. Any capitalized

terms used in any Schedule or Exhibit but not otherwise defined therein shall be defined as set forth in this Agreement.

(c) The meanings given to terms defined herein shall be equally applicable to both singular and plural forms of such terms.

(d) Whenever the words “include,” “includes” or “including” are used in this Agreement they shall be deemed to be followed by the words “without limitation.” Where the context permits, the use of the term “or” will be equivalent to the use of the term “and/or.”

(e) Words denoting any gender shall include all genders. Where a word or phrase is defined herein, each of its other grammatical forms shall have a corresponding meaning.

(f) A reference to any Party to this Agreement shall include such Party’s successors and permitted assigns.

(g) The word “extent” in the phrase “to the extent” means the degree to which a subject or other thing extends, and such phrase does not mean simply “if”.

(h) References herein to any Law shall be deemed to refer to such Law as amended, modified, codified, reenacted, replaced, supplemented or superseded in whole or in part and in effect from time to time, including any successor legislation thereto, and also to all rules and regulations promulgated thereunder, and references to any section or other provision of a Law means that section or provision of such Law in effect from time to time and constituting the substantive amendment, modification, codification, reenactment, replacement or supplement of such section or other provision; provided that for purposes of any representation or warranty set forth herein, with respect to any violation of or non-compliance with, or alleged violation of or non-compliance, with any Law, the reference to such Law means such as in effect at the time of such violation or non-compliance or alleged violation or non-compliance.

(i) All references to “\$” and dollars shall be deemed to refer to the currency of the United States of America.

(j) The provision of a table of contents, the division into Articles, Sections and other subdivisions and the insertion of headings are for convenience of reference only and shall not affect or be utilized in construing or interpreting this Agreement. References to the terms “Article,” “Section,” “clause,” “Schedule” and “Exhibit” are references to the Articles, Sections, clauses, Schedules and Exhibits to this Agreement unless otherwise specified.

(k) References to “days” means calendar days unless Business Days are expressly specified. When calculating the period of time before which, within which or following which any act is to be done or step taken pursuant to this Agreement, the date that is the reference date in calculating such period will be excluded. If the last day of such period is a day other than a Business Day, the period in question will end on the next succeeding Business Day.

(l) References to “written” or “in writing” include in electronic form (including by e-mail transmission or electronic communication by portable document format (.pdf)).

(m) The word “will” will be construed to have the same meaning and effect as the word “shall”. The words “shall,” “will,” or “agree(s)” are mandatory, and “may” is permissive.

(n) Any document or item will be deemed “delivered,” “provided” or “made available” by the Sellers, within the meaning of this Agreement if such document or item (a) is included in the Dataroom, (b) actually delivered or provided to Buyer or any of Buyer’s Representatives or (c) made available upon request, including at the Sellers’ or any of their Subsidiaries’ offices.

(o) Any reference to any agreement or Contract will be a reference to such agreement or Contract, as amended, modified, supplemented or waived.

ARTICLE II TRANSFER OF ASSETS AND LIABILITIES

2.1 Purchased Assets. At the Closing, and upon the terms and subject to the conditions set forth herein and in the Sale Order and, with respect to the Sellers, subject to the approval of the Bankruptcy Court pursuant to sections 105, 363 and 365 of the Bankruptcy Code, the Sellers shall sell, convey, assign, transfer and deliver to Buyer, and Buyer shall purchase, acquire and accept from the Sellers, all of the right, title and interest of each of the Sellers, free and clear of any Encumbrances (other than Permitted Encumbrances), in, to and under, all of the Purchased Assets. The Purchased Assets shall include Sellers’ rights, titles and interests in, to and under each of the following of the Sellers:

(a) other than the Excluded Cash, (i) all cash, money orders, third-party checks, wire transfers and any other funds of the Sellers, commercial paper, marketable securities, demand deposits, reserves for Taxes, certificates of deposit and other bank deposits, deposits of any Seller with any third-party (including any vendor, manufacturer, customer, utility or landlord or other cash deposits for rent, electricity, telephone or otherwise), treasury bills, and other cash equivalents and liquid investments (in each case, net of bank overdrafts, issued but uncleared checks, wire transfers and drafts, and negative cash balances in other accounts), and (ii) the Acquired Bank Accounts;

(b) all deposits, credits, and prepaid charges and expenses from whatever source paid;

(c) all accounts receivable;

(d) all Avoidance Actions (other than Insider Avoidance Actions) with respect to the Purchased Assets;

(e) all Claims that the Sellers may have against any Person (including Governmental Entities) for refund or credit, rebate, abatement, deposit, prepayment, or other recovery of any type, together with any refund of interest due thereon or penalty rebate arising therefrom, in each case solely with respect to Taxes accrued with respect to periods ending on or prior to the Closing Date;

(f) all royalties, advances, prepaid assets, and other current assets;

(g) all machinery, furniture, fixtures, furnishings, equipment, and other tangible personal property owned or used or held for use by the Sellers in the conduct of the Business, including all artwork, desks, chairs, tables, hardware, copiers, telephone lines and numbers, facsimile machines and other telecommunication equipment, cubicles and miscellaneous office furnishings and supplies;

(h) all rights of any Seller under or pursuant to all warranties, representations and guarantees, including those made by suppliers, manufacturers and contractors or any other third party to and for the benefit of any Seller;

(i) all current and prior insurance policies, to the extent transferable, and any proceeds therefrom, other than any directors and officers insurance policies;

(j) all Permits, including those listed on Schedule 2.1(j), to the extent transferable or assignable under Law;

(k) all Assumed Contracts;

(l) all Documents;

(m) all Acquired Intellectual Property and all of Sellers' rights to institute and pursue Proceedings against third parties for past, present and future infringement, misappropriation or dilution of any of the foregoing, or other conflict therewith, and all of the Sellers' rights to recover damages or lost profits in connection with any of the foregoing;

(n) [all Owned Real Property;]

(o) all rights under non-disclosure or confidentiality, non-compete or non-solicitation agreements with employees and non-employee agents of any Seller or with third parties (including any non-disclosure or confidentiality, non-compete, or non-solicitation agreement entered into in connection with the Auction);

(p) any interest in any internet websites, URLs or internet domain names, and any applications and registrations pertaining thereto;

(q) any loans owed to any Seller by any current or former employee, officer or director of any Seller;

(r) the sponsorship of all Assumed Benefit Plans and all right, title and interest in any assets thereof or relating thereto;

(s) all other assets or rights of every kind and description of Sellers related to the Business, wherever located, whether real, personal or mixed, tangible or intangible; and

(t) all goodwill related to the foregoing.

2.2 Excluded Assets. Notwithstanding anything herein contained to the contrary, from and after the Closing, each Seller shall retain, and Buyer shall not purchase, such Seller's right,

title and interest in and to (and the Purchased Assets shall not include any of) the following assets and properties of the Sellers (collectively, the “Excluded Assets”), all of which shall remain the exclusive property of the Sellers:

(a) any Contract other than (i) any Assumed Contract, or (ii) any Contract otherwise included as a Purchased Asset under Section 2.1(h), Section 2.1(k), or Section 2.1(o) (collectively, the “Excluded Contracts”);

(b) any Contract or arrangement (including any loan or similar arrangement) with or binding upon any of the Sellers and any Related Party;

(c) any intercompany accounts receivable owed between or among the Sellers;

(d) all Claims which the Sellers may have against any Person (other than Avoidance Actions with respect to the Purchased Assets), including (i) all other rights, claims, causes of action, rights of recovery, rights of set-off, and rights of recoupment as of the Closing of any Seller, in each case, arising out of or relating to events occurring on or prior to the Closing Date, and (ii) all claims that any of Sellers may have against any Person with respect to any other Excluded Assets or any Excluded Liabilities;

(e) all rights of the Sellers under this Agreement and the agreements and instruments delivered to the Sellers by Buyer pursuant to this Agreement;

(f) all Documents (i) to the extent they relate to any of the Excluded Assets or Excluded Liabilities (including information stored on the computer systems, data networks or servers of any Seller); (ii) that are minute books, organizational documents, stock registers and such other books and records of any Seller as pertaining to ownership, organization or existence of such Seller, Tax Returns (and any related work papers), corporate seal, checkbooks, and canceled checks; (iii) that any Seller is required by Law to retain; or (iv) that are governed under GDPR or collected from natural persons with addresses in the European Union or European Economic Area; provided that, to the extent not prohibited by applicable Law, Buyer shall have the right to make copies of any portions or all of such Documents;

(g) the Sellers’ directors and officers liability insurance policies, if any, and all rights and benefits of any nature of Sellers with respect thereto, including all insurance recoveries thereunder and rights to assert claims with respect to any such insurance recoveries;

(h) all Equity Interests of the Sellers and CreditCo Limited, wholly-owned subsidiary of Credit Repair UK;

(i) all assets owned or used by the Sellers that are specifically identified in Schedule 2.2(i);

(j) every asset of Sellers that would otherwise constitute a Purchased Asset (if owned immediately prior to the Closing) if conveyed or otherwise disposed of during the period from the date hereof until the Closing Date (i) at the direction of the Bankruptcy Court or (ii) as permitted by the terms of the DIP Documents;

(k) all deposits, credits, prepaid charges and expenses, and other similar amounts, to the extent related to any Excluded Liability;

(l) all Permits other than those listed in listed on Schedule 2.1(j);

(m) the sponsorship of all Benefit Plans that are not Assumed Benefit Plans and all right, title and interest in any assets thereof or relating thereto; and

(n) the Excluded Cash.

2.3 Assumed Liabilities. Upon the terms and subject to the conditions set forth in this Agreement and the Sale Order, and subject to the exclusions set forth in Section 2.4 (and in the event of any conflict between the exclusions set forth in Section 2.4 and the provisions of this Section 2.3, the exclusions set forth in Section 2.4 shall prevail), as partial consideration for the Purchased Assets, Buyer shall, on and after the Closing, assume only the following Liabilities of the Sellers (the “Assumed Liabilities”):

(a) all Liabilities under the Assumed Contracts to the extent that any such Liabilities under such Assumed Contracts: (i) arise out of or relate to events, occurrences, acts or omissions occurring solely after the Closing Date, (ii) do not arise from a breach, violation or default of such Assumed Contract by any Seller prior to the Closing; and (iii) are not required to be performed prior to the Closing;

(b) all Liabilities relating to Buyer’s ownership or operation of the Purchased Assets to the extent arising out of or relating to events, occurrences, acts or omissions occurring solely after the Closing Date;

(c) all Cure Amounts (the “Assumed Cure Amounts”);

(d) all accrued and unpaid Administrative Expenses incurred by Sellers prior to the Closing Date (other than Professional Fees and Expenses) and those listed on Schedule 2.3(d), not to exceed \$[●] in the aggregate;

(e) all current Liabilities, including all accounts payable and trade payables existing on the Closing Date (including, for the avoidance of doubt, (i) invoiced accounts payable and (ii) accrued but uninvoiced accounts payable) of Sellers;

(f) all Liabilities in respect of wages and other compensation of Business Employees for periods prior to the Closing Date;

(g) all Liabilities of Sellers under the employment agreements set forth on Schedule 2.3(g) (the “Key Employee Agreements”);

(h) all Liabilities relating to Transferred Employees accruing on or after the Closing Date;

(i) all Liabilities relating to Transferred Employees’ vacation and other paid time off to the extent set forth in Section 6.6(c);

(j) all Liabilities with respect to the Benefit Plans listed on Schedule 2.3(j) (the “Assumed Benefit Plans”);

(k) all Liabilities for Transfer Taxes pursuant to Section 6.10(a); and

(l) those Tax Liabilities specifically set forth on Schedule 2.3(l).

2.4 Excluded Liabilities. Notwithstanding anything to the contrary set forth herein, Buyer shall not assume, and shall not be deemed to have assumed, and the Sellers shall be solely and exclusively liable with respect to, all Liabilities of any Seller or any of its Affiliates or any of their respective predecessors other than the Assumed Liabilities (collectively, the “Excluded Liabilities”). For the avoidance of doubt, and without limiting the foregoing, Buyer shall not be obligated to assume, nor assumes, and Buyer hereby disclaims, all of the Excluded Liabilities, including all of the following Liabilities of any Seller or any of its Affiliates (or any of their respective predecessors) (each of which shall constitute an Excluded Liability hereunder):

(a) any Liability for (i) Taxes of any Seller for any taxable period and (ii) Pre-Closing Taxes, including, for the avoidance of doubt, any employment Taxes the payment of which was deferred under the Coronavirus Aid, Relief, and Economic Security (CARES) Act;

(b) any Claim in connection with or arising from or relating to any Excluded Asset, including any Taxes associated therewith;

(c) all Cure Amounts other than the Assumed Cure Amounts;

(d) any fees, costs and expenses (including legal fees and accounting fees) incurred by any Seller in connection with the Cases or the Transactions, including all fees, costs and expenses incurred in connection with or by virtue of (i) the negotiation, preparation and review of this Agreement and all agreements ancillary or related hereto, (ii) the preparation and submission of any filing or notice required to be made or given in connection with the Transactions, and the obtaining of any consent required to be obtained in connection with the Transactions, (iii) the negotiation, preparing and review of the DIP Documents and (iv) any Alternate Transaction;

(e) any Liabilities arising under or pursuant to labor Laws;

(f) any Liabilities relating to the Transferred Employees arising prior to the Closing Date (other than those expressly set forth in Section 2.3 or Section 6.6(c)), and any Liabilities relating to all other current or former employees, directors, consultants and other individual service providers of the Sellers or their Affiliates who are not Transferred Employees arising at any time, in each case, including any severance, termination or payment in lieu of notice Liability, and any other Liability arising under or out of any Law or Contract in connection with such Person’s employment, service or Contract with, or the termination of such Person’s employment, service or Contract with, any Seller or its Affiliates;

(g) any Liabilities of the Sellers and their respective ERISA Affiliates with respect to any Benefit Plan or other compensation or benefit plan, program, policy, agreement or arrangement of the Sellers, other than with respect to any Assumed Benefit Plan, including any health, welfare, retirement, pension or profit sharing Liability, deferred compensation Liability,

equity or equity-based incentive compensation Liability, any Liability under any employment agreements or offer letters, or any penalties, fines or other expenses resulting from any compliance issue with any Benefit Plan or Law, other than those Liabilities expressly assumed pursuant to Section 2.3(h) and Section 2.3(i) or Section 6.6;

(h) any Liability of any Seller arising out of this Agreement or any agreement ancillary or related hereto;

(i) any Liabilities arising out of or relating to the Business, the Purchased Assets or the ownership, operation or conduct thereof prior to the Closing;

(j) any Liabilities for accrued expenses and accounts payable of the Business;

(k) any Liabilities arising as a result of any Proceeding, whether initiated prior to or following the Closing, to the extent related to the Business or the Purchased Assets, including any actions for breach of contract, violations of or non-compliance with Law (including Consumer Financial Laws), Product Liability or any tort actions;

(l) any Liabilities arising as a result of any Contract or arrangement (including any loan or similar arrangement) with or binding upon any of the Sellers and any Related Party (other than those Liabilities expressly assumed pursuant to Section 2.3(a)) and all intercompany payables owed from one Seller to any other Seller; and

(m) any Liabilities (i) existing prior to the filing of the Cases that are subject to compromise under the Bankruptcy Code or other applicable Law and (ii) to the extent not otherwise expressly assumed herein, incurred subsequent to the filing of the Cases and prior to the Closing;

provided that in the event of any conflict between the terms of Section 2.3 and this Section 2.4, the terms of Section 2.3 will control.

2.5 Assumption and Assignment of Assumed Contracts.

(a) Schedule 2.5(a) sets forth a list of the executory Contracts to which one or more Sellers is a party, together with estimated Cure Amounts for each Assumed Contract (the “Available Contracts”), which Schedule 2.5(a) may be updated from time to time prior to the date that is fifteen (15) days following the Agreement Date to add any Contracts inadvertently excluded from such schedule. By the date that is two (2) Business Days prior to the Closing (such date, the “Determination Date”), Buyer shall designate in writing (each such writing, a “Designation Notice”) which Available Contracts from Schedule 2.5(a) Buyer wishes for Sellers to assume and assign to Buyer at the Closing (such Contracts, together with the Key Employee Agreements, the “Assumed Contracts”). Buyer shall have the right to amend a Designation Notice in any respect at any time prior to the Determination Date. All Contracts of the Sellers that are listed on Schedule 2.5(a) and which Buyer does not designate in writing pursuant to a Designation Notice for assumption shall not constitute Assumed Contracts or Purchased Assets and shall automatically be deemed Excluded Assets; provided, however, that if an Available Contract is subject to a Cure Amount dispute or other dispute as to the assumption or assignment of such Available Contract that has not been resolved to the mutual satisfaction of Buyer and the Sellers prior to the

Determination Date, then the Determination Date shall be extended (but only with respect to such Available Contract) to no later than the earlier of (A) the date on which such dispute has been resolved to the mutual satisfaction of Buyer and the Sellers, (B) the date on which such Available Contract is deemed rejected by operation of section 365 of the Bankruptcy Code and (C) the date upon which such dispute is finally determined by the Bankruptcy Court (the “Extended Contract Period”). If a Designation Notice with respect to such Available Contract is not delivered by Buyer in writing by the date which is three (3) Business Days following the expiration of such Extended Contract Period, such Available Contract shall be automatically deemed an Excluded Asset. For the avoidance of doubt, except as set forth in Section 2.3, Buyer shall not assume or otherwise have any Liability with respect to any Excluded Asset. At Buyer’s reasonable request, the Sellers shall make reasonably available to Buyer the appropriate employees of the Sellers necessary to discuss the outstanding Available Contracts. Notwithstanding the foregoing, for the avoidance of doubt, the Key Employee Agreements shall, in any event, be Assumed Contracts.

(b) In the event that (i) Buyer’s exercise of its right to designate (or not designate) an Available Contract as an Assumed Contract pursuant to Section 2.5(a) causes any Available Contract or other asset to be an Excluded Asset, (ii) any extension of the Determination Date with respect to any Available Contract occurs as a result of any Cure Amount dispute or other dispute, (iii) any cost or expense to Sellers arises in connection with a Benefit Plan that is not an Assumed Benefit Plan, or (iv) Buyer elects to close notwithstanding an unrepaired or unrestored loss to a Purchased Asset as contemplated in the last sentence of Section 10.5, in each case of clauses (i) through (iv), there results an increase in the Wind Down Amount, or any increase in an amount of a category of expenses set forth in the Wind Down Budget (an “Increase”), then the Wind Down Budget may be increased, in accordance with the terms of the DIP Orders, on a dollar-for-dollar basis to the extent, as of the Closing Date, the Sellers have capital in excess of the amount set forth in the then-Approved Budget; provided, however, that in no event shall the Wind Down Budget exceed \$3,000,000. If Buyer in good faith disputes in writing the amount of such estimated Increase, the Parties will use reasonable efforts to promptly resolve such dispute or, if such dispute cannot be promptly resolved, then seek resolution from the Bankruptcy Court. Buyer will promptly fund any undisputed Increase within five (5) Business Days after (y) receipt of a written estimate of the Increase which includes reasonable detail supporting the proposed Increase or (z) if later, resolution of such dispute.

(c) The Sellers shall use commercially reasonable efforts to take all actions required by the Bankruptcy Court to obtain an Order (which may be the Sale Order) containing a finding that the proposed assumption and assignment of the Assumed Contracts to Buyer satisfies all applicable requirements of section 365 of the Bankruptcy Code.

(d) At the Closing, the Sellers shall, pursuant to the Sale Order and the Bill of Sale and Assignment and Assumption Agreement, assume and assign, or cause to be assigned, to Buyer, each of the Assumed Contracts that is capable of being assumed and assigned as of such date.

(e) Buyer will cooperate with the Sellers in communicating with third parties to Available Contracts as may be reasonably necessary to assist the Sellers in establishing that Buyer has satisfied the requirement of adequate assurance of future performance contained in

sections 365(b)(1)(C) and 365(f) of the Bankruptcy Code with respect to the applicable Available Contracts.

(f) In the event Sellers are unable to assign any such Assumed Contract to Buyer without the consent of another Person, then the Parties shall use their commercially reasonable efforts to obtain, and to cooperate in obtaining, all required consents necessary to assume and assign such Assumed Contracts to Buyer.

(g) As soon as practicable after the Agreement Date (and in no event later than three (3) Business Days after entry of the Bidding Procedures Order), the Sellers shall file a list of the Available Contracts (the “Assumption Notice”) with the Bankruptcy Court and shall serve such Assumption Notice via first class mail on each counterparty to an Available Contract listed thereon. The Assumption Notice shall identify all Available Contracts and set forth a good faith estimate of the amount of the Cure Amounts applicable to each such Contract.

(h) Not later than one (1) Business Day following the Determination Date, Sellers shall file with the Bankruptcy Court an amended and restated Assumption Notice, which notice shall set forth only the Assumed Contracts (and exclude all other Available Contracts).

(i) On the Closing Date, with respect to Cure Amounts not disputed as of the Closing Date, the Sellers shall pay all Cure Amounts (other than the Assumed Cure Amounts, which shall be paid by Buyer) in accordance with the Approved Budget to the applicable counterparty and Buyer shall have no Liability therefor. With respect to Cure Amounts that are disputed as of the Closing Date, the Parties shall cooperate and diligently pursue resolution of such disputes. Upon the resolution of any disputed Cure Amount following the Closing, the Sellers shall pay such Cure Amount (other than the Assumed Cure Amounts, which shall be paid by Buyer) promptly, and in no event later than two (2) Business Days following such resolution.

(j) Upon payment by Buyer of the Assumed Cure Amounts and by the Sellers of all Cure Amounts other than the Assumed Cure Amounts, all defaults under the Assumed Contracts (monetary or otherwise) and all actual or pecuniary losses that have or may have resulted from such defaults shall be deemed cured, including any Tax, rental obligation, common area maintenance, percentage rent, base rent or utility payments, whether or not such obligation became due, or accrued, after the effective date of the assignment of such Assumed Contracts, as the case may be.

(k) Notwithstanding anything in this Agreement to the contrary, from and after the date hereof through the Closing, the Sellers will not reject or take any action (or fail to take any action that would result in rejection by operation of Law) to reject, repudiate or disclaim any Contract without the prior written consent of Buyer.

(l) Previously Omitted Contracts.

(i) If prior to or following the date which is thirty (30) days following the Agreement Date, it is discovered by any Party that a Contract should have been listed on Schedule 2.5(a) but was not listed on Schedule 2.5(a) and has not been rejected by the Sellers (any such Contract, a “Previously Omitted Contract”), the discovering Party shall, promptly following the discovery thereof (but in no event later than two (2) Business Days

following the discovery thereof), notify the other Parties in writing of such Previously Omitted Contract and then the Sellers shall, promptly following such notification (but in no event later than two (2) Business Days following such notification), notify Buyer of Sellers' good faith estimate of all Cure Amounts (if any) for such Previously Omitted Contract. Buyer may thereafter deliver a Designation Notice to Sellers, no later than the earlier of (x) the Determination Date or the expiration of the Extended Contract Period, as applicable, and (y) five (5) Business Days following notification of such Previously Omitted Contract from the Seller with respect to such Previously Omitted Contract and, if such Designation notice is so delivered, such contract shall be an Assumed Contract under this Agreement. All Previously Omitted Contracts with respect to which Buyer fails to timely deliver a Designation Notice, shall be an Excluded Asset.

(ii) If Buyer delivers a Designation Notice in accordance with Section 2.5(1)(i), the Sellers shall serve a notice (the "Previously Omitted Contract Notice") on the counterparties to such Previously Omitted Contract notifying such counterparties of the Cure Amounts with respect to such Previously Omitted Contract and the Sellers' intention to assume and assign such Previously Omitted Contract in accordance with this Section 2.5. The Previously Omitted Contract Notice shall provide the counterparties to such Previously Omitted Contract with fourteen (14) days to object, in writing to the Sellers and Buyer, to the Cure Amounts or the assumption of its Contract. If the counterparties, the Sellers and Buyer are unable to reach a consensual resolution with respect to the objection, the Sellers shall seek an expedited hearing before the Bankruptcy Court to determine the Cure Amounts and approve the assumption. If no objection is served on the Sellers and Buyer, the Sellers shall obtain an order of the Bankruptcy Court fixing the Cure Amounts and approving the assumption of the Previously Omitted Contract. Sellers shall be responsible for all Cure Amounts relating to such Previously Omitted Contracts and for any obligations or Liabilities relating to such Previously Omitted Contracts arising during the Extended Contract Period.

ARTICLE III CLOSING AND PURCHASE PRICE

3.1 Closing; Transfer of Possession; Certain Deliveries.

(a) Unless this Agreement shall have been terminated and the Transactions shall have been abandoned pursuant to Article IX, the Closing shall take place at 10:00 a.m. (prevailing Eastern Time) on the date (the "Closing Date") that is two (2) Business Days after all the conditions set forth in Article VIII shall have been satisfied or waived (excluding, but subject to the satisfaction or waiver of, conditions that, by their nature, are to be satisfied at the Closing), or such other time or date as agreed to in writing by the Parties. The Closing shall take place by telephone or video conference and electronic exchange of documents, unless otherwise mutually agreed to by the Parties. The Closing shall be effective as of 12:01 a.m. (prevailing Eastern Time) on the Closing Date.

(b) At the Closing, the Sellers shall deliver, or shall cause to be delivered, to Buyer the following:

(i) a counterpart to the Bill of Sale and Assignment and Assumption Agreement in substantially the form attached hereto as Exhibit C (the “Bill of Sale and Assignment and Assumption Agreement”), duly executed by each Seller;

(ii) one (1) or more assignments of the Owned Intellectual Property, in a form reasonably acceptable to Buyer and the Sellers, duly executed by the applicable Seller(s);

(iii) a certificate of a duly authorized officer of each Seller dated the Closing Date certifying as to the matters set forth in Section 8.1(a), Section 8.1(b) and Section 8.1(e);

(iv) [customary quitclaim deed(s) with respect to the Owned Real Property, and] terminations and/or assignments of the Leases, in each case, as reasonably requested by Buyer with respect to the Real Property;

(v) a certification of non-foreign status from each of the Sellers, duly completed and executed in compliance with Treasury Regulation Section 1.1445-2(b); and

(vi) such other closing instruments and certificates as may be reasonably requested by Buyer, in each case in form and substance reasonably acceptable to Buyer and Sellers.

(c) At the Closing, Buyer shall deliver, or shall cause to be delivered to the Sellers, the following:

(i) a counterpart to the Bill of Sale and Assignment and Assumption Agreement, duly executed by Buyer;

(ii) a certificate of a duly authorized officer of Buyer dated the Closing Date, certifying as to the matters set forth in Section 8.2(a) and Section 8.2(b); and

(iii) such other closing instruments and certificates as may be reasonably requested by the Sellers, in each case, in form and substance reasonably acceptable to the Sellers and Buyer.

3.2 Purchase Price; Related Matters.

(a) Purchase Price. The aggregate consideration for the Purchased Assets shall be no less than \$[257,488,673.27] and shall consist of the following (collectively, the “Purchase Price”): (i) a credit bid equal to (A) all obligations under the DIP Facility and (B) not less than \$[237,563,673.27] of the obligations under the Prepetition First Lien Financing Agreement (the “Credit Bid Amount”); *plus* (ii) the assumption by Buyer of the Assumed Liabilities. The portion of the Purchase Price payable under clause (i) shall be paid by means of discharging Sellers, and Sellers shall be deemed to be discharged, from the obligation to repay the total amounts due and owing under the Credit Documents as of the Closing Date. In no event shall the Credit Bid Amount be payable by Buyer in cash.

(b) Bulk Sales Laws. Buyer acknowledges that Sellers will not comply with the provisions of any “bulk-transfer” Laws of any jurisdiction in connection with the sale and transfer of the Purchased Assets and Buyer hereby waives all Claims related to the non-compliance therewith. Pursuant to section 363(f) of the Bankruptcy Code, the transfer of the Purchased Assets of the Sellers shall be free and clear of any Encumbrances, other than Permitted Encumbrances, in each case pursuant to the Bankruptcy Code, whether arising prior to or subsequent to the Petition Date, including any Encumbrances or claims arising out of the “bulk-transfer” Laws.

3.3 Allocation of Purchase Price. Sellers and Buyer agree to allocate the Purchase Price among the Purchased Assets for all purposes (including tax and financial accounting) in accordance with the allocation methodology set forth in Schedule 3.3 attached hereto. Within ninety (90) days following the Closing Date, Buyer will provide to Sellers an Allocation Schedule prepared in accordance with such allocation methodology. Buyer and Sellers shall file all applicable Tax Returns (including Form 8594, any amended Tax Returns, and any claims for refund) consistent with the Allocation Schedule and shall take no position contrary thereto or inconsistent therewith (including in any audits or examinations by any taxing authority or any other proceedings) absent a contrary “determination” (within the meaning of Section 1313(a) of the Code).

3.4 Withholding. Buyer or any other paying agent (as applicable) shall be entitled to deduct and withhold from the amounts payable under this Agreement such amounts as may be required to be deducted and withheld under the Code and any other applicable Tax Laws. Any such withheld amount shall be treated as though it had been paid to the Person in respect of which such withholding was required.

ARTICLE IV REPRESENTATIONS AND WARRANTIES OF SELLERS

Except as set forth in the Schedules delivered to Buyer in connection with this Agreement (the “Sellers’ Disclosure Schedules”) and subject to Section 10.19, each of the Sellers hereby jointly and severally makes the following representations and warranties to Buyer with respect to itself and each other Seller as of the Agreement Date:

4.1 Organization and Good Standing. Each Seller (a) is an entity duly formed, validly existing and in good standing under the Laws of its jurisdiction of incorporation or formation, and (b) subject to any limitations that may be imposed on such Seller as a result of filing a petition for relief under the Bankruptcy Code, has full organizational power and authority to own, lease and operate its properties, to perform all of its obligations under the Available Contracts, and carry on the Business as it is now being conducted.

4.2 Power and Authority. Subject to entry and effectiveness of the Sale Order in respect of the Sellers, each Seller has the requisite organizational power and authority to enter into this Agreement and to perform its obligations hereunder, and the execution and delivery of this Agreement by each Seller and, subject to the approval of this Agreement by the Bankruptcy Court, the consummation by each Seller of the Transactions and the performance of each Seller’s obligations hereunder have been duly authorized by all requisite organizational action on the part of each Seller. This Agreement has been duly executed and delivered by each Seller and (assuming

the due and valid authorization, execution and delivery thereof by Buyer), following the approval of this Agreement and the Transactions by the Bankruptcy Court pursuant to the Sale Order, will constitute the legal, valid and binding obligation of each Seller, enforceable against each Seller in accordance with its terms, except that such enforceability (a) may be limited by bankruptcy, insolvency, fraudulent transfer, reorganization, moratorium and other similar Laws of general application affecting or relating to the enforcement of creditors' rights generally and (b) is subject to general principles of equity, whether considered in a proceeding at law or in equity (collectively, the "Enforceability Exceptions"). Each Seller has the requisite organizational power to operate its business with respect to the Purchased Assets that it owns as now conducted and is duly qualified as a foreign entity to do business, and to the extent legally applicable, is in good standing, with respect to the Business, in each jurisdiction in which the character of its owned, operated or leased properties or the nature of its activities makes such qualification necessary, except where the failure to be so qualified or in good standing has not had a Material Adverse Effect.

4.3 Litigation. Except as set forth on Schedule 4.3, as of the date of this Agreement, there are no outstanding Orders or Proceedings pending, or, to the Knowledge of the Sellers, threatened against any Seller relating to the ownership or use of the Purchased Assets or conduct of the Business by the Sellers or otherwise materially affecting the Purchased Assets or the Business.

4.4 No Contravention. Subject to the entry and effectiveness of the Sale Order by the Bankruptcy Court, and except as set forth on Schedule 4.4, neither the execution and delivery of this Agreement and compliance by the Sellers with any provisions hereof, nor the consummation of the Transactions, will (a) violate or conflict with any provision of any Seller's Organizational Documents, (b) with or without the giving of notice or the lapse of time or both violate, or result in a breach of, or constitute a default under, or conflict with, or accelerate the performance required by, any of the terms of any Available Contract or Lease, (c) violate or conflict with any Order, or any Law or Permit that is required to be discharged prior to Closing applicable to the Sellers, or (d) result in the creation of any Encumbrance upon any of the Purchased Assets (other than a Permitted Encumbrance); except, in the case of above clauses (b), (c), and (d), for compliance with the applicable requirements of the HSR Act or other Antitrust Laws if required, or as would not, individually or in the aggregate, reasonably be expected to be material to the Business, taken as a whole.

4.5 Consents and Approvals. Except (a) to the extent excused or made unenforceable as a result of the filing of the Cases, (b) to the extent not required if the Sale Order is entered, or (c) as set forth on Schedule 4.5, the execution, delivery and performance by each Seller of this Agreement and the Transactions, and the legality, validity, binding effect or enforceability of this Agreement and any agreements contemplated hereby, do not require any consents, waivers, authorizations or approvals of, or filings with, any (i) Governmental Entities or (ii) other third Persons, except with respect to clause (ii) as would not reasonably be expected to have a Material Adverse Effect, or, with respect to clause (i), for any filings required to be made under the HSR Act or any applicable Antitrust Laws, or as would not reasonably be expected to be material to the Business, taken as a whole.

4.6 Title to Purchased Assets; Sufficiency.

(a) Sellers have, and subject to the entry and effectiveness of the Sale Order in respect of the Purchased Assets, at the Closing, Buyer will have, good and valid title to each of the Purchased Assets (except for those Purchased Assets that are leased or licensed to any Seller, as to which any Seller has, and at the Closing, Buyer will have, valid licensed or leasehold interests), free and clear of any Encumbrances, other than (i) Permitted Encumbrances, (ii) liens or other Encumbrances upon Buyer's assets, if any, securing any loan made directly to Buyer or expressly assumed by Buyer as of the Closing Date, (iii) as subject to Section 2.5, or (iv) the Enforceability Exceptions.

(b) Other than the Excluded Assets, the Purchased Assets constitute all of the assets used in or held for use in the Business by Sellers and are sufficient for Buyer to conduct the Business from and after the Closing Date without interruption and in the Ordinary Course of Business as it has been conducted by the Sellers prior to the Closing Date, in each case, except as would not be material to the Business taken as a whole.

4.7 Validity of Available Contracts. As of the date of this Agreement, subject to requisite Bankruptcy Court approvals, and assumption by the applicable Seller of the applicable Contract in accordance with applicable Law (including satisfaction any applicable Cure Amounts) and except (i) as a result of the commencement of the Cases, and (ii) with respect to any Contract that has previously expired in accordance with its terms, been terminated, restated, or replaced: (a) each Available Contract is a legal, valid and binding obligation of the Seller that is a party thereto, and is enforceable against such Seller in accordance with its terms and, to the Knowledge of the Sellers, is a legal, valid and binding obligation of each other party to such Contract and is enforceable against such other party thereto in accordance with its terms, subject to the Enforceability Exceptions, (b) no Seller that is a party to any Available Contract, or any other party to an Available Contract is in default or breach of an Available Contract, (c) to the Knowledge of the Sellers, during the twelve (12) months preceding the date hereof, no other party to any Available Contract has materially breached such Contract, (d) to the Knowledge of the Sellers, there does not exist any event, condition or omission that would constitute a material default or breach (or event which, with the giving of notice or lapse of time or both would become such a default or breach) under any Available Contract, (e) to the Knowledge of Sellers, no Seller that is a party to any Available Contract has received any written notice of termination or cancellation with respect to any Available Contract, and (f) with respect to the Assumed Contracts, upon entry of the Sale Order and payment of the Cure Amounts, each Seller will not be in breach or default of its obligations thereunder, except, in each case, as would not reasonably be expected to be material to the Sellers or the Business, taken as a whole.

4.8 Intellectual Property. Schedule 4.8 sets forth a correct and complete list of all Owned Intellectual Property and Licensed Intellectual Property. Sellers own all right, title and interest in, or have the right to use, pursuant to a license or otherwise, all Intellectual Property required to operate the Business as presently conducted, in each case, (i) free and clear of any Encumbrances except Permitted Encumbrances, and (ii) other than non-exclusive licenses of, or covenants with respect to, Intellectual Property granted in the Ordinary Course of Business. As of the date of this Agreement, (i) there are no pending, and Sellers have not received, since December 31, 2021, any written notice of any actual or threatened Proceedings alleging a violation,

misappropriation or infringement of the Intellectual Property of any other Person by Sellers except for any of the foregoing that have since been resolved, (ii) to the Knowledge of Sellers, the operation of the Business as currently conducted does not violate, misappropriate or infringe the Intellectual Property of any other Person, and (iii) to the Knowledge of Sellers, no other Person has violated, misappropriated or infringed any Intellectual Property of the Sellers.

4.9 Employee Benefits.

(a) Schedule 4.9(a) lists all Benefit Plans.

(b) True, correct and complete copies of the following documents, with respect to each of the Benefit Plans, have been made available to Buyer: (i) any plan documents and all material amendments thereto, (ii) the most recent Form 5500, if applicable, and (iii) the most recent summary plan descriptions (including letters or other documents updating such descriptions).

(c) Each Benefit Plan is in material compliance with all applicable Laws, including ERISA and the Code.

(d) Each Benefit Plan that is intended to be a qualified plan under Section 401(a) of the Code has received a favorable determination or opinion letter to that effect from the IRS and, to the Knowledge of Sellers, no event has occurred since the date of such determination or opinion that would reasonably be expected to adversely affect such determination or opinion.

(e) To the Knowledge of Sellers, no condition exists that is reasonably likely to subject Sellers to any direct or indirect liability under Title IV of ERISA.

(f) No Proceeding (other than routine claims for benefits in the Ordinary Course of Business) are pending or, to the Knowledge of Sellers, threatened with respect to any Benefit Plan.

4.10 Labor Matters.

(a) Schedule 4.10(a) sets forth a complete list of all Business Employees and, based on the Sellers' records as of the Agreement Date, correctly reflects, with respect to each individual, as applicable: (i) date of hire; (ii) job title; (iii) hourly pay rate or annual salary; (iv) exempt versus non-exempt status (as applicable); (v) accrued paid time off balance; and (vi) to the extent known, leave of absence status.

(b) None of the Sellers is a party to any labor or collective bargaining agreement and there are no labor or collective bargaining agreements which pertain to any Business Employees, and no such agreements are being negotiated as of the date of this Agreement. No Business Employees are represented by a labor or trade union or works council, no labor organization or group of Business Employees has made a pending demand for recognition, and there are no representation proceedings or petitions seeking a representation proceeding presently pending or, to the Knowledge of the Sellers, threatened to be brought or filed, with the U.S. National Labor Relations Board with respect to the Business. There is no organizing activity pending or, to the Knowledge of the Sellers, threatened by any labor organization with respect to the Business Employees.

(c) There is (i) no unfair labor practice complaint with respect to the Business pending against any Seller or, to the Knowledge of the Sellers, threatened against them, before the U.S. National Labor Relations Board, and (ii) no strike, labor dispute, slowdown or stoppage pending against any Seller or, to the Knowledge of the Sellers, threatened against them.

(d) No equal employment opportunity charges or other claims of employment discrimination are pending or, to the Knowledge of the Sellers, threatened against them. There is no wage and hour department investigation with respect to any Seller or the Business pending or, to the Knowledge of Sellers, threatened against them, whether internally or by any Governmental Entity in connection with the employment, engagement, compensation, or service of any current or former employee, consultant or contractor.

(e) The Sellers have not taken any actions relating to the Business at any single site of employment in the ninety (90)-day period prior to the Closing Date that would, individually or in the aggregate, constitute a “mass layoff” or “plant closing” within the meaning of the WARN Act, or any similar applicable Law.

4.11 Conduct of Business. Except as set forth on Schedule 4.11, and except for the Cases, the DIP Documents, all negotiation and preparation therefor, and the negotiation, execution, delivery and performance of this Agreement, from January 1, 2023 to the Agreement Date, (a) the Business has been conducted in the Ordinary Course of Business consistent with past practice, (b) the Sellers have owned and operated the Purchased Assets in the Ordinary Course of Business consistent with past practice, and (c) there has been no Material Adverse Effect.

4.12 Compliance with Laws; Permits.

(a) Except as disclosed on Schedule 4.12(a), the Sellers are conducting, and to the Knowledge of Sellers have conducted since January 1, 2023, the Business and Purchased Assets in compliance, in all material respects, with all applicable Laws, notices, approvals and Orders. Except as disclosed on Schedule 4.12(a), to the Knowledge of the Sellers, (i) each Seller is not in material breach of any Law, notice, approval or order applicable to it or the Business, and (ii) there are no facts or circumstances which could form the basis for any such material breach. None of the Sellers has received, since January 1, 2023, any written notice or other communication that alleges that the Business is not in compliance in any material respect with any Law, Order or Permit applicable to the Business or the Purchased Assets or any written notice or communication regarding any deficiencies in any material respect in the compliance practices, procedures, methodologies or methods of the Business or its employees or internal compliance controls, including any complaint, allegation, assertion or claim that the Business or its employees has engaged in illegal practices.

(b) The Sellers have all material Permits which are required for the lawful operation of the Business as presently conducted and the ownership and operation of the Purchased Assets, and each such Permit is valid, binding and in full force and effect, in each case except as would not reasonably be expected to have a Material Adverse Effect. Except as set forth on Schedule 4.12(b), to the Knowledge of Sellers, none of the Sellers are or has been in material default or violation (and no event has occurred which, with notice or the lapse of time or both,

would constitute a default or violation) of any term, condition or provision of any Permit to which it is a party.

4.13 Financial Statements. The Sellers have delivered to Buyer (a) audited consolidated balance sheet of the Business dated as of December 31, 2021 and the audited consolidated statements of operations and income, shareholders' equity and cash flow of the Business for the year then ended (the "Audited Financial Statements"), and (b) the unaudited consolidated balance sheets of the Business dated as of April 30, 2023 (the "Balance Sheets") and the unaudited consolidated statements of operations and income, shareholders' equity and cash flow of the Business for the year ended December 31, 2022 and the four (4) month period ended April 30, 2023, respectively (the "Interim Financial Statements" and together with the Audited Financial Statements, the "Financial Statements"). Except as set forth on Schedule 4.13, the Financial Statements present fairly in all material respects the consolidated financial position, results of operations and cash flows of each of the Sellers on the basis stated therein as of the dates and for the applicable periods stated therein, subject, in the case of the Interim Financial Statements, to normal year-end audit adjustments and the absence of related notes.]

4.14 Financial Advisors. Except as set forth on Schedule 4.14, no Person has acted, directly or indirectly, as a broker, finder or financial advisor for any in connection with the Transactions and no Person is entitled to any fee or commission or like payment in respect thereof.

4.15 Absence of Undisclosed Liabilities. Except as set forth on Schedule 4.15, there are no Liabilities of any of the Sellers, or otherwise related to the Business, of any nature, whether accrued, contingent, absolute, known or otherwise, in each case, required by GAAP to be reflected or reserved against on a balance sheet of each of the Sellers, or of the Business, prepared in accordance with GAAP or the notes thereto, other than: (a) Liabilities as and to the extent reflected or reserved against in the Financial Statements, (b) Liabilities incurred since January 1, 2023 in the Ordinary Course of Business, or (c) Liabilities that would not reasonably be expected to be material to the Business taken as a whole.

4.16 Tax Matters.

(a) Except as set forth in Schedule 4.16(a), the Sellers have timely filed (taking into account any valid extensions of time to file) all income and other material Tax Returns which are required to be filed by the Sellers, all such Tax Returns are true, correct and complete in all material respects, and all Taxes due and payable by the Sellers prior to the date hereof have been timely and fully paid.

(b) Except as set forth on Schedule 4.16(b), there are no liens for Taxes upon the Purchased Assets other than for Permitted Encumbrances.

(c) Except as set forth on Schedule 4.16(c), to the Knowledge of Sellers, the Sellers have complied in all material respects with all applicable Laws relating to the withholding, collection and payment of Taxes and have duly and timely withheld, collected and paid over to the appropriate Governmental Entity all amounts required to be so withheld, collected and paid under all applicable Laws.

(d) The Sellers have not received any notice in writing from any taxing authority or Governmental Entity asserting that any Seller may be subject to Tax in any jurisdiction in which any Seller does not file Tax Returns.

(e) No action, suit, proceeding or audit is pending against or with respect to the Sellers regarding Taxes.

(f) The Sellers have not waived any statute of limitations in respect of Taxes or agreed to any extension of time with respect to a Tax assessment or deficiency, other than any waiver or exclusion which has expired.

(g) None of the Purchased Assets is an interest (other than indebtedness within the meaning of Section 163 of the Code) in an entity taxable as a corporation, partnership, trust or real estate mortgage investment conduit for U.S. federal income tax purposes.

4.17 Condition and Suitability of Purchased Assets. There has been no condemnation, seizure, damage, destruction or other casualty loss (whether or not covered by insurance) affecting any of the Purchased Assets or the Business in any material respect which has not subsequently been completely repaired, replaced or restored. There are no pending or, to the Knowledge of Sellers, threatened or contemplated condemnation proceedings affecting the Business, any of the Purchased Assets (or any portion thereof), or of any sale or other disposition of the Business or any of the Purchased Assets (or any portion thereof) in lieu of condemnation except as would not reasonably be expected to have a Material Adverse Effect.

4.18 Related Party Transactions.

(a) To the Knowledge of the Sellers, no Seller, executive officer, director, member, manager, equityholder or Affiliate of a Seller nor any individual who is a lineal descendant, sibling, parent or spouse of any such Person (each, a "Related Party") is a party to any Contract or arrangement (including any loan or similar arrangement) with or binding upon any of the Sellers or the Purchased Assets or has any interest in any asset (each, a "Related Party Transaction") other than as set forth on Schedule 4.18(a). Except as set forth on Schedule 4.18(a), no Seller has made any payments to or on behalf of any Related Party (including by exercise of set-off rights, cancellation of intercompany indebtedness, or otherwise).

(b) Except as disclosed on Schedule 4.18(b), to the Knowledge of Sellers, no Related Party will, immediately following the Closing, hold any asset (tangible or intangible), property, right, claim, cause of action (including any counterclaim) or defense used in or related to the Business.

4.19 Disclaimer of Other Representations and Warranties. Except for the representations and warranties expressly set forth in this Article IV (as modified by the Sellers' Disclosure Schedules hereto), no Seller, nor any other Person, makes, and Buyer and the Buyer Group have not relied, are not relying, and will not rely on, any representation and warranty, express or implied, in respect of such Seller, the Purchased Assets, the Business or the Assumed Liabilities, and any such other representations or warranties, express or implied, are hereby expressly disclaimed.

ARTICLE V
REPRESENTATIONS AND WARRANTIES OF BUYER

Buyer hereby represents and warrants to the Sellers as follows:

5.1 Organization and Good Standing. Buyer is a limited liability company duly organized, validly existing and in good standing under the Laws of its jurisdiction of formation, and has full power and authority to own, lease and operate its properties and carry on its business as it is now being conducted.

5.2 Power and Authority. Buyer has the requisite power and authority to enter into this Agreement and to perform its obligations hereunder, and the execution and delivery of this Agreement and the consummation of the Transactions and the performance of Buyer's obligations hereunder have been duly authorized by all requisite company action on the part of Buyer. This Agreement has been duly executed and delivered by Buyer and constitutes (assuming the due and valid authorization, execution and delivery thereof by the other parties thereto and the entry of approval of this Agreement and the Transactions by the Bankruptcy Court pursuant to the Sale Order) the legal, valid and binding obligation of Buyer, enforceable against Buyer in accordance with its terms.

5.3 No Contravention. Neither the execution and delivery of this Agreement nor the consummation of the Transactions will (a) violate or conflict with any provision of Buyer's Organizational Documents, or (b) violate or conflict with any Order, Governmental Entity or arbitrator, or any Law applicable to Buyer; other than, in the case of clause (b), compliance with the applicable requirements of the HSR Act or other Antitrust Laws if required.

5.4 Consents and Approvals. Except for (a) entry of the Sale Order, and (b) any consents or approvals as are reflected on Schedule 5.4, the execution, delivery and performance by Buyer of this Agreement and the Transactions, and the legality, validity, binding effect or enforceability of this Agreement and any agreements contemplated hereby, do not require any consents, waivers, authorizations or approvals of, or filings with, any third Persons or Governmental Entities, other than any filings required to be made under the HSR Act or applicable Antitrust Laws.

5.5 Litigation. There are no Proceedings pending or, to the knowledge of Buyer, threatened, that would reasonably be expected to adversely affect the ability of Buyer to consummate the Transactions in any material respect.

5.6 Financial Advisors. No Person has acted, directly or indirectly, as a broker, finder or financial advisor for Buyer in connection with the Transactions and no Person is entitled to any fee or commission or like payment in respect thereof.

5.7 Sufficient Funds; Adequate Assurances. Buyer has or will have as of the Closing, immediately available funds sufficient for the satisfaction of all of Buyer's obligations under this Agreement, including all fees, expenses of, and other amounts required to be paid by, Buyer in connection with the transactions contemplated hereby. As of the Closing, Buyer shall be capable of satisfying the conditions contained in sections 365(b)(1)(C) and 365(f)(2)(B) of the Bankruptcy Code with respect to the Assumed Contracts and the related Assumed Liabilities.

5.8 Credit Bid. The Credit Bid Letter has been duly authorized and executed and delivered by the Administrative Agent and the Lenders, as holders of outstanding indebtedness under the Credit Documents, and fully authorizes Buyers to, among other things, enter into and perform and comply with this Agreement and consummate the transactions contemplated hereby, including the credit bid contemplated in Section 3.2(a).

5.9 Acknowledgements; “As Is” “Where Is” Transaction.

(a) BUYER, ON ITS OWN BEHALF AND ON BEHALF OF THE BUYER GROUP, HEREBY ACKNOWLEDGES AND AGREES THAT IT HAS CONDUCTED TO ITS FULL SATISFACTION AN INDEPENDENT INVESTIGATION AND VERIFICATION OF THE BUSINESS, INCLUDING ITS FINANCIAL CONDITION, RESULTS OF OPERATIONS, ASSETS, LIABILITIES, PROPERTIES, CONTRACTS, ENVIRONMENTAL COMPLIANCE, EMPLOYEE MATTERS, REGULATORY COMPLIANCE, BUSINESS RISKS AND PROSPECTS OF THE SELLERS, THEIR AFFILIATES, AND THEIR RESPECTIVE BUSINESSES AND SUBSIDIARIES AND THE PURCHASED ASSETS AND THE ASSUMED LIABILITIES, AND, IN MAKING ITS DETERMINATION TO PROCEED WITH THE TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT, BUYER AND THE BUYER GROUP HAVE RELIED SOLELY ON THE RESULTS OF THEIR OWN INDEPENDENT INVESTIGATION.

(b) BUYER, ON ITS OWN BEHALF AND ON BEHALF OF THE BUYER GROUP, HEREBY ACKNOWLEDGES AND AGREES THAT BUYER AND THE BUYER GROUP HAVE RECEIVED FROM SELLERS CERTAIN PROJECTIONS, FORWARD-LOOKING STATEMENTS AND OTHER FORECASTS, AND PROSPECTIVE FORWARD-LOOKING STATEMENTS AND OTHER FORECASTS OR THIRD-PARTY INFORMATION RELATING TO THE SELLERS, THE BUSINESS, THE PURCHASED ASSETS AND THE ASSUMED LIABILITIES (WHETHER IN WRITTEN, ELECTRONIC, OR ORAL FORM, AND INCLUDING IN THE DATAROOM, MANAGEMENT MEETINGS, ETC.) (COLLECTIVELY, “PROJECTIONS”). BUYER, ON BEHALF OF ITSELF AND ON BEHALF OF THE BUYER GROUP, ACKNOWLEDGES THAT (I) SUCH PROJECTIONS ARE BEING PROVIDED SOLELY FOR THE CONVENIENCE OF BUYER AND THE BUYER GROUP TO FACILITATE THEIR OWN INDEPENDENT INVESTIGATION OF THE SELLERS, (II) THERE ARE UNCERTAINTIES INHERENT IN ATTEMPTING TO MAKE SUCH PROJECTIONS AND FORECASTS AND IN SUCH INFORMATION; (III) BUYER AND THE BUYER GROUP ARE FAMILIAR WITH SUCH UNCERTAINTIES, AND (IV) BUYER AND THE BUYER GROUP ARE TAKING FULL RESPONSIBILITY FOR MAKING THEIR OWN EVALUATION OF THE ADEQUACY AND ACCURACY OF ALL SUCH PROJECTIONS, FORECASTS, AND INFORMATION SO FURNISHED (INCLUDING THE REASONABLENESS OF THE ASSUMPTIONS UNDERLYING SUCH PROJECTIONS AND FORECASTS); AND (V) NONE OF THE SELLERS NOR ANY OTHER PERSON MAKES ANY REPRESENTATIONS OR WARRANTIES WITH RESPECT TO SUCH PROJECTIONS AND FORECASTS. BUYER, ON ITS OWN BEHALF AND ON BEHALF OF THE BUYER GROUP HEREBY DISCLAIMS RELIANCE ON ANY OF SUCH PROJECTIONS OR FORECASTS.

(c) BUYER, ON ITS OWN BEHALF AND ON BEHALF OF THE BUYER GROUP, FURTHER ACKNOWLEDGES AND AGREES THAT (I) THE REPRESENTATIONS AND WARRANTIES MADE BY SELLERS TO BUYER IN Article IV (AS QUALIFIED BY THE SELLERS' DISCLOSURE SCHEDULES) OR IN THE DOCUMENTS DELIVERED BY SELLERS TO BUYER IN ACCORDANCE WITH SECTION 3.1(b) AT THE CLOSING (COLLECTIVELY, THE "EXPRESS REPRESENTATIONS") ARE THE SOLE AND EXCLUSIVE REPRESENTATIONS, WARRANTIES AND STATEMENTS OF ANY KIND MADE TO BUYER AND ON WHICH BUYER OR THE BUYER GROUP MAY RELY IN CONNECTION WITH THE TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT AND (II) ALL OTHER REPRESENTATIONS, WARRANTIES AND STATEMENTS OF ANY KIND OR NATURE EXPRESSED OR IMPLIED, WHETHER IN WRITTEN, ELECTRONIC OR ORAL FORM, INCLUDING (A) THE COMPLETENESS OR ACCURACY OF, OR ANY OMISSION TO STATE OR TO DISCLOSE, ANY INFORMATION (OTHER THAN SOLELY TO THE EXTENT OF THE EXPRESS REPRESENTATIONS), INCLUDING IN THE DATAROOM, PROJECTIONS, MEETINGS, CALLS OR CORRESPONDENCE WITH MANAGEMENT OF THE SELLERS OR ANY OTHER PERSON ON BEHALF OF THE SELLERS OR ANY OF THEIR RESPECTIVE AFFILIATES OR REPRESENTATIVES, AND (B) ANY OTHER STATEMENT RELATING TO THE HISTORICAL, CURRENT OR FUTURE BUSINESS, FINANCIAL CONDITION, RESULTS OF OPERATIONS, ASSETS, LIABILITIES, PROPERTIES, CONTRACTS, ENVIRONMENTAL COMPLIANCE, EMPLOYEE MATTERS, REGULATORY COMPLIANCE, BUSINESS RISKS AND PROSPECTS OF THE SELLERS OR ANY OF THEIR RESPECTIVE AFFILIATES OR SUBSIDIARIES, OR THE QUALITY, QUANTITY OR CONDITION OF THE SELLERS' ASSETS, ARE, IN EACH CASE, EXPRESSLY DISCLAIMED BY EACH OF THE SELLERS, ON ITS OWN BEHALF AND ON BEHALF OF EACH OF THE OTHER SELLERS, INCLUDING WITH RESPECT TO (I) ANY WARRANTY, EXPRESS OR IMPLIED, OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE AS TO ANY PORTION OF THE PURCHASED ASSETS, AND (II) WITH RESPECT TO THE BUSINESS, FINANCIAL CONDITION, RESULTS OF OPERATIONS, ASSETS, LIABILITIES, AND PROSPECTS OF SELLERS OR THE BUSINESS OF THE SELLERS, THE MERCHANTABILITY OR FITNESS OF THE PERSONAL PROPERTY OR ANY OTHER PORTION OF THE PURCHASED ASSETS FOR ANY PARTICULAR PURPOSE, OR ANY OTHER MATTER RELATING TO THE PURCHASED ASSETS OR ANY PORTION THEREOF.

(d) UPON THE CLOSING DATE, SUBJECT TO THE EXPRESS REPRESENTATIONS AND THE PROVISIONS OF SECTION 10.5, BUYER WILL ACCEPT THE PURCHASED ASSETS AT THE CLOSING "AS IS," "WHERE IS," AND "WITH ALL FAULTS."

ARTICLE VI COVENANTS OF THE PARTIES

6.1 Conduct of Business Pending the Closing. Except (a) as required by applicable Law or by order of the Bankruptcy Court, (b) as otherwise expressly required by this Agreement, (c) as limited by the terms of the DIP Documents, or (d) with the prior written consent of Buyer (not to be unreasonably withheld, conditioned, or delayed), during the period from the Agreement Date

and continuing until the earlier of the termination of this Agreement in accordance with its terms or the Closing, the Sellers shall carry on the Business in the Ordinary Course of Business (subject to the requirements of the Bankruptcy Code and Bankruptcy Court) and use commercially reasonable efforts to preserve in all material respects (a) the operations, organization and goodwill of the Business intact (including by maintaining and renewing its Permits) and (b) relationships with Governmental Entities, customers, suppliers, partners, lessors, licensors, licensees, vendors, contractors, distributors, agents, officers and employees and others having business dealings with the Business. The Sellers shall notify Buyer in writing of any event, occurrence, fact, condition or change in the Business, assets, operations or prospects of the Sellers that results in, or would reasonably be expected to result in, a Material Adverse Effect, promptly upon the occurrence of any such event, occurrence, fact, condition or change.

6.2 Negative Covenants. Except as otherwise expressly provided by this Agreement or consented to in writing by Buyer (such consent not to be unreasonably withheld, conditioned, or delayed), or as may be required by order of the Bankruptcy Court or the Credit Documents, or as may be limited by the terms of the DIP Documents, during the period from the date of this Agreement until the earlier of the termination of this Agreement in accordance with its terms or the Closing, the Sellers shall not take any of the following actions:

(a) incur or commit to incur any capital expenditures other than as expressly contemplated under the Approved Budget;

(b) acquire or agree to acquire (by merging or consolidating with, or by purchasing any portion of the stock of, or other ownership interests in, or substantial portion of assets of, or by any other manner), any business or division or any corporation, partnership, association, limited liability company or other entity;

(c) sell, lease, mortgage, pledge, transfer, license, sublease, or terminate or surrender any [Owned Real Property] or grant any lien on or otherwise encumber or dispose of (or consent to the disposition of) any of the Purchased Assets (including any Available Contract), including the capital stock or equity interests of any of the Sellers, other than a Permitted Encumbrances or inventory sold in the Ordinary Course of Business;

(d) sell, assign, transfer, license, sublicense, covenant not to sue with respect to, abandon, cancel, terminate, permit to lapse or expire, or otherwise dispose of any Acquired Intellectual Property;

(e) adjust, split, combine, redeem, repurchase or reclassify any capital stock or equity interests or issue or propose or authorize the issuance of any other securities (including Debt securities, options, profits interests, warrants or any similar security exercisable for, or convertible into, such other security);

(f) incur or assume any Debt (other than in connection with the DIP Documents);

(g) guarantee any Debt of any Person or enter into any “keep well” or other agreement to maintain any financial condition of another Person or enter into any arrangement having the economic effect of any of the foregoing (other than pursuant to the Credit Documents);

(h) enter into, amend, restate, supplement, modify, waive or terminate any Available Contract that would reasonably be expected to be material to the Business, taken as a whole;

(i) adopt any amendments to the certificate of incorporation, bylaws or other Organizational Documents of any Seller;

(j) initiate, compromise, settle or agree to settle any Claim, complaint, or Proceeding, other than compromises or settlements in the Ordinary Course of Business that (i) involve only the payment of money damages not in excess of \$[●] individually or \$[●] in the aggregate, (ii) do not impose ongoing limits on the conduct of the Business, and (iii) result in a full release of all Sellers with regard to the Claims or complaint giving rise to such Proceeding;

(k) make, change or revoke any material Tax election (including entity classification elections), change any financial or Tax accounting method, except insofar as may have been required by applicable Law or a change in GAAP, consent to an extension or waiver of the limitation period applicable to any Tax claim or assessment, or surrender any right to claim a refund of a material amount of Taxes;

(l) except as required by Law, enter into, amend, negotiate or terminate any collective bargaining agreement or similar agreement with any labor union or labor organization representing any employees;

(m) except as required by Law, by the terms of any Benefit Plan or in the Ordinary Course of Business, (i) increase the compensation payable to or to become payable to, or the benefits provided to, pay any bonus to, or grant any equity or equity-based award to, any current or former employee, director, independent contractor or other individual service provider of the Sellers; (ii) grant, increase, pay, provide or modify any severance, retention, change in control or termination payment or benefit to, or loan or advance or accelerate any amount to, any current or former employee, director, independent contractor or other individual service provider of the Sellers; (iii) accelerate the vesting or payment, or fund or in any other way secure the payment, of any compensation or benefit for any current or former employee, director, independent contractor or other individual service provider of the Sellers; (iv) approve, establish, adopt, enter into, amend or terminate any Assumed Benefit Plan; or (v) hire or terminate (other than for cause) any Business Employee, or independent contractor or other individual service provider of the Business with annual target cash compensation greater than \$100,000;

(n) implement any employee layoffs that would result in an obligation to give notice at or before the Closing Date under the WARN Act or other similar law;

(o) (i) enter into any Contract or arrangement (including any loan or similar arrangement) with a Related Party or that would be a Related Party Transaction if it existed on the Agreement Date or (ii) make payments to or on behalf of any Related Party (including by exercise of set-off rights or otherwise), other than in accordance with the terms of an existing, disclosed Related Party Transaction;

(p) receive, collect, compile, use, store, process, share, safeguard, secure (technically, physically and administratively), dispose of, destroy, disclose, or transfer (including

cross-border) Personal Information (or fail to do any of the foregoing, as applicable) in violation of any (i) applicable Privacy Laws, (ii) privacy policies or notices of the Sellers, or (iii) the Sellers' contractual obligations with respect to Personal Information; or

(q) commit to take any of the foregoing actions or any other action which would reasonably be expected to materially delay or impede the satisfaction of any of the conditions set forth in Article VIII.

6.3 Access.

(a) Subject to applicable Law, until the Closing Date, the Sellers (i) shall give Buyer and its Representatives reasonable access during normal business hours to the offices, assets, contracts, properties, officers, employees, accountants, auditors, financial advisors, counsel (other than counsel to the Sellers in connection with the Cases) and other representatives, books and records, of the Sellers and their Affiliates, (ii) shall furnish to Buyer and its Representatives such financial, operating and property related data and other information as such Persons reasonably request, (iii) shall instruct the employees, accountants, counsel and financial advisors of the Sellers and their Affiliates to cooperate reasonably with Buyer in its investigation of the Business; and (iv) shall, upon reasonable request of Buyer, use commercially reasonable efforts to provide Buyer with access to their customers, suppliers, vendors, distributors, manufacturers and other Persons with whom the Business has had material dealings; provided, however, that Buyer will not, and will not permit any of its Representatives to, contact any officer, manager, director, employee, customer, supplier, lessee, lessor, lender, licensee, licensor, distributor, noteholder or other material business relation of the Sellers prior to the Closing with respect to the Sellers, their business or the transactions contemplated by this Agreement without the prior written consent of the Sellers for each such contact. No investigation by Buyer prior to or after the date of this Agreement shall diminish or obviate any of the representations, warranties, covenants or agreements of the Sellers contained in this Agreement. For the avoidance of doubt, nothing in this Section 6.3(a) shall require Sellers to take any such action if (i) such action may result in a waiver or breach of any attorney/client privilege or (ii) such action could reasonably be expected to result in violation of applicable Law or Order.

(b) From and after the Closing Date until the conclusion of the Cases and dissolution of Sellers, Buyer shall give the Sellers and the Sellers' Representatives reasonable access during normal business hours to the books and records, including work papers, schedules, memoranda, Tax Returns, Tax schedules, Tax rulings, and other documents (for the purpose of examining and copying) relating to the Purchased Assets, the Excluded Assets, the Assumed Liabilities or the Excluded Liabilities with respect to periods or occurrences prior to the Closing Date, 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 Cases. Buyer shall, and shall cause each of its controlled Affiliates to, cooperate with the Sellers as may reasonably be requested by the Sellers for such purposes. For the avoidance of doubt, nothing in this Section 6.3(b) shall require Buyer to take any such action if (i) such action may result in a waiver or breach of any attorney/client privilege, (ii) such action could reasonably be expected to result in violation of applicable Law or Order, or (iii) providing such access or information would be reasonably expected to be disruptive to its normal business operations. Unless otherwise consented to in

writing by the Sellers, Buyer will not, for a period of three (3) years following the Closing Date, destroy, alter or otherwise dispose of any of the books and records without first offering to surrender to the Sellers such books and records or any portion thereof that Buyer may intend to destroy, alter or dispose of. From and after the Closing, Buyer 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) The information provided pursuant to this Section 6.3 will be used solely for the purpose of consummating the transactions contemplated hereby, and will be governed by all the terms and conditions of Section [●] of the [Prepetition First Lien Financing Agreement]. None of Sellers makes any representation or warranty as to the accuracy of any information, if any, provided pursuant to this Section 6.3, and Buyer may not rely on the accuracy of any such information, in each case, other than the Express Representations.

6.4 Confidentiality. From and after the Closing Date:

(a) the Sellers will treat and hold as confidential all of the Confidential Information, and will not, directly or indirectly, without the prior written consent of Buyer, disclose or use any Confidential Information. The Sellers' obligation not to disclose Confidential Information shall not apply to Confidential Information that it shall be required to disclose by Law; provided, however, that, prior to making such disclosure, the Sellers shall notify Buyer promptly to the extent not prohibited by Law so that Buyer may, seek confidential treatment or protection of such Confidential Information at Buyer's sole cost and expense.

(b) in the event that the Sellers are required in any Proceeding to disclose any Confidential Information, the Sellers will notify Buyer promptly of the requirement to the extent not prohibited by Law so that Buyer may seek an appropriate protective order at Buyer's sole cost and expense or waive compliance with the provisions of this Section 6.4.

6.5 Public Announcements. From the Agreement Date, Buyer and the Sellers will consult with each other before issuing, and provide each other the reasonable opportunity to review and comment upon, any press release, any court filing or pleading filed with the Bankruptcy Court relating primarily to this Agreement or the Transactions, or other public statements with respect to the Transactions, and neither Buyer nor the Sellers shall issue any such press release or make any such public statement without the prior written approval of the other Party, in each case except as may be required by Law, or by obligations pursuant to any listing agreement with any national securities exchange. Sellers shall use their respective commercially reasonable efforts to cause their respective Affiliates, employees, officers and directors to comply with this Section 6.5.

6.6 Employment Matters.

(a) At least ten (10) days prior to Closing, Buyer shall extend to each Business Employee a written offer of employment, which shall have been first reviewed by Sellers, and which Sellers shall have had an opportunity to comment upon, providing for a position that is the same or no less favorable than such employee's position immediately prior to the Closing (including level of responsibility, primary location of employment and authority) on the terms set

forth in this Section 6.6 (“Transfer Offer”) and that, if accepted, shall become effective immediately after the Closing. Business Employees who accept such Transfer Offers and begin active employment with Buyer in accordance with this Section 6.6 shall be referred to herein as “Transferred Employees.” For a period of no less than one (1) year or, if sooner, the Transferred Employee’s termination of employment with Buyer or its Affiliates, Buyer or its affiliates shall provide each Transferred Employee (i) at least the same base salary or hourly wage rate and target incentive cash bonus opportunities applicable to such Transferred Employee as of the Closing Date and (ii) other material employee benefits (but excluding any equity based compensation, defined benefit plan benefits or long-term deferred compensation) that are comparable in the aggregate to the benefits such Transferred Employee received under the Benefit Plans as of the Closing Date. Buyer shall notify Sellers in a reasonable timeframe with respect to whether each such offer has been accepted or rejected. Nothing herein shall be construed as a representation or guarantee by any Seller or any of their respective Affiliates that any or all of the employees of Sellers will accept the Transfer Offer or will continue in employment with Buyer following the Closing for any period of time. Buyer shall carry out all necessary actions to effect the timely transfer of employment to it of each such Transferred Employee who has accepted a Transfer Offer. Effective as of the Closing, each Transferred Employee shall cease to be an employee of each Seller or their respective Affiliates.

(b) Solely to the extent required by applicable Law, Sellers shall pay each Transferred Employee all accrued but unused vacation or paid time-off for periods prior to the Closing Date as soon as administratively practicable following the Closing Date or as required by applicable Law. Buyer shall promptly (and, in any event, within ten (10) Business Days following the later of the Closing Date and the date of the applicable payment) reimburse Sellers for any payments made by Sellers to any Transferred Employees in respect of earned but unused vacation, sick leave and personal time paid to Transferred Employees in accordance with this Section 6.6(b). To the extent that applicable Law does not require Sellers to pay any accrued but unused vacation, sick leave and personal time to any Transferred Employee in accordance with this Section 6.6(b), Buyer shall recognize and assume all Liabilities with respect to such Transferred Employee’s accrued but unused vacation, sick leave and personal time. In addition, Buyers shall allow Transferred Employees to take any vacation, sick leave and personal time that was scheduled prior to the Closing.

(c) Following the Closing, Buyer shall give each Transferred Employee full credit for prior service with the Sellers for purposes of (i) eligibility and vesting under any health or welfare Benefit Plans of Buyer (for the avoidance of doubt, excluding defined benefit pension accruals, deferred compensation, or equity or equity-based incentive plans, or any plan under which such crediting would be prohibited), and (ii) determination of benefit levels under any employee benefit plans of Buyer relating to paid time off, in each case, for which the Transferred Employee is otherwise eligible and in which the Transferred Employee is offered participation, except where such credit would result in a duplication of benefits. Buyer shall use commercially reasonable efforts to waive, or cause to be waived, any limitations on benefits relating to pre-existing conditions to the same extent such limitations are waived under any comparable plan of the Sellers and use commercially reasonable efforts to recognize for purposes of annual deductible and out-of-pocket limits under its medical and dental plans, deductible and out-of-pocket expenses paid by Transferred Employees in the calendar year in which the Closing Date occurs.

(d) Without limiting the generality of Section 2.4, each Seller shall retain responsibility for, and satisfy all Liabilities with respect to, all payments and benefits of the employees (and their spouses, dependents and beneficiaries, and all former employees, agents and representatives) under Benefit Plans that are not Assumed Benefit Plans accrued up to the Closing Date or which relate to events prior to the Closing Date under in accordance with the terms thereof and applicable Laws. The Seller and Buyer shall work in good faith to transfer sponsorship of any Assumed Benefit Plan (including any third-party insurance contracts or services agreements thereto) from Seller to Buyer or its Affiliates.

(e) Without limiting the generality of Article II, each Seller shall be responsible for the following claims or benefit payments of all employees (and their spouses, dependents and beneficiaries, and all former employees, agents and representatives) accrued up to the Closing Date or which related to events prior to the Closing Date regardless of whether such claims are filed before or after the Closing Date under each Benefit Plan that is not an Assumed Benefit Plan:

(i) with respect to death or dismemberment claims, those in respect of which the event occurred prior to the Closing Date;

(ii) with respect to health claims, those in respect of which the services were provided or the supplies were purchased prior to the Closing Date; and

(iii) with respect to short term and/or long term disability claims and workers' compensation claims, for those claims resulting from events that occurred prior to the Closing Date, including, to the extent covered under the Benefit Plans, for recurring illnesses which first originated with events occurring prior to the Closing Date, whether or not such claims continue after the Closing Date.

(f) This Section 6.6 shall operate exclusively for the benefit of the Sellers and Buyer and not for the benefit of any other Person, including any current or former employees of the Sellers or the Transferred Employees, which Persons shall have no rights to enforce this Section 6.6. Nothing in this Section 6.6 shall: (i) entitle any Transferred Employee to employment with Buyer; (ii) change such Transferred Employee's status as an employee-at-will or restrict the ability of Buyer to terminate the service of any Transferred Employee at any time or for any reason; (iii) create any third party rights in any current or former service provider of the Sellers (including any beneficiary or dependent thereof); or (iv) be treated as an amendment of any Benefit Plan or other employee benefit plan or arrangement or restrict the ability of Buyer, the Sellers or any of their respective Affiliates to amend, modify, discontinue or terminate any Benefit Plan or other employee benefit plan or arrangement.

(g) Buyer shall be solely responsible for any and all obligations and Liabilities arising under Section 4980B of the Tax Code with respect to all "M&A qualified beneficiaries" as defined in 26 C.F.R. § 54.4980B-9.

(h) For any Transferred Employees who are principally based outside the United States, the provisions of this Section 6.6 shall apply to such employees *mutatis mutandis* to the maximum extent permitted by applicable Law.

6.7 Reasonable Efforts; Approvals.

(a) Buyer and the Sellers will use reasonable best efforts to take, or cause to be taken, all actions and use reasonable best efforts to do, or cause to be done, and to assist and cooperate with the other Parties in doing, all things which are necessary, proper or advisable to consummate and make effective the Transactions including: (i) the transfer, modification or reissuance of all Permits, (ii) the obtaining or taking of all other necessary actions, non-actions or waivers from Governmental Entities and the making of all other necessary registrations and filings with Governmental Entities (including any regulatory authorizations), and (iii) the execution and delivery of any additional certificates, agreements, instruments, reports, schedules, statements, consents, documents and information necessary to consummate the Transactions. The covenants in this Section 6.7(a) shall survive the Closing.

(b) In furtherance of the foregoing, Buyer and each Seller shall use its commercially reasonable efforts to obtain any consents and approvals from any third party other than a Governmental Entity that may be required in connection with the Transactions (the “Third Party Consents”). Without limiting the generality of the foregoing sentence, the Sellers shall not be required to compensate any applicable third party, commence or participate in any Proceeding or offer or grant any accommodation (financial or otherwise, including any accommodation or arrangement to indemnify, remain primarily, secondarily or contingently liable for any Assumed Liability) to any applicable third party in connection with the Sellers’ obligations under this Section 6.7(b); provided that the Sellers shall obtain the written consent of Buyer prior to any Seller paying any such compensation, commencing or participating in any Proceeding, or offering or granting any such accommodation. The covenants in this Section 6.7(b) shall survive the Closing.

(c) The obligations of the Sellers pursuant to this Agreement, including this Section 6.7, 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 Cases), Sellers’ DIP Facility, and each of 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) and Sellers’ duty to seek and obtain the highest or otherwise best price for the Acquired Assets as required by the Bankruptcy Code

6.8 Corporate Name Change. Within 30 days following the Closing, each Seller shall deliver to Buyer (a) a duly executed and acknowledged certificate of amendment to such Seller’s certificate of incorporation or other Organizational Document which is required to change such Seller’s corporate or other entity name to a new name that is, in Buyer’s reasonable judgment, sufficiently dissimilar to such Seller’s present name and, in all cases, does not include the name “Progrexion”, “Prime” and “[●]” so as to avoid confusion and to make each Seller’s present name available to Buyer, and (b) appropriate documents, duly executed and acknowledged, which are required to change such Seller’s name to such new name in any jurisdiction in which such Seller is qualified to do business, in forms reasonably satisfactory to Buyer. Buyer and any Affiliate of Buyer are hereby authorized (but not obligated) to file such certificates or other documents (at Buyer’s expense) with the applicable Governmental Entities in order to effectuate such change of name at or after the Closing as Buyer may elect.

6.9 Assignment of Contracts and Rights. To the maximum extent permitted by the Bankruptcy Code, the Purchased Assets of the Sellers shall be assumed and assigned to Buyer pursuant to section 365 of the Bankruptcy Code as of the Closing Date or such other date as specified in the Sale Order or this Agreement, as applicable. Notwithstanding any other provision of this Agreement to the contrary, this Agreement shall not constitute an agreement to assign any asset or any right thereunder if, after giving effect to the Sale Order, an attempted assignment without the consent of a third party (including any Governmental Entity) would constitute a breach or in any way adversely affect the rights of Buyer following the Closing. If, as of the Closing Date, such consent is not obtained or such assignment is not attainable pursuant to sections 105, 363 or 365 of the Bankruptcy Code other than as a result of the failure by the Sellers or Buyer, as applicable, to pay or otherwise satisfy all Cure Amounts or the Assumed Cure Amounts, then the Sellers and Buyer will cooperate in a mutually agreeable arrangement, to the extent feasible (without infringing upon the legal rights of any third party or violating any Law), under which Buyer would obtain the benefits and assume the obligations (to the extent otherwise constituting Assumed Liabilities hereunder, as if such asset were transferred to the Buyer at Closing) thereunder in accordance with this Agreement, including subcontracting, sublicensing or subleasing to Buyer, or under which the Sellers would enforce for the benefit of, and at the direction of, Buyer, with Buyer assuming all of the Sellers' obligations (to the extent constituting Assumed Liabilities hereunder as if such asset were transferred to the Buyer at Closing), and any and all rights of the Sellers thereunder.

6.10 Tax Matters

(a) Subject to Section 2.3(k), all Transfer Taxes arising out of the transfer of the Purchased Assets and any Transfer Taxes required to effect any recording or filing with respect thereto shall be borne by Buyer. The Transfer Taxes shall be calculated assuming that no exemption from Transfer Taxes is available, unless otherwise indicated in the Sale Order or, at Closing, the Sellers or Buyer, as appropriate, provide an appropriate resale exemption certificate or other evidence acceptable to Buyer or the Sellers, as appropriate, of exemption from such Transfer Taxes. The Sellers and Buyer shall cooperate to timely prepare and file any Tax Returns relating to such Transfer Taxes, including any claim for exemption or exclusion from the application or imposition of any Transfer Taxes. The Sellers shall file all necessary documentation and returns with respect to such Transfer Taxes when due, and shall promptly, following the filing thereof, furnish a copy of such return or other filing and a copy of a receipt showing payment of any such Transfer Tax to Buyer. Each Party shall furnish or cause to be furnished to the other, upon request, as promptly as practicable, such information and assistance relating to the Purchased Assets and the Business as is reasonably necessary for filing of all Tax Returns, including any claim for exemption or exclusion from the application or imposition of any Taxes or making of any election related to Taxes, the preparation for any audit by any taxing authority and the prosecution or defense of any claim, suit or proceeding relating to any Tax Return.

(b) Other than Transfer Taxes, all Liability for Taxes with respect to the Purchased Assets attributable to the Pre-Closing Tax Period (the "Pre-Closing Taxes") shall be borne by the Sellers, and all Liability for Taxes with respect to the Purchased Assets attributable to the Post-Closing Tax Period shall be borne by Buyer. For the purposes of this Agreement, with respect to Taxes attributable to any taxable year or other taxable period beginning on or before and ending after the Closing Date, the portion of any such Taxes that are treated as Pre-Closing Taxes

shall be: (i) in the case of Taxes based upon, or related to income, receipts, profits, or wages or imposed in connection with the sale, transfer or assignment of property, or required to be withheld, deemed equal to the amount which would be payable if such taxable year or other taxable period ended on the Closing Date, and (ii) in the case of other Taxes deemed to be the amount of such Taxes for the entire period multiplied by a fraction the numerator of which is the number of days in the period ending on the Closing Date and the denominator of which is the number of days in the entire period.

(c) The Parties agree that the transfer of the Purchased Assets to the Buyer is intended to be treated as a taxable acquisition of assets and the Parties shall prepare and file all relevant U.S. federal income Tax Returns consistent with such intended treatment and Section 3.3, respectively, absent a contrary “determination” (within the meaning of Section 1313(a) of the Code).

(d) The obligations set forth in this Section 6.10 with respect to Taxes shall survive until the date that is thirty (30) days following the expiration of the applicable statute of limitations.

6.11 Available Contracts List. Sellers shall use commercially reasonable efforts to provide Buyer with a true and correct list of all Available Contracts (and copies thereof) promptly following the date hereof and in no event later thirty (30) days from the Agreement Date.

6.12 HSR Act; Antitrust Laws.

(a) Sellers and Buyer shall, if required in connection with the transactions contemplated hereby, (i) promptly make the filings required by any Governmental Entity, including under the HSR Act or any other Antitrust Laws and, in any event, within ten (10) Business Days after the Agreement Date in the case of all filings required under the HSR Act and all other filings required by other Antitrust Laws, (ii) comply at the earliest practicable date with any request for additional information, documents or other materials received from any Governmental Entity, whether such request is formal or informal, (iii) cooperate with the other Parties in connection with resolving any investigation or other inquiry concerning the transactions contemplated by this Agreement commenced by any Governmental Entity, and (iv) cooperate with the other Parties in connection with any other Party’s filing. Each Party shall be responsible for the payment of its respective fees and expenses, including legal fees and expenses, in complying with any request for additional information or documentary material from any Governmental Entity; *provided* that all filing fees required to be paid in connection with any filings hereunder shall be borne equally by Sellers and Buyer. Except where prohibited by applicable Law or any Governmental Entity, and subject to Section 6.4, each Party shall promptly inform the other Parties of any oral communication with, and provide copies of written communications with, any Governmental Entity regarding any such filing. No Party shall agree to participate in any formal meeting with any Governmental Entity in respect of any such filings, investigation, or other inquiry without giving the other Parties prior notice of the meeting and, to the extent permitted by such Governmental Entity, the opportunity to attend and/or participate. Subject to applicable Laws and any Governmental Entity, the Parties will coordinate, consult and cooperate with one another in connection with any analyses, appearances, presentations, memoranda, briefs, arguments, opinions and proposals made or submitted by or on behalf of any Party relating to proceedings under the

HSR Act or any other Antitrust Law, if any. Except where prohibited by applicable Law or any Governmental Entity, and subject to Section 6.4, the Parties will provide each other with copies of all correspondence, filings or communications, including any documents, information and data contained therewith, between them or any of their representatives, on the one hand, and any Governmental Entity or members of its staff, on the other hand, with respect to this Agreement and the transactions contemplated hereby.

(b) Buyer and each Seller shall use their respective reasonable best efforts to obtain any required approval from any Governmental Entity and to resolve such objections, if any, as may be asserted by any Governmental Entity with respect to the transactions contemplated by this Agreement under the HSR Act, the Sherman Act, as amended, the Clayton Act, as amended, the Federal Trade Commission Act, as amended, and any other United States federal or state or foreign Laws that are designed to prohibit, restrict or regulate actions having the purpose or effect of monopolization or restraint of trade (collectively, the “Antitrust Laws”). Buyer and each Seller shall use their respective reasonable best efforts to take such action as may be required to cause the expiration of the notice periods under the HSR Act or other Antitrust Laws with respect to such transactions as promptly as practicable after the execution of this Agreement.

ARTICLE VII BANKRUPTCY PROVISIONS

7.1 Expense Reimbursement. In consideration for Buyer having expended considerable time and expense in connection with this Agreement and the negotiation thereof and the identification and quantification of assets of the Sellers, if this Agreement is terminated for any reason other than Section 9.1(b)(i) or Section 9.1(c)(i), the Sellers shall pay Buyer, in accordance with the terms of this Agreement (including Section 9.2) and the Bidding Procedures Order an aggregate amount equal to the Expense Reimbursement; provided, however, if the Agreement is terminated pursuant to Section 9.1(b)(v), Section 9.1(b)(vii) or Section 9.1(c)(ii), any such Expense Reimbursement shall only be due and payable upon consummation of an Alternate Transaction from the proceeds of such Alternate Transaction. Each of the Parties acknowledges and agrees that the agreements contained in this Section 7.1 are an integral part of the Transactions and this Agreement and that the Expense Reimbursement is not a penalty, but rather is liquidated damages in a reasonable amount that will reasonably compensate Buyer in the circumstances in which such Expense Reimbursement is payable for the efforts and resources expended and opportunities foregone by Buyer while negotiating and pursuing the Transactions and 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. In accordance with Section 7.3, Sellers shall file with and seek the entry by the Bankruptcy Court of the Bidding Procedures Order approving the payment of the Expense Reimbursement. The claim of Buyer in respect of the Expense Reimbursement shall become and constitute an allowed administrative expense claim against each of the Sellers under sections 503(b) and 507(a)(2) of the Bankruptcy Code in the Cases (without the need to file a proof of claim). The Expense Reimbursement shall be payable on a joint and several basis by the Sellers.

7.2 Bankruptcy Court Orders and Related Matters.

(a) The Sellers and Buyer acknowledge that this Agreement and the Transactions are subject to entry of, as applicable, the Bidding Procedures Order and the Sale Order. In the event of any discrepancy between this Agreement and the Bidding Procedures Order and the Sale Order, the Bidding Procedures Order and the Sale Order shall govern. In the event the entry of the Sale Order or the Bidding Procedures Order is appealed, Sellers shall use commercially reasonable efforts to defend such appeal, and Buyer shall cooperate in such efforts. Buyer and Sellers acknowledge that Sellers must take reasonable steps to demonstrate that they have sought to obtain the highest or otherwise best offer for the Purchased Assets, including giving notice thereof to the creditors of Sellers and other interested parties, providing information about Sellers' business to prospective bidders, entertaining higher or otherwise better offers from such prospective bidders, and, in the event that additional qualified prospective bidders desire to bid for the Purchased Assets, conducting the Auction. Buyer agrees and acknowledges that Sellers and their Affiliates will be permitted, and will be permitted to cause their Representatives, to initiate contact with, solicit or encourage submission of any inquiries, proposals or offers by, respond to any unsolicited inquiries, proposals or offers submitted by, and enter into any discussions or negotiations regarding any of the foregoing with, any Person (in addition to Buyer and its Affiliates, agents and Representatives).

(b) The bidding procedures to be employed with respect to this Agreement and the Auction will be those reflected in the Bidding Procedures Order.

(c) Buyer will provide adequate evidence and assurance under the Bankruptcy Code of the future performance by Buyer of each Assumed Contract. Buyer will, and will cause its Affiliates to, reasonably promptly take all actions reasonably required or requested by Sellers to assist in obtaining a Bankruptcy Court finding that there has been an adequate demonstration of adequate assurance of future performance under the Assumed Contracts, such as furnishing affidavits, non-confidential financial information and other documents or information for filing with the Bankruptcy Court and making Buyer's Representatives available to testify before the Bankruptcy Court. Subject to the other terms and conditions of this Agreement, Buyer will, from and after the Closing Date, (i) assume all Liabilities of Sellers under the Assumed Contracts and (ii) satisfy and perform all of the Liabilities related to each of the Assumed Contracts when the same are due thereunder.

(d) If this Agreement and the sale of the Purchased Assets to Buyer on the terms and conditions hereof are determined to be the "highest or otherwise best offer" in accordance with the Bidding Procedures Order, Buyer and Sellers agree to use commercially reasonable efforts to cause the Bankruptcy Court to enter the Sale Order in a form mutually agreed between Buyer and Sellers.

(e) The Sellers shall, consistent with their respective obligations as fiduciaries under the Bankruptcy Code, cooperate with Buyer concerning the Bidding Procedures Order, the Sale Order, and any other orders of the Bankruptcy Court relating to the Transactions. The Sellers shall give notice under the Bankruptcy Code of the request for the relief specified in the Bidding Procedures Motion to all creditors and parties in interest entitled to notice thereof pursuant to the Bidding Procedures Order, the Bankruptcy Code, the Bankruptcy Rules, the local rules of the Bankruptcy Court, and any other applicable orders of the Bankruptcy Court, including all Persons that have asserted Encumbrances on any Seller's assets, and all non-debtor parties to the Available

Contracts of the Sellers and other appropriate notice, including such additional notice as the Bankruptcy Court shall direct or as Buyer may reasonably request, and provide appropriate opportunity for hearing, to all parties entitled thereto, of all motions, orders, hearings, or other Proceedings in the Bankruptcy Court relating to this Agreement, the Transactions and the Bidding Procedures Motion.

(f) The Sellers shall provide draft copies of all orders, motions, pleading, applications and other material documents they intend to file with the Bankruptcy Court in connection with the sale of the Purchased Assets or the Transactions not less than three (3) Business Days prior to the date when the Sellers plan to file such document (provided that if the delivery of such drafts at least three (3) Business Days is not reasonably practicable, such drafts shall be delivered to Buyer as soon as reasonable practicable prior to filing). The form and substance of any such document hereunder shall be mutually acceptable to Buyer and Seller, provided that no Party shall unreasonably withhold, condition or delay its consent.

(g) Sellers covenant and agree that if the Sale Order is entered, the terms of any plan submitted by Sellers to the Bankruptcy Court for confirmation, or the terms of any other sale of Sellers' or their Affiliates' assets (or any other Order) submitted by Sellers to the Bankruptcy Court, for approval, will not conflict with, supersede, abrogate, nullify, modify or restrict the terms of this Agreement and the rights of Buyer hereunder, or in any way prevent or interfere with the consummation or performance of the Transactions including any transaction that is contemplated by or approved pursuant to the Sale Order.

(h) For the avoidance of doubt, nothing in this Agreement will restrict Sellers or their Affiliates from selling, disposing of or otherwise transferring any Excluded Assets (other than Available Contracts, which the Sellers may not terminate, amend, or otherwise dispose of, or reject in the Cases, without Buyer's consent) or from settling, delegating or otherwise transferring any Excluded Liabilities, or from entering into discussions or agreements with respect to the foregoing.

7.3 Bankruptcy Milestones. The Parties shall achieve the following milestones by the dates set forth below (or such later date as may be agreed between the Parties, such agreement not to be unreasonably withheld, conditioned or delayed) (collectively, the "Bankruptcy Milestones"):

(a) On the Petition Date, the Debtors shall file a motion with the Bankruptcy Court seeking approval of the DIP Facility.

(b) On or before the date that is two (2) days after the Petition Date, the Debtors shall have filed the Bidding Procedures Motion in the Bankruptcy Court.

(c) On or before the date that is four (4) days after the Petition Date, the Bankruptcy Court shall have entered the Interim DIP Order.

(d) On or before the date that is twenty-five (25) days after the Petition Date, the Bankruptcy Court shall have entered the Final DIP Order.

(e) On or before the date that is thirty (30) days after the Petition Date, the Bankruptcy Court shall have entered the Bidding Procedures Order.

(f) On or before the date that is no later than fifty-eight (58) days after the Petition Date, each of the Debtors shall have filed schedules and statements of financial affairs pursuant to rule 1007 of the Federal Rule of Bankruptcy Procedure.

(g) On or before the date that is sixty (60) days after the Petition Date, the Bid Deadline (as defined in the Bidding Procedures Order) shall have occurred.

(h) On or before the date that is sixty-five (65) days after the Petition Date, the Debtors shall have commenced the Auction, if necessary.

(i) On or before the date that is seventy (70) days after the Petition Date, the Bankruptcy Court shall have entered the Sale Order.

(j) On or before the date that is one hundred and five (105) days after the Petition Date, the Closing shall have occurred.

ARTICLE VIII CONDITIONS TO OBLIGATIONS OF THE PARTIES

8.1 Conditions Precedent to Obligations of Buyer. The obligation of Buyer to consummate the Transactions is subject to the satisfaction (or waiver by Buyer in Buyer's sole discretion) on or prior to the Closing Date of each of the following conditions:

(a) Accuracy of Representations and Warranties. The representations and warranties of the Sellers contained in Section 4.1 (Organization and Good Standing), Section 4.2 (Power and Authority), Section 4.14 (Financial Advisors), and Section 4.18 (Related Party Transactions) shall be true and correct on the date hereof and on and as of the Closing Date, with the same force and effect as though such representations and warranties had been made on and as of the Closing Date (except to the extent that any such representation or warranty is expressly made as of a specified date). The representations and warranties of the Sellers contained in Section 4.6 (Title to Purchased Assets) shall be true and correct in all material respects on the date hereof and on and as of the Closing Date, with the same force and effect as though such representations and warranties had been made on and as of the Closing Date (except to the extent that any such representation or warranty is expressly made as of a specified date). All other representations and warranties of the Sellers contained in Article IV shall be true and correct on the date hereof and as of the Closing Date (except to the extent that any such representation or warranty is expressly made as of a specified date), except where the failure of any such representations or warranties to be true and correct (without giving effect to any limitations to "material" or "Material Adverse Effect"), either individually or in the aggregate, has resulted in or would reasonably be expected to result in a Material Adverse Effect.

(b) Performance of Obligations. Each of the Sellers shall have performed in all material respects all obligations and agreements contained in this Agreement required to be performed by it on or prior to the Closing Date.

(c) Third Party Consents. The Sellers shall have obtained all consents and approvals set forth in Schedule 8.1(c).

(d) DIP Financing. The DIP Documents shall have each been approved by the Bankruptcy Court pursuant to the Final DIP Order, which shall be in form and substance acceptable to Buyer.

(e) No Material Adverse Effect. There shall have been no Material Adverse Effect from the Agreement Date through the Closing Date.

(f) No Challenges to Credit Bid. There shall be no pending challenge or contest to the validity, amount, perfection or priority of the DIP Documents, the Loan Documents or other Claims of Buyer or Administrative Agent (as applicable) thereunder that would prevent or otherwise limit Buyer's ability to credit bid the Credit Bid Amount, unless any such challenge or contest shall have been resolved to the reasonable satisfaction of Buyer in its sole discretion;

(g) Deliverables. The Sellers shall have delivered, or caused to be delivered, to Buyer each deliverable required pursuant to Section 3.1(b).

(h) Bidding Procedures Order. The Bankruptcy Court shall have entered the Bidding Procedures Order, which Order shall have become a Final Order.

(i) Sale Order. The Bankruptcy Court shall have entered the Sale Order, which Order shall have become a Final Order.

(j) Lexington Law Sale Transaction. Lexington Law shall have entered into definitive written agreements, in form and substance acceptable to Buyer, regarding a sale transaction with respect to the Lexington Law assets pursuant to which the purchaser of Lexington Law's assets will provide certain services to Buyer.

8.2 Conditions Precedent to the Obligations of the Sellers. The obligation of the Sellers to consummate the Transactions is subject to the satisfaction (or waiver by the Sellers) at or prior to the Closing Date of each of the following conditions:

(a) Accuracy of Representations and Warranties. The representations of Buyer contained in Section 5.1 (Organization and Good Standing), Section 5.2 (Power and Authority), Section 5.3 (No Contravention) and Section 5.6 (Financial Advisors) shall be true and correct on the date hereof and on and as of the Closing Date, with the same force and effect as though such representations and warranties had been made on and as of the Closing Date (except to the extent that any such representation or warranty is expressly made as of a specified date). All other representations and warranties contained in Article V shall be true and correct on the date hereof and as of the Closing Date (except to the extent that any such representation or warranty is expressly made as of a specified date), except where the failure of any such representations or warranties to be true and correct (without giving effect to any limitations to "material" or similar qualifier), either individually or in the aggregate, has resulted in or would reasonably be expected to have an adverse effect on Buyer's ability to perform its obligations under this Agreement in any material respect.

(b) Performance of Obligations. Buyer shall have performed in all material respects all obligations and agreements contained in this Agreement required to be performed by it prior to or on the Closing Date.

(c) Deliverables. Buyer shall have delivered to the Sellers each deliverable required pursuant to Section 3.1(c).

(d) Bidding Procedures Order. The Bankruptcy Court shall have entered the Bidding Procedures Order, which Order shall not be subject to a stay or otherwise been vacated.

(e) Sale Order. The Bankruptcy Court shall have entered the Sale Order, which Order shall not be subject to a stay or otherwise been vacated.

(f) Restructuring Support Agreement. Concurrently with the execution of this Agreement, Sellers and Lenders shall each have executed and delivered a binding restructuring support agreement with respect to the wind down and liquidation of the Debtor entities and businesses following the Closing, in form and substance satisfactory to Sellers (the “RSA”), and such RSA shall remain in full force and effect, there being no material breach by the Lenders of any provisions thereof.

8.3 Conditions Precedent to Obligations of Buyer and the Sellers. The respective obligations of Buyer and the Sellers to consummate the Transactions are subject to the fulfillment, on or prior to the Closing Date, of the condition (which may be waived by the Parties in whole or in part to the extent permitted by applicable Law) that (a) no provision of any applicable Law or Order enacted, entered, promulgated, enforced or issued by any Governmental Entity shall be in effect that prevents, renders illegal or otherwise prohibits the sale and purchase of the Purchased Assets or any of the other Transactions, and (b) the waiting period applicable to the transactions contemplated by this Agreement under the HSR Act and any other applicable Antitrust Laws, if required, shall have expired or early termination shall have been granted.

8.4 Frustration of Closing Conditions. Upon the occurrence of the Closing, any condition set forth in this Article VIII that was not satisfied as of the Closing will be deemed to have been waived for all purposes by the Party having the benefit of such condition as of and after the Closing. Neither the Sellers nor Buyer may rely on the failure of any condition to their respective obligations to consummate the Transactions set forth in Section 8.1, Section 8.2 or Section 8.3, as the case may be, to be satisfied if such failure was caused by such Party’s failure to comply with or breach of any provision of this Agreement.

ARTICLE IX TERMINATION

9.1 Termination of Agreement. This Agreement may be terminated and the Transactions abandoned at any time prior to the Closing:

(a) by written agreement of the Sellers and Buyer.

(b) by Buyer, if:

(i) any Bankruptcy Milestone is not timely satisfied in accordance with Section 7.3;

(ii) there shall have been a breach by the Sellers of any of their representations, warranties, covenants or agreements contained in this Agreement, which breach would result in the failure to satisfy one or more of the conditions set forth in Section 8.1, and such breach shall be incapable of being cured or, if capable of being cured, shall not have been cured by the earlier of (A) [September 17, 2023] (or such later date as the Parties may agree upon in writing, the “Outside Date”) or (B) five (5) Business Days after written notice thereof shall have been received by the Sellers, provided that the right to terminate this Agreement pursuant to this Section 9.1(b)(ii) will not be available to Buyer at any time that Buyer is in material breach of, any covenant, representation or warranty hereunder;

(iii) the Cases are (A) converted to cases under chapter 7 of the Bankruptcy Code or (B) dismissed prior to the Closing;

(iv) a trustee or examiner is appointed under section 1104 of the Bankruptcy Code;

(v) there is a breach or event of default under the DIP Documents;

(vi) Buyer is not the Successful Bidder at the Auction for any of the Purchased Assets;

(vii) Sellers enter into a definitive agreement with respect to an Alternate Transaction or an Order of the Bankruptcy Court or other court of competent jurisdiction is entered approving an Alternate Transaction, in each case, other than with the Successful Bidder; or

(viii) if the Closing shall not have occurred by the Outside Date; provided that the right to terminate this Agreement pursuant to this Section 9.1(b)(viii) will not be available to Buyer at any time that Buyer is in material breach of, any covenant, representation or warranty hereunder.

(c) by the Sellers, if:

(i) there shall have been a breach by Buyer of any of its representations, warranties, covenants or agreements contained in this Agreement, which breach would result in the failure to satisfy one or more of the conditions set forth in Section 8.2, and such breach shall be incapable of being cured or, if capable of being cured, shall not have been cured within the earlier of (A) Outside Date or (B) ten (10) Business Days after written notice thereof shall have been received by Buyer;

(ii) any Seller enters into a definitive agreement with respect to an Alternate Transaction, or an Order of the Bankruptcy Court or other court of competent jurisdiction is entered approving an Alternate Transaction;

(iii) any Seller or the board of directors (or similar governing body) of any Seller determines that proceeding with the transactions contemplated by this Agreement or failing to terminate this Agreement would be inconsistent with its or such Person’s or body’s fiduciary duties; or

(iv) if the Buyer is not the Successful Bidder at the Auction;

(d) by either Buyer or the Sellers, if any Governmental Entity shall have enacted or issued a Law or Order or taken other action permanently restraining, prohibiting or enjoining any of the Parties from consummating the Transactions.

9.2 Consequences of Termination.

(a) If either Buyer, on the one hand, or Sellers, on the other hand, desire to terminate this Agreement pursuant to Section 9.1, such Party (or Parties, as applicable) shall give written notice of such termination to the other Parties. Upon delivery of such notice of termination, this Agreement will become void and have no further force and effect and all further obligations of the Parties to each other under this Agreement will terminate without further obligation or liability of the Parties.

(b) Notwithstanding anything to the contrary in this Agreement, if the Agreement is terminated pursuant to Section 9.1(b)(v), Section 9.1(b)(vii) or Section 9.1(c)(ii), then Buyer shall be entitled to payment of the Expense Reimbursement, if approved by the Bankruptcy Court, upon consummation of an Alternate Transaction from the proceeds of such Alternate Transaction.

(c) Notwithstanding anything to the contrary in this Agreement, if this Agreement is terminated for any reason other than pursuant to (i) Section 9.1(a), Section 9.1(b)(i), or Section 9.1(c)(i), (in each of which cases no Expense Reimbursement is or shall be owed to Buyer), or (ii) Section 9.1(b)(v), Section 9.1(b)(vii) or Section 9.1(c)(ii) (in each of which cases the Expense Reimbursement shall be payable from the proceeds of the Alternate Transaction), then Buyer shall be entitled to payment of the Expense Reimbursement no later than two (2) Business Days following such termination.

(d) Notwithstanding the foregoing set forth in this Section 9.2, Section 1.1 (Defined Terms), Section 6.5 (Public Announcements), Section 7.1 (Expense Reimbursement), this Section 9.2 (Consequences of Termination) and Article X (Miscellaneous) shall survive any termination of this Agreement.

(e) Nothing in this Section 9.2 shall relieve Buyer or the Sellers of any liability for a breach of this Agreement prior to the date of termination.

ARTICLE X MISCELLANEOUS

10.1 Expenses. Except as set forth in this Agreement, the Credit Documents or the Sale Order, and whether or not the Transactions are consummated, each Party shall bear all costs and expenses incurred or to be incurred by such Party in connection with this Agreement and the consummation of the Transactions.

10.2 Assignment. Neither this Agreement nor any of the rights or obligations hereunder may be assigned by Sellers without the prior written consent of Buyer, or by Buyer without the prior written consent of Sellers; provided, however, that Buyer may assign any or all of its rights

and/or liabilities hereunder (or any document delivered by Buyer pursuant hereto) to one or more Affiliates of Buyer, or to any party which has received a contribution of the outstanding balance under the Prepetition First Lien Financing Agreement equal to the Credit Bid Amount, in the aggregate, which assignment shall not relieve Buyer of its obligations hereunder. Subject to the foregoing, this Agreement shall be binding upon and inure to the benefit of the Parties and their respective successors and permitted assigns.

10.3 Parties in Interest. This Agreement shall be binding upon and inure solely to the benefit of the Sellers and Buyer, and nothing in this Agreement, express or implied, is intended to or shall confer upon any other Person any rights, benefits or remedies of any nature whatsoever under or by reason of this Agreement except as expressly set forth herein. Without limiting the foregoing, no direct or indirect holder of any equity interests or securities of either the Sellers or Buyer (whether such holder is a limited or general partner, member, stockholder or otherwise), nor any Affiliate of either the Sellers or Buyer, nor any Representative, or controlling Person of each of the Parties and their respective Affiliates, shall have any liability or obligation arising under this Agreement or the Transactions.

10.4 Matters Related to the Administrative Agent.

(a) Each of the Parties acknowledges and agrees that none of the Sellers' title to, control of or possession of any of the Purchased Assets, or any of the Sellers' obligations in respect of any of the Assumed Liabilities, shall be transferred to or assumed by the Administrative Agent. Each Seller and Buyer, on behalf of itself and its respective Affiliates, acknowledges and agrees that neither the Administrative Agent nor any of its Affiliates (other than Buyer) shall have any Liability in the event of any breach by Buyer or any Seller of any of its representations, warranties, covenants, obligations or other agreements under this Agreement, including its obligations to consummate the Transactions in accordance with the terms of any document contemplated by this Agreement, other than as a result of or arising out of the Administrative Agent's intentional fraud or willful misconduct. Each Seller and Buyer, on behalf of itself and its respective Affiliates, further acknowledges and agrees that neither the Administrative Agent nor any of its Affiliates (other than Buyer) shall in any way be deemed to be attributed or otherwise responsible for any of the representations, warranties, covenants, obligations or other agreements of Buyer or the Sellers under any document contemplated by this Agreement, including any obligation of Buyer or the Sellers hereunder to make payments of any kind, provide written approvals or make deliveries. Each Seller and Buyer, on behalf of itself and its respective Affiliates, further acknowledges and agrees that neither the Administrative Agent nor any of its Affiliates shall have any Liability or other obligation in respect of any action taken or not taken by the Administrative Agent in connection with any document contemplated by this Agreement, other than as a result of or arising out of the Administrative Agent's intentional fraud or willful misconduct. Each Seller and Buyer, on behalf of itself and its respective Affiliates, further acknowledges and agrees that Buyer, and not the Administrative Agent, has negotiated the terms of the purchase set forth herein, including the assets being purchased, the Liabilities being assumed, the Purchase Price and all the terms of this Agreement relating to the purchase by Buyer, and the Administrative Agent shall bear no responsibility and incur no Liability whatsoever to any Person solely by virtue of being a Party.

10.5 Risk of Loss. The Sellers will bear all risk of loss occurring to or upon any portion of the Purchased Assets prior to the Closing Date. In the event that any material portion of any Purchased Assets is damaged or destroyed prior to Closing Date, then, with respect to such Purchased Assets, Buyer may, at Buyer's option, either (i) proceed to close notwithstanding the damage or destruction of such Purchased Assets or (ii) exclude such Purchased Assets, in which event Buyer shall have no obligation to close if as a consequence of the exclusion of such Purchased Assets any condition to Closing in Section 8.1 would not be satisfied. If Buyer closes notwithstanding an unrepaired or unrestored loss to a Purchased Asset, the Sellers will deliver and/or assign to Buyer any insurance proceeds with respect to such damage or destruction, and all claims against third parties relating thereto, and the adjustment to the Purchase Price shall be limited to the amount of any deductible or self-insured retention under the applicable policies of insurance.

10.6 Notices. All notices, demands, requests, waivers, consents, approvals or other communications (collectively, "Notices") required or permitted to be given hereunder or that are given with respect to this Agreement shall be in writing and shall be personally served, delivered by a nationally recognized overnight delivery service with charges prepaid, or transmitted by hand delivery or electronic mail, addressed as set forth below, or to such other address as such Party shall have specified most recently by written Notice. Notice shall be deemed given on the date of service or transmission if personally served or transmitted by electronic mail with confirmation of receipt (excluding "out of office" or similar automated replies); provided, however, that, if delivered or transmitted on a day other than a Business Day (or if transmitted by email after 5:00 pm Eastern Time), notice shall be deemed given on the next Business Day. Notice otherwise sent as provided herein shall be deemed given on the next Business Day following timely deposit of such Notice with an overnight delivery service:

If to the Sellers: [PGX Holdings, Inc.]
257 East 200 South, Suite 1200
Salt Lake City, UT 84111
Attention: [●]
Email: [●]

With a copy to: Kirkland & Ellis LLP
300 North LaSalle
Chicago, IL 60654
Attention: Steve Toth
Dan Daines
Spencer A. Winters
Whitney C. Fogelberg
Email: steve.toth@kirkland.com
daniel.daines@kirkland.com
spencer.winters@kirkland.com
whitney.fogelberg@kirkland.com

If to Buyer or

Administrative Agent: Blue Torch Finance LLC
[•]
[•]
Attention: [•]
Email: [•]

With a copy to: King & Spalding LLP
1185 Avenue of the Americas, 34th Floor
New York, NY 10036
Attention: Roger Schwartz
Timothy M. Fesenmyer
Email: rschwartz@kslaw.com
tfesenmyer@kslaw.com

Rejection of or refusal to accept any Notice, or the inability to deliver any Notice because of changed address of which no Notice was given, shall be deemed to be receipt of the Notice as of the date of such rejection, refusal or inability to deliver.

10.7 Entire Agreement; Amendments and Waivers. This Agreement and all agreements entered into pursuant hereto and thereto and all certificates and instruments delivered pursuant hereto and thereto constitute the entire agreement between the Parties pertaining to the subject matter hereof and supersede all prior agreements, understandings, negotiations, and discussions, whether oral or written, of the Parties; provided that nothing herein shall modify or alter the terms, rights or obligations of the Administrative Agent, the Lenders or Sellers under the Loan Documents or the DIP Documents prior to Closing. This Agreement may be amended, supplemented or modified, and any of the terms, covenants, representations, warranties or conditions may be waived, only by a written instrument executed by Buyer and Sellers, or in the case of a waiver, by the Party waiving compliance. No waiver of any of the provisions of this Agreement shall be deemed or shall constitute a waiver of any other provision hereof (whether or not similar), and no such waiver shall constitute a continuing waiver unless otherwise expressly provided. No failure on the part of any Party to exercise, and no delay in exercising, any right, power or remedy hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of such right, power or remedy by such Party preclude any other or further exercise thereof or the exercise of any other right, power or remedy.

10.8 Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same instrument. Counterparts to this Agreement may be delivered via electronic delivery, “pdf” or facsimile. In proving this Agreement, it shall not be necessary to produce or account for more than one such counterpart signed by the Party against whom enforcement is sought.

10.9 Invalidity. If any one or more of the provisions contained in this Agreement or in any other instrument referred to herein, shall, for any reason, be held to be invalid, illegal or unenforceable in any respect, the Parties shall negotiate in good faith to modify this Agreement, to ensure that this Agreement shall reflect as closely as practicable the intent of the Parties on the date hereof. If the final judgment of a court of competent jurisdiction or other Governmental Entity 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.

10.10 Governing Law. This Agreement, and any Proceeding that may be based upon, arise out of or relate or be incidental to the Transactions, this 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 (each, a "Transaction Dispute"), 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 or rule that would cause the Laws of any jurisdiction other than the State of Delaware to be applied, except to the extent that such Laws are superseded by the Bankruptcy Code.

10.11 Dispute Resolution; Consent to Jurisdiction.

(a) Without limiting any Party's right to appeal any order of the Bankruptcy Court, (i) the Bankruptcy Court shall retain exclusive jurisdiction to enforce the terms of this Agreement and to decide any Transaction Dispute, and (ii) any and all proceedings related to the foregoing shall be filed and maintained only in the Bankruptcy Court, and the Parties hereby consent to and submit to the jurisdiction and venue of the Bankruptcy Court and shall receive notices at such locations as indicated in Section 10.6; provided, however, upon the closing of the Cases (except for any matter(s) with respect to the Sellers and/or the Cases in which the Bankruptcy Court retains jurisdiction with respect to such matter with respect to Sellers and/or the Cases), or if the Bankruptcy Court is unwilling or unable to hear such Transaction Dispute, then, the Parties agree to unconditionally and irrevocably submit to the exclusive jurisdiction of the U.S. District Court for the District of Delaware sitting in [●] County or the courts of the State of Delaware sitting in [●] County and any appellate court from any thereof, for the resolution of any such Transaction Dispute. In that context, and without limiting the generality of the foregoing, each Party irrevocably and unconditionally: (i) submits for itself and its property to the exclusive jurisdiction of such courts with respect to any Transaction Dispute and for recognition and enforcement of any judgment in respect thereof, and agrees that all claims in respect of any Transaction Dispute shall be heard and determined in such courts; (ii) agrees that venue would be proper in such courts, and waives any objection that it may now or hereafter have that any such court is an improper or inconvenient forum for the resolution of any Transaction Dispute; and (iii) agrees that Notice demand in accordance with Section 10.6, will be effective service of process; provided, however, that nothing herein will be deemed to prevent a Party from making service of process by any means authorized by the Laws of the State of Delaware.

(b) The foregoing consent to jurisdiction will not constitute submission to jurisdiction or general consent to service of process in the State of Delaware for any purpose except with respect to any Transaction Dispute.

10.12 WAIVER OF RIGHT TO TRIAL BY JURY. EACH PARTY HEREBY WAIVES TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW ANY RIGHT THEY

MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY PROCEEDING IN CONNECTION WITH A TRANSACTION DISPUTE.

10.13 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 Buyer or the Sellers may have under law or equity, each Party shall be entitled to injunctive relief to prevent any breaches of the provisions of this Agreement by the other Parties and to enforce specifically this Agreement and the terms and provisions hereof.

10.14 Third Party Beneficiaries. Nothing in this Agreement, express or implied, is intended to confer upon any other Person any rights or remedies of any nature under or by reason of this Agreement, except as expressly provided herein, including Section 10.17.

10.15 Counting. If the due date for any action to be taken under this Agreement (including the delivery of Notices) is not a Business Day, then such action shall be considered timely taken if performed on or prior to the next Business Day following such due date.

10.16 Survival. Except as expressly set forth in this Agreement to the contrary, all representations and warranties and covenants of Buyer and the Sellers, respectively, contained in this Agreement or in any document delivered pursuant hereto shall not survive the Closing Date and thereafter shall be of no further force and effect. Notwithstanding the foregoing, all covenants and agreements set forth in this Agreement, which by their terms would require performance after the Closing Date, shall survive until fully performed or until such covenant or agreement expires by its terms.

10.17 Non-Recourse. All claims, Liabilities, Proceedings, or causes of action (whether in contract or in tort, in law or in equity, or granted by statute) that may be based upon, in respect of, arise under, out or by reason of, be connected with, or relate in any manner to a Transaction Dispute, may be made only against (and are expressly limited to) the entities that are expressly identified as parties hereto in the preamble to this Agreement or, if applicable, their permitted assignees (collectively, the "Contracting Parties"). No Person who is not a Contracting Party, including any past, present or future director, officer, employee, incorporator, member, partner, manager, equityholder, Affiliate, agent, attorney, or representative of, and any financial advisor or lender to, any Contracting Party (other than the Persons listed on Schedule 10.17), or any director, officer, employee, incorporator, member, partner, manager, equityholder, Affiliate, agent, attorney, or representative of, and any financial advisor or lender to, any of the foregoing (collectively, the "Non-Recourse Persons"), shall have any Liability (whether in contract or in tort, in law or in equity, or granted by statute) for any claims, Liabilities, or causes of action, arising under, out of, in connection with, or related in any manner to a Transaction Dispute; and, to the maximum extent permitted by Law, each Contracting Party hereby waives and releases all such claims, Liabilities, and causes of action, against any such Non-Recourse Persons.

10.18 Preparation of this Agreement. Buyer and the Sellers hereby acknowledge that (a) Buyer and the Sellers jointly and equally participated in the drafting of this Agreement and all other agreements contemplated hereby, (b) Buyer and the Sellers have been adequately represented and advised by legal counsel with respect to this Agreement and the Transactions, and (c) no

presumption shall be made that any provision of this Agreement shall be construed against either Party by reason of such role in the drafting of this Agreement and any other agreement contemplated hereby.

10.19 Schedules. The Sellers' Disclosure Schedules have been arranged for purposes of convenience in separately numbered sections corresponding to the sections of this Agreement; provided that each section of the Sellers' Disclosure Schedules will be deemed to incorporate by reference all information disclosed in any other section of the Sellers' Disclosure Schedules, and any disclosure in the such Seller's Disclosure Schedules will be deemed a disclosure against any representation or warranty set forth in this Agreement. Capitalized terms used in the Sellers' Disclosure Schedules and not otherwise defined therein have the meanings given to them in this Agreement. The specification of any dollar amount or the inclusion of any item in the representations and warranties contained in this Agreement, the Sellers' Disclosure Schedules or the attached exhibits is not intended to imply that the amounts, or higher or lower amounts, or the items so included, or other items, are or are not required to be disclosed (including whether such amounts or items are required to be disclosed as material or threatened) or are within or outside of the Ordinary Course of Business, and no Party will use the fact of the setting of the amounts or the fact of the inclusion of any item in this Agreement, the Sellers' Disclosure Schedules or exhibits in any dispute or controversy between the Parties as to whether any obligation, item or matter not set forth or included in this Agreement, the Sellers' Disclosure Schedules or exhibits is or is not required to be disclosed (including whether the amount or items are required to be disclosed as material or threatened) or are within or outside of the Ordinary Course of Business. In addition, matters reflected in the Sellers' Disclosure Schedules are not necessarily limited to matters required by this Agreement to be reflected in the Sellers' Disclosure Schedules. Such additional matters are set forth for informational purposes only and do not necessarily include other matters of a similar nature. No information set forth in the Sellers' Disclosure Schedules will be deemed to broaden in any way the scope of the Parties' representations and warranties. Any description of any agreement, document, instrument, plan, arrangement or other item set forth on any Sellers' Disclosure Schedule is qualified in its entirety by the terms of such agreement, document, instrument, plan, arrangement, or item which terms will be deemed disclosed for all purposes of this Agreement. The information contained in this Agreement, in the Sellers' Disclosure Schedules and exhibits hereto is disclosed solely for purposes of this Agreement, and no information contained herein or therein will be deemed to be an admission by any Party to any third party of any matter whatsoever, including any violation of Law or breach of Contract.

10.20 Fiduciary Obligation. Nothing in this Agreement, or any document related to the transactions contemplated hereby, will require any Seller or any of their respective 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.

10.21 Sellers' Representative. Each Seller hereby irrevocably constitutes and appoints Parent (the "Sellers' Representative") as the true and lawful agent and attorney-in-fact of such Seller with full powers of substitution to act in the name, place and stead of such Seller with respect

to the performance on behalf of such Seller under the terms and provisions of this Agreement and to do or refrain from doing all such further acts and things, and to execute all such documents, as the Sellers' Representative will deem necessary or appropriate in connection with any transaction contemplated hereunder, including the power to make all decisions, consents and determinations and take all actions on behalf of such Seller, including to make any waiver of any Closing condition or agree to any amendment to this Agreement. No Seller shall have any right to object, dissent, protest or otherwise contest the same. The appointment of the Sellers' Representative will be deemed coupled with an interest and will be irrevocable, and any Person may conclusively and absolutely rely, without inquiry, upon any action of the Sellers' Representative as the act of any Seller in all matters referred to herein.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, this Agreement has been duly executed and delivered by the duly authorized officers of the Sellers, Buyer and the Administrative Agent as of the date first above written.

SELLERS:

PGX Holdings, Inc.

By: _____
Name:
Title:

Progrexion Holdings, Inc.

By: _____
Name:
Title:

Credit.com, Inc.

By: _____
Name:
Title:

eFolks Holdings, Inc.

By: _____
Name:
Title:

Creditrepair.com Holdings, Inc.

By: _____
Name:
Title:

Progrexion ASG, Inc.

By: _____
Name:
Title:

Progrexion IP, Inc.

By: _____
Name:
Title:

Progrexion Marketing, Inc.

By: _____
Name:
Title:

Progrexion Teleservices, Inc.

By: _____
Name:
Title:

eFolks, LLC

By: _____
Name:
Title:

Creditrepair.com, Inc.

By: _____
Name:
Title:

CreditRepair UK, Inc.

By: _____
Name:
Title:

BUYER:

[Lender AcquisitionCo, LLC]

By: _____
Name:
Title:

ADMINISTRATIVE AGENT:

Blue Torch Finance LLC, solely for purposes of
Section 3.2, Section 10.4, and Sections 10.7 to 10.21

By: _____

Name:

Title:

EXHIBIT 3

Lexington Law APA

ASSET PURCHASE AGREEMENT

by and among

[ACQUISITIONCO],

as Buyer,

and

JOHN C. HEATH, ATTORNEY AT LAW PC D/B/A LEXINGTON LAW,

as Seller

Dated as of [●], 2023

TABLE OF CONTENTS

**ARTICLE I
DEFINITIONS**

1.1 Defined Terms4
 1.2 Index of Defined Terms16
 1.3 Other Definitional Provisions and Rules of Interpretation17

ARTICLE II

TRANSFER OF ASSETS AND LIABILITIES

2.1 Purchased Assets19
 2.2 Excluded Assets20
 2.3 Assumed Liabilities21
 2.4 Excluded Liabilities22
 2.5 Assumption and Assignment of Assumed Contracts23

ARTICLE III

CLOSING AND PURCHASE PRICE

3.1 Closing; Transfer of Possession; Certain Deliveries25
 3.2 Purchase Price; Related Matters26
 3.3 Allocation of Purchase Consideration26
 3.4 Withholding27

ARTICLE IV

REPRESENTATIONS AND WARRANTIES OF SELLER

4.1 Organization and Good Standing27
 4.2 Power and Authority27
 4.3 Litigation28
 4.4 No Contravention28
 4.5 Consents and Approvals28
 4.6 Title to Purchased Assets; Sufficiency28
 4.7 Validity of Available Contracts29
 4.8 Intellectual Property29
 4.9 Employee Benefits29
 4.10 Labor Matters30
 4.11 Conduct of Business30
 4.12 Compliance with Laws; Permits31
 4.13 Financial Statements31
 4.14 Financial Advisors31
 4.15 Tax Matters31
 4.16 Related Party Transactions32
 4.17 Disclaimer of Other Representations and Warranties32

ARTICLE V
REPRESENTATIONS AND WARRANTIES OF BUYER

5.1	Organization and Good Standing.....	33
5.2	Power and Authority.....	33
5.3	No Contravention.....	33
5.4	Consents and Approvals.....	33
5.5	Litigation.....	33
5.6	Financial Advisors.....	33
5.7	Sufficient Funds; Adequate Assurances.....	33
5.8	Acknowledgements; “As Is” “Where Is” Transaction.....	34

ARTICLE VI
COVENANTS OF THE PARTIES

6.1	Conduct of Business Pending the Closing.....	35
6.2	Negative Covenants.....	36
6.3	Access.....	37
6.4	Confidentiality.....	39
6.5	Public Announcements.....	39
6.6	Employment Matters.....	39
6.7	Reasonable Efforts; Approvals.....	41
6.8	Corporate Name Change.....	42
6.9	Assignment of Contracts and Rights.....	42
6.10	Tax Matters.....	43
6.11	Available Contracts List.....	44
6.12	HSR Act; Antitrust Laws.....	44

ARTICLE VII
BANKRUPTCY PROVISIONS

7.1	Bankruptcy Court Orders and Related Matters.....	45
7.2	Bankruptcy Milestones.....	46

ARTICLE VIII
CONDITIONS TO OBLIGATIONS OF THE PARTIES

8.1	Conditions Precedent to Obligations of Buyer.....	47
8.2	Conditions Precedent to the Obligations of Seller.....	48
8.3	Conditions Precedent to Obligations of Buyer and Seller.....	49
8.4	Frustration of Closing Conditions.....	49

ARTICLE IX
TERMINATION

9.1	Termination of Agreement.....	49
9.2	Consequences of Termination.....	51

ARTICLE X
MISCELLANEOUS

10.1	Expenses	51
10.2	Assignment	51
10.3	Parties in Interest.....	51
10.4	Risk of Loss	52
10.5	Notices	52
10.6	Entire Agreement; Amendments and Waivers	53
10.7	Counterparts	53
10.8	Invalidity	53
10.9	Governing Law	54
10.10	Dispute Resolution; Consent to Jurisdiction.....	54
10.11	WAIVER OF RIGHT TO TRIAL BY JURY.....	54
10.12	Specific Performance	55
10.13	Third Party Beneficiaries	55
10.14	Counting.....	55
10.15	Survival.....	55
10.16	Non-Recourse	55
10.17	Preparation of this Agreement	55
10.18	Schedules	56
10.19	Fiduciary Obligation	56

Exhibits

- Exhibit A Bidding Procedures
- Exhibit B Bidding Procedures Order
- Exhibit C Form of Bill of Sale, Assignment and Assumption Agreement

ASSET PURCHASE AGREEMENT

This ASSET PURCHASE AGREEMENT (the “Agreement”), dated as of [●], 2023 (the “Agreement Date”), is made and entered into by and among [AcquisitionCo], a Utah professional corporation (together with any assignee(s) or designee(s) pursuant to Section 10.2, “Buyer”) and John C. Heath, Attorney at Law PC d/b/a Lexington Law, a Utah professional corporation (“Seller”). Buyer and Seller are collectively referred to herein as the “Parties” and each, a “Party.”

RECITALS:

A. Seller is engaged in the business of providing credit repair legal services directly to third-party clients, and PGX (as defined below) provides Seller with operational support services pursuant to the PGX Operating Agreements (as defined below) (the “Business”).

B. Prior to the execution of this Agreement, the Seller and the PGX Debtors filed voluntary petitions for relief under chapter 11 of Title 11 of the United States Code, 11 U.S.C.

Sections 101 et seq. (as amended, the “Bankruptcy Code”), in the United States Bankruptcy Court for the District of Delaware (the “Bankruptcy Court”) (such cases, the “Cases”).

C. This Agreement is being delivered in connection with that certain Asset Purchase Agreement, dated on or around the date hereof, by and among [Lender Acquisition Co LLC], a [Delaware limited liability company], the PGX Debtors and, solely with respect to certain sections as referenced therein, Blue Torch Finance LLC, a Delaware limited liability company (the “PGX Agreement”).

D. Upon the terms and subject to the conditions set forth in this Agreement, and as authorized under sections 105, 363 and 365 of the Bankruptcy Code as relates to Seller, Seller proposes to sell, transfer and assign to Buyer, and Buyer proposes to purchase, acquire and assume from Seller the Purchased Assets (as defined below) and Assumed Liabilities (as defined below).

NOW, THEREFORE, in consideration of the mutual representations, warranties, covenants and agreements contained herein, and upon the terms and subject to the conditions hereof, the Parties, intending to be legally bound, hereby agree as follows:

ARTICLE I DEFINITIONS

1.1 Defined Terms. As used herein, the terms below shall have the following respective meanings:

“Acquired Bank Accounts” shall mean any bank accounts of Seller that Buyer elects to acquire by written notice to Seller on or before the date that is ten (10) days prior to Closing; provided that the Parties shall agree in good faith as to one or more bank accounts that Seller and/or the PGX Debtors shall retain in connection with the wind down and liquidation of the Seller and PGX Debtor entities and businesses following the Closing.

“Acquired Intellectual Property” shall mean, collectively, all Owned Intellectual Property and Licensed Intellectual Property.

“Administrative Expenses” shall mean, collectively, the administrative expenses incurred by Seller and/or the PGX Debtors in the Cases, including expenses of the kind specified in Sections 105, 326, 328, 330, 331, 365, 503(a), 503(b), 546(c), 546(d), or 726 (to the extent permitted by Law) of the Bankruptcy Code, and any other provision of the Bankruptcy Code (including, subject to entry of the Interim and Final DIP Orders, Section 506(c) of the Bankruptcy Code).

“Affiliate” shall mean, with respect to any Person, any other Person that, directly or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, such Person, and the term “control” (including the terms “controlled by” and “under common control with”) means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such Person, whether through ownership of voting securities, by contract or otherwise.

“Allocation Schedule” shall mean the schedule allocating the Purchase Price and the Assumed Liabilities in accordance with Section 1060 of the Code and the Treasury Regulations

thereunder and any corresponding requirements of any state, local, or foreign Tax Laws, as applicable.

“Alternate Transaction” shall mean a transaction or transactions pursuant to which Seller, in one or a series of transactions, sells, transfers, exchanges, leases or otherwise disposes of, directly or indirectly, all or any material portion of the Purchased Assets, including any transaction effected in connection with the Auction or through any other asset sale, stock sale, share exchange, debt-for-equity swap, joint venture, credit bid, financing, merger, amalgamation, business combination, reorganization, restructuring or recapitalization, a plan of reorganization, a plan of arrangement or any similar transaction, in each case that would not involve a sale or disposition of all or any material portion of the Purchased Assets or the Business to Buyer; provided that neither any disposition of Purchased Assets that is expressly permitted by Section 6.2 of this Agreement, nor the liquidation, dismissal or conversion of the Cases and the dissolution of the Seller, shall be deemed an Alternate Transaction.

“Approved Budget” shall have the meaning ascribed thereto in the DIP Documents.

“Auction” shall mean the auction for the Purchased Assets to be conducted on the Auction Date in accordance with the terms and provisions of the Bidding Procedures Order and as defined in the Bidding Procedures.

“Auction Date” shall mean the date of the Auction scheduled by the Bankruptcy Court and set forth in the Bidding Procedures Order or such later date as shall be announced by Seller and the PGX Debtors in accordance with the Bidding Procedures Order.

“Avoidance Actions” shall mean those actual and/or potential claims and causes of action under sections 502(d), 544, 545, 547, 548 and 550 of the Bankruptcy Code, or any other avoidance actions under the Bankruptcy Code.

“Bankruptcy Rules” shall mean the Federal Rules of Bankruptcy Procedure originally promulgated pursuant to 28 U.S.C. § 2075.

“Benefit Plan” shall mean any “employee benefit plan” (within the meaning of Section 3(3) of ERISA), and all pension, severance, retirement, consulting, compensation, profit sharing, commission, employment, change in control, retention, fringe benefit, bonus, stock or other equity, equitybased, option, incentive compensation, restricted stock, stock appreciation right or similar right, phantom equity, profits interests, deferred compensation, employee loan, vacation, paid time off, welfare, medical, dental, vision, flexible benefit, cafeteria, dependent care, disability or wage continuation benefits during periods of absence from work (including short-term disability, long-term disability and worker’s compensation benefits), supplemental unemployment, hospitalization, life insurance, death or survivor benefits, employment insurance, and all other employee benefit plans, programs, policies, practices, agreements and other arrangements, and any funding vehicle therefor now in effect, in each case, whether or not subject to ERISA, whether formal or informal, written or oral, insured or self-insured, funded or unfunded, binding or not, that (i) provides benefits or compensation to, or which has any application to, any present or former employee, director, independent contractor or other individual service provider of Seller or any beneficiary or dependent of such persons, (ii) is adopted, maintained, sponsored, contributed to, or

required to be contributed to by Seller, or (iii) with respect to which Seller is a party, is bound, participates in, or has or could reasonably be expected to have any Liability.

“Bid” shall have the meaning ascribed to such term in the Bidding Procedures.

“Bidding Procedures” shall mean the Bidding Procedures filed with the Bankruptcy Court in the form attached hereto as Exhibit A or otherwise in form and substance reasonably acceptable to Buyer.

“Bidding Procedures Motion” shall mean the motion filed in the Cases, which motion shall be in form and substance satisfactory to Buyer (together with all exhibits thereto), (i) seeking approval of (A) this Agreement and the Transactions and (B) the Bidding Procedures and scheduling certain dates, deadlines and forms of notice in connection therewith, and (ii) granting other related relief, in each case, in form and substance acceptable to Buyer.

“Bidding Procedures Order” shall mean the order entered by the Bankruptcy Court approving the Bidding Procedures Motion, the Bidding Procedures and granting the relief requested therein in the form set forth in Exhibit B and with such modifications or supplements reasonably satisfactory to Buyer.

“Business Day” shall mean any day other than a Saturday, Sunday or a legal holiday on which banking institutions in New York City, New York are authorized or obligated by Law or executive order to close.

“Business Employee” means each employee of Seller as of immediately prior to the Closing.

“Buyer Avoidance Actions” shall mean any actual and/or potential Avoidance Actions or other Claim by Seller against John C. Heath and Eric Kamerath.

“Buyer Group” means Buyer, any Affiliate of Buyer and each of their respective former, current or future Affiliates, officers, directors, employees, partners, members, managers, agents, advisors, successors or permitted assigns.

“Claims” shall have the meaning as defined in the Bankruptcy Code.

“Closing” shall mean the consummation of the Transactions.

“Code” shall mean the Internal Revenue Code of 1986, as amended, and the regulations promulgated thereunder.

“Confidential Information” shall mean all information in any form or medium that relates to the Business, the Purchased Assets or the Assumed Liabilities, including financial information, projections, pricing structures, technical data, Trade Secrets, know-how, ideas, inventions, designs, research, development plans, identities of, and arrangements with, customers and suppliers, software and databases, but shall not include any information that (i) at the time of disclosure thereof is generally available to the public (other than as a result of disclosure in

violation of this Agreement), or (ii) is independently developed by the receiving party following the Closing Date without reliance on or use of any Confidential Information.

“Contract” shall mean any lease, sublease, license, sublicense, agreement, contract, contract right, obligation, trust, purchase order, sale order, instrument and other similar arrangements, whether or not in written form, that is binding upon a Person or its property (including any commitment to enter into any of the foregoing).

“Cure Amounts” shall mean all amounts payable that must be paid or otherwise satisfied to cure all of Seller’s monetary defaults under the Assumed Contracts at the time of the assumption thereof and assignment to Buyer pursuant to section 365 of the Bankruptcy Code.

“Dataroom” shall mean that certain data site administered by Box.

“Debt” shall mean, without duplication, (i) indebtedness or other obligations for borrowed money or in respect of loans or advances or issued in substitution for or exchange of indebtedness for borrowed money or loans or advances, whether short-term or long-term, secured or unsecured, (ii) any indebtedness or other obligations evidenced by any note, bond, debenture or other debt security or instrument, (iii) all obligations to pay the deferred purchase price of property or services, contingent or otherwise (including all “earn-out” obligations), (iv) all obligations under interest rate and currency hedging agreements, including swap breakage or associated fees, (v) all obligations arising from bankers’ acceptances, letters of credit (to the extent drawn) and cash/book overdrafts or similar facilities, (vi) all obligations for the payment of which a Person is responsible or liable, directly or indirectly, as obligor, guarantor or otherwise, including guarantees of such obligations, (vii) any obligations under leases that have been or are required to be, in accordance with GAAP, recorded as capital leases, (viii) any indebtedness or other obligations secured by an Encumbrance on Seller’s interest in any assets, and (ix) all accrued interest, premiums, penalties (including any prepayment penalties or premiums) and other obligations related to any of the foregoing.

“DIP Documents” shall mean that certain Superpriority Secured Debtor-in-Possession Credit Facility by and among the DIP Lenders, the PGX Debtors, the Seller, the Guarantors (as defined therein) and the Administrative Agent (as defined therein), together with the schedules and exhibits attached thereto and all agreements, documents, orders, instruments and/or amendments executed, delivered or entered in connection therewith.

“DIP Facility” shall mean the debtor-in-possession term loan facility pursuant to which the DIP Lenders agreed to provide debtor-in-possession financing commitments on the terms set forth in the DIP Documents.

“DIP Lenders” shall mean the lenders providing the DIP Facility.

“Documents” means all of Seller’s written files, documents, instruments, papers, books, reports, records, tapes, microfilms, photographs, letters, budgets, forecasts, plans, operating records, safety and environmental reports, data, studies, and documents, Tax Returns, ledgers, journals, title policies, customer lists, regulatory filings, operating data and plans, research material, technical documentation (design specifications, engineering information, test results, maintenance schedules, functional requirements, operating instructions, logic manuals, processes,

flow charts, etc.), user documentation (installation guides, user manuals, training materials, release notes, working papers, etc.), marketing documentation (sales brochures, flyers, pamphlets, web pages, etc.), and other similar materials, in each case whether or not in electronic form.

“Encumbrance” means any lien (as defined in section 101(37) of the Bankruptcy Code), encumbrance, claim (as defined in section 101(5) of the Bankruptcy Code), charge, mortgage, deed of trust, option, pledge, security interest or similar interests, title defects, hypothecations, easements, rights of way, encroachments, Orders, conditional sale or other title retention agreements and other similar impositions, imperfections or defects of title or restrictions on transfer or use.

“Equity Interests” of any Person shall mean all (i) shares of capital stock, rights to purchase shares of capital stock, warrants, options, calls or restricted stock (whether or not currently exercisable), (ii) equity appreciation, phantom stock, stock plans, profit participation plans, profit units, profit interests, equity plans or similar rights, (iii) participations or other equivalents of or interests in (however designated, including units thereof) the equity (including common stock, preferred stock and limited liability company, partnership and joint venture interests) of such Person and (iv) securities exchangeable for or convertible or exercisable into any of the foregoing.

“ERISA” shall mean the Employee Retirement Income Security Act of 1974, as amended, and the regulations promulgated thereunder.

“Excluded Cash” shall mean, collectively, all cash on hand and cash drawn by Seller under the DIP Facility to the extent necessary to, subject to the terms of the DIP Orders and Approved Budget (each as approved by the Bankruptcy Court in connection with the DIP Facility), (a) satisfy the allowed Professional Fees and Expenses payable by Seller, if any, that have accrued, are undisputed and are unpaid as of the Closing Date, (b) pay all Administrative Expenses of the Seller that are accrued, unpaid, allowed and undisputed as of the effective date in the Cases, subject to the DIP Orders and Approved Budget and (c) fund an orderly liquidation, dismissal or conversion of the Cases and the dissolution of the Seller (which amount shall be equal to [\$2,625,000] (the “Wind Down Amount”)), to be used in accordance with a budget acceptable to the Debtors and Buyer (the “Wind Down Budget”) (to be finalized prior to the Sale Hearing and attached as an exhibit to the Sale Order).

“Final DIP Order” shall mean an Order of the Bankruptcy Court acceptable to the Administrative Agent in its sole discretion, authorizing and approving on a final basis, among other things, the DIP Documents and the DIP Facility on a final basis (as the same may be amended, supplemented, or modified from time to time after entry thereof with the consent of Administrative Agent, in its sole discretion) as to which no stay has been entered.

“Final Order” shall mean an Order of the Bankruptcy Court or other applicable court (a) that is not the subject of a pending appeal, petition for certiorari, motion for reconsideration or leave to appeal or other proceeding for review, rehearing or reargument, (b) that has not been reversed, vacated, modified or amended, is not stayed and remains in full force and effect, and (c) with respect to which the time to appeal, to petition for certiorari, to move for reconsideration or to seek review, rehearing or reargument shall have expired, as a result of which such order shall

have become final in accordance with Rule 8002 of the Federal Rules of Bankruptcy Procedure or other applicable Laws, as applicable.

“GAAP” shall mean United States generally accepted accounting principles.

“Governmental Entity” shall mean any (i) federal, state, provincial, local, municipal, foreign or other government, (ii) governmental or quasi-governmental authority of any nature (including any governmental agency, branch, department, official, or entity and any court, arbitrator or other tribunal) or (iii) body exercising, or entitled to exercise, any administrative, executive, judicial, legislative, police, regulatory, or taxing authority or power of any nature, including any arbitral tribunal.

“HSR Act” means the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended.

“Insider Avoidance Actions” shall mean any actual and/or potential Avoidance Actions or other Claim by Seller against the individuals listed on Schedule 1.1(a) as of the Petition Date.

“Intellectual Property” shall mean all intellectual property and industrial property, whether protected, created or arising under the Laws of the United States or any other jurisdiction, including all: (i) patents and patent applications, all continuations, divisionals, and continuations-in-part of any of the foregoing, all patents issuing on any of the foregoing, and all reissues, renewals, substitutions, reexaminations and extensions of any of the foregoing; (ii) trademarks, service marks, trade names, service names, brand names, trade dress rights, logos, corporate names, trade styles, logos and other source or business identifiers and general intangibles of a like nature, together with the goodwill associated with any of the foregoing, and all applications, registrations, renewals and extensions of any of the foregoing (collectively, “Marks”); (iii) internet domain names; (iv) copyrights, works of authorship, and all mask work, database and design rights, whether or not registered or published, all applications, registrations, reversions, extensions and renewals of any of the foregoing, and all moral rights, however denominated (collectively, “Copyrights”); (v) trade secrets and other confidential or proprietary information (collectively, “Trade Secrets”); (vi) rights of publicity, persona rights or other rights to use indicia of any Person’s personality; and (vii) Technology and other intellectual property or industrial property rights arising from or relating to any Technology.

“Interim DIP Order” shall mean an Order of the Bankruptcy Court (as the same may be amended, supplemented, or modified from time to time after entry thereof in accordance with the terms thereof), in form and substance acceptable to the Administrative Agent in its sole discretion, authorizing on an interim basis, among other things, the DIP Documents and the DIP Facility.

“Knowledge of Seller” shall mean, as to a particular matter, the actual knowledge of John C. Heath, Esq.

“Law” shall mean any federal, state, provincial, local or foreign statute, law, ordinance, regulation, rule, code, order, treaty, administrative interpretation, guideline, principle of common law or equity, judgment enacted, promulgated, issued, enforced or entered by any Governmental Entity.

“Leased Real Property” shall mean each parcel of real property leased by Seller, together with all rights, title and interest of Seller in and to leasehold improvements relating thereto.

“Leases” shall mean all leases, subleases, licenses, concessions and other agreements pursuant to which Seller holds any Leased Real Property.

“Liabilities” shall mean, as to any Person, all debts, adverse claims, liabilities, commitments, responsibilities, and obligations of any kind or nature whatsoever, direct, indirect, asserted or unasserted, absolute or contingent, of such Person, whether accrued, vested or otherwise, whether known or unknown, and whether or not actually reflected, or required to be reflected, in such Person’s balance sheets or other books and records, including any liability for Taxes.

“Licensed Intellectual Property” shall mean all Intellectual Property (other than Owned Intellectual Property) used, held for use or practiced in connection with the Business.

“Liquidating Plan” shall mean a liquidating plan of reorganization permissible under chapter 11 of the Bankruptcy Code, to be implemented in the Cases.

“Material Adverse Effect” shall mean any matter, event, change, occurrence, circumstance, development, condition, fact or effect (each an “Effect”), which, when considered either individually or in the aggregate together with other Effects is materially adverse to the Business, the Purchased Assets and the Assumed Liabilities, taken as a whole; provided that none of the following (or the consequences thereof), either alone or in combination, shall constitute or be taken into account in determining whether or not there has been, a Material Adverse Effect: (i) any Effect arising out of, resulting from or attributable to general business or economic conditions affecting (A) the United States or those countries within which Seller operates, or (B) the industries in which Seller operates, including Effects arising from or relating to competition or ordinary course matters and other Effects within such industry, new entrants into such industry, new products from other participants in such industry, changes in product pricing due to competition, changes in market share or financial results due to such competition, and other related changes resulting from such competition; (ii) Effects in, arising from, or relating to any change in GAAP or regulatory accounting principles or interpretations thereof after the date hereof, or a change in applicable Laws or other binding directives or determinations issued or made by or agreements with or consents of any Governmental Entity (including, for the avoidance of doubt, any such items related to Section 6.5) and any increase (or decrease) in the terms or enforcement of (or negotiations or disputes with respect to) any of the foregoing after the date hereof; (iii) Effects in, arising from or relating to national or international political or social conditions, including tariffs, riots, protests, the engagement by the United States or another country in hostilities or the escalation thereof, whether or not pursuant to the declaration of a national emergency or war, or the occurrence or the escalation of any military, cyber or terrorist (whether or not state-sponsored) terrorist act or attack upon the United States or any other country, or any of its territories, possessions, or diplomatic or consular offices or upon any military installation, asset, equipment or personnel of the United States or any other country; (iv) Effects in, arising from or relating to any global or national health concern, pandemic, or epidemic, (whether or not declared as such by any Governmental Entity), viral outbreak (including “Coronavirus” or “COVID-19” or the worsening thereof) or any quarantine or trade restrictions related thereto; (v) Effects in, arising from or relating to any natural

disaster, fire, flood, hurricane, earthquake, tornado, windstorm, other calamity or act of God or any other *force majeure*; (vi) Effects in, arising from or relating to the decline or rise in price of any currency or any equipment, machines, computers, furniture, furnishings, fixtures, supplies, vehicles or other fixed assets necessary to or used in the provision of services by Seller or its Affiliates (including any resulting inability to meet customer demands and any resulting breaches of Contracts); (vii) Effects in, arising from, or relating to financial, banking, or securities markets (including (A) any disruption of any of the foregoing markets, (B) any change in currency exchange rates, (C) any decline or rise in the price of any security, commodity, Contract, or index, and (D) any increased cost, or decreased availability, of capital or pricing or terms related to any financing for the Transactions); (viii) Effects in, arising from or relating to (A) the taking of any action permitted or contemplated by this Agreement or at the request of Buyer or its Affiliates, (B) the failure to take any action if such action is prohibited by this Agreement, (C) Buyer's failure to consent to any of the actions restricted in Section 6.1, or (D) the negotiation, announcement, or pendency of this Agreement or the Transactions, the identity, nature, or ownership of Buyer or Buyer's plans with respect to the Purchased Assets and Assumed Liabilities, including the impact thereof on the relationships, contractual or otherwise, of the business of Seller or its Affiliates with employees, customers, lessors, suppliers, vendors, or other commercial partners or litigation arising from or relating to this Agreement or the Transactions; (ix) Effects in, arising from, or relating to any existing event, occurrence or circumstance that is publicly known or disclosed or with respect to which Buyer has knowledge as of the date hereof, including any matter set forth in the Disclosure Schedules; (x) Effects in, arising from or relating to any action required to be taken under any existing Contract to which Seller or its Affiliates (or any of their assets or properties) is bound; (xi) Effects that arise from any seasonal fluctuations in the Business; (xii) any failure, in and of itself, to achieve any budgets, projections, forecasts, estimates, plans, predictions, performance metrics or operating statistics or the inputs into such items (whether or not shared with Buyer or its Affiliates or Representatives) and any other failure to win or maintain customers or business; (xiii) the Effect of any action taken by Buyer or its Affiliates with respect to the Transactions or the financing thereof or any breach by Buyer of this Agreement; (xiv) the matters set forth on the Disclosure Schedules and any changes or developments in, or Effects or results arising from or relating to, matters set forth on the Disclosure Schedules; or (xv) (A) the commencement or pendency of the Cases; (B) any objections in the Bankruptcy Court to (1) this Agreement or any of the Transactions, (2) the Sale Order or the reorganization or liquidation of Seller or its Affiliates, or (3) the assumption or rejection of any Available Contract; or (C) any Order of the Bankruptcy Court or any actions or omissions of Seller or its Affiliates in compliance therewith.

“Order” shall mean any judgment, order, injunction, writ, ruling, decree, stipulation, award or other binding obligation, pronouncement or determination of any Governmental Entity or arbitration tribunal.

“Ordinary Course of Business” shall mean the conduct and operation of the Business, taken as a whole, in the ordinary course, taken as a whole, consistent with past practice and taking into account the contemplation, commencement and pendency of the Cases and past practice in light of the current pandemic, epidemic or disease outbreak; provided that any action taken, or omitted to be taken, that relates to, or arises out of, any pandemic, epidemic or disease outbreak shall be deemed to be in the Ordinary Course of Business.

“Organizational Documents” shall mean, with respect to any Person (other than a natural Person), (i) the certificate or articles of incorporation, formation or organization and any limited liability company, operating or partnership agreement, or similar organizational document adopted or filed in connection with the creation, formation or organization of such Person and (ii) all bylaws and equity holders agreements or similar arrangements to which such Person (or holders of its Equity Interests) is a party relating to the organization or governance of such Person, in each case, as amended or supplemented.

“Owned Intellectual Property” shall mean all Intellectual Property owned or purported to be owned by Seller.

[“Owned Real Property” shall mean each parcel of real property owned by Seller and used in or necessary for the conduct of the Business as currently conducted, together with all buildings, fixtures, structures and improvements situated thereon and all easements, rights-of-way and other rights and privileges appurtenant thereto.]

“Permits” shall mean all licenses, certificates, consents, permits, registrations, quotas, and other authorizations of any Governmental Entity relating to the Purchased Assets or used by Seller in connection with the Business, and all pending applications therefor.

“Permitted Encumbrances” shall mean (i) liens for utilities and Taxes, assessments or other governmental charges not yet due and payable, the amount or validity of which is being contested in good faith, or the nonpayment of which is permitted or required by the Bankruptcy Code, (ii) building codes, zoning Laws, entitlement and other land use restrictions, environmental regulations and other similar restrictions imposed by Law or by any Governmental Entity having jurisdiction over any Real Property which are not violated by the current use, occupancy or operation of any Real Property, (iii) easements, rights of way, restrictive covenants, encroachments, and similar non-monetary encumbrances or non-monetary impediments against any of the Purchased Assets which do not, individually or in the aggregate, adversely affect the operation of the Purchased Assets and, in the case of the Leased Real Property, which do not, individually or in the aggregate, adversely affect the use or occupancy of such Leased Real Property as it relates to the operation of the Purchased Assets, (iv) materialmans’, mechanics’, artisans’, shippers’, warehousemans’ or other similar common law or statutory liens incurred in the Ordinary Course of Business for amounts not yet due and payable, (v) licenses granted on a non-exclusive basis, (vi) such other defects, exceptions, restrictions, imperfections in title, charges, easements, restrictions and encumbrances which do not, individually or in the aggregate, materially and adversely affect the operation of the Purchased Assets, (vii) title of a lessor under a capital or operating lease if such lease is an Assumed Contract; and (viii) solely prior to the Closing, any Encumbrances that will be removed or released by operation of the Sale Order.

“Person” shall mean an individual, partnership, joint venture, corporation, business trust, limited liability company, trust, unincorporated organization, association, joint stock company, estate, Governmental Entity or other entity.

“Personal Information” shall mean, in addition to any definition for any similar term (e.g., “personal data” or “personally identifiable information” or “PII”) provided by applicable Law or by Seller in any of their privacy policies, notices or contracts, all information that identifies, could

be used to identify or is otherwise associated with an individual person or device, whether or not such information is associated with an identified individual. Personal Information may relate to any individual, including a current, prospective, or former customer, end user or employee of any Person, and includes information in any form or media, whether paper, electronic, or otherwise.

“Petition Date” shall mean the date on which Seller and the PGX Debtors file voluntary petitions for relief under chapter 11 of the Bankruptcy Code.

“PGX” shall mean, collectively, Progrexion Holdings, Inc., a Delaware corporation (“Progrexion”), Progrexion IP, Inc., a Delaware corporation (“PGX IP”), Progrexion Marketing, Inc., a Delaware corporation (“PMT”), Progrexion ASG, Inc., a Delaware corporation (“PXG ASG”) and Progrexion Teleservices, Inc., a Delaware corporation (“PTI”).

“PGX Debtors” shall mean, collectively, PGX Holdings, Inc., a Delaware corporation, Progrexion, Credit.com, Inc., a Delaware corporation, eFolks Holdings, Inc., a Delaware corporation, and Creditrepair.com Holdings, Inc., a Delaware corporation.

“PGX Operating Agreements” shall mean, collectively, that certain (i) Software Licensing Agreement by and between PGX IP and Seller, effective September 1, 2014, (ii) Advertising Agreement by and between PMI and Seller, effective as of September 1, 2014, (iii) Administrative Services Agreement by and between PGX ASG and Seller and (iv) Cross Default Agreement by and between PGX and Seller, effective July 1, 2012, in each case, together with all applicable amendments, documents and agreements related thereto.

“PGX Sale” shall mean the sale of assets of the PGX Debtors pursuant to the PGX Agreement.

“Post-Closing Tax Period” shall mean all taxable years or other taxable periods that end after the Closing Date and, with respect to any taxable year or other taxable period beginning on or before and ending after the Closing Date, the portion of such taxable year or period beginning after the Closing Date.

“Pre-Closing Tax Period” shall mean all taxable years or other taxable periods that end on or before the Closing Date and, with respect to any taxable year or other taxable period beginning on or before and ending after the Closing Date, the portion of such taxable year or period ending on and including the Closing Date.

“Privacy Laws” shall mean any and all applicable Laws, legal requirements and self-regulatory guidelines (including of any applicable foreign jurisdiction) relating to the receipt, collection, compilation, use, storage, processing, sharing, safeguarding, security (technical, physical or administrative), disposal, destruction, disclosure or transfer (including cross-border) of any Personal Information, including the Federal Trade Commission Act, Health Insurance Portability and Accountability Act (HIPAA), California Consumer Privacy Act (CCPA), Payment Card Industry Data Security Standard (PCI-DSS), and any and all applicable Laws relating to breach notification or marketing in connection with any Personal Information.

“Proceeding” shall mean any action, claim complaint, arbitration, governmental investigation, prosecution, order, litigation, proceeding, or suit (whether civil, criminal,

administrative, investigative, appellate, or informal) of any kind whatsoever, regardless of the legal theory under which such Liability or obligation may be sought to be imposed, whether sounding in Contract or tort, or whether at law or in equity, or otherwise under any legal or equitable theory, commenced, brought, conducted, or heard by or before, or otherwise involving, any Governmental Entity or arbitrator.

“Professional Fees and Expenses” shall mean the reasonable and documented fees and expenses of professionals of Seller and any committee appointed in the Cases pursuant to section 1102 of the Bankruptcy Code that are accrued and unpaid as of the Closing Date, whether or not included in a fee statement or fee application at such time and whether or not allowed by the Bankruptcy Court at such time.

“Purchased Assets” shall mean all right, title and interest of Seller, as of the Closing, in, to and under all of the assets, properties, interests, rights and claims of Seller as of the Closing (whether owned, leased, licensed, used or held for use by the Seller), wherever situated and of whatever kind and nature, real or personal, tangible or intangible, and whether or not reflected on the books and records of the Seller, including the assets, properties, rights and claims as of the Closing described in Section 2.1, other than the Excluded Assets.

“Real Property” shall mean Owned Real Property and Leased Real Property.

“Representative” shall mean, with respect to any Person, such Person’s officers, managers, directors, employees, agents and representatives (including any investment banker, financial advisor, accountant, legal counsel or expert retained by or acting on behalf of such Person or its Affiliates).

“Sale Order” shall mean, collectively, the Order or Orders which shall be in a form and substance acceptable to Buyer and Seller in their sole discretion and which shall, among other things: (i) approve, pursuant to sections 105, 363 and 365 of the Bankruptcy Code (A) the execution, delivery and performance by Seller of this Agreement, including each and every term and condition hereof, and the other instruments and agreements contemplated hereby, (B) the sale of the applicable Purchased Assets of Seller to Buyer free and clear of all Encumbrances and Liabilities (other than Permitted Encumbrances), on the terms set forth herein and (C) the assumption of the Assumed Liabilities of Seller by Buyer on the terms set forth herein; (ii) authorize Seller to assume and assign to Buyer the Assumed Contracts; (iii) find that Buyer has provided adequate assurance of future performance with respect to the Assumed Contracts to which Seller is a party; (iv) find that Buyer is a “good faith” buyer within the meaning of section 363(m) of the Bankruptcy Code; (v) provide that neither Buyer nor any of its Affiliates or equityholders will have any derivative, successor, transferee or vicarious liability of any kind or character, whether fixed or contingent, for Liabilities of Seller (whether under federal or state Law or otherwise), including 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 Business prior to the Closing (except for such Taxes that constitute Assumed Liabilities); (vi) waive in all necessary jurisdictions, (A) the so-called “bulk sales,” “bulk transfer” and similar Laws, including those related to Taxes and (B) the imposition of any Taxes incurred in connection with the Transactions and the Sale Order; (vii) enjoin all Persons from commencing any proceeding or taking any action against Buyer or any of its Affiliates to recover any claim that such Person has solely against Seller or its Affiliates;

and (viii) provide that the obligations of Seller relating to Taxes, whether arising under Law, by this Agreement (except as specifically set forth in this Agreement), or otherwise, shall be fulfilled by Seller.

“Software” shall mean, collectively, any and all (i) computer programs, including any and all software implementations of algorithms, models and methodologies, whether in source code or object code, (ii) databases and compilations, including any and all data and collections of data, whether machine readable or otherwise, (iii) descriptions, flow-charts and other work product used to design, plan, organize and develop any of the foregoing, screens, user interfaces, report formats, firmware, development tools, templates, menus, buttons and icons, and (iv) all documentation including user manuals and other training documentation related to any of the foregoing.

“Successful Bidder” shall mean the winning bidder at the Auction.

“Tax” or “Taxes” shall mean (i) all U.S. federal, state, local, foreign and other taxes, assessments, duties or charges of any kind whatsoever, including, income, profits, gains, net worth, sales and use, *ad valorem*, gross receipts, sales, use, business and occupation, license, premium, minimum, alternative or add-on minimum, environmental, estimated, stamp, customs duties, occupation, property (real or personal), franchise, capital stock, license, excise, value added, payroll, employment, social security (or similar), escheat, unclaimed property, unemployment, transfer, severance, registration, lease, service, recording, documentary, permit or authorization, intangibles or other tax (whether payable directly or by withholding), together with any penalty, fine, addition to tax or interest on the foregoing; (ii) any liability in respect of any items described in clause (i) payable by reason of contract, assumption, transferee or successor liability, operation of Law, Treasury Regulations Section 1.1502-6(a) or any analogous or similar provision of Law (or any predecessor or successor thereof) or otherwise; and (iii) any Liability in respect of any items described in clause (i) as a result of being a “transferee” of the taxpayer or entity or a number of a related, non-arm’s length, affiliated or combined group.

“Tax Return” shall mean any return, declaration, report, claim for refund, or information return or statement (including elections, declarations, disclaimers, notices, disclosures, schedules, estimates) relating to Taxes, including any schedule or attachment thereto, and including any amendment or supplement thereof.

“Technology” shall mean all technology, formulae, algorithms, procedures, processes, methods, techniques, ideas, know-how, creations, inventions (whether patentable or unpatentable and whether or not reduced to practice), discoveries, improvements, product, servicing, business, financial and supplier information and materials, specifications, designs, models, devices, prototypes, schematics and development tools, Software, websites, recordings, graphs, drawings, reports, analyses and other writings and other tangible embodiments of any of the foregoing, in any form or media whether or not specifically listed in this definition.

“Transactions” shall mean the sale of the Purchased Assets pursuant to this Agreement and the other transactions contemplated by this Agreement.

“Transfer Tax” or “Transfer Taxes” shall mean any stamp, sales, use, transfer, conveyance, recording, registration, filing or other similar non-income Tax, fee, duty or charge imposed upon

the sale, transfer or assignment of property or any interest therein or the recording thereof, and any penalty, addition to Tax or interest with respect thereto.

“Treasury Regulations” shall mean the regulations promulgated under the Code, as such regulations may be amended from time to time.

“WARN Act” shall mean the Worker Adjustment and Retraining Notification Act of 1988, as amended.

1.2 Index of Defined Terms.

Agreement..... 3
 Agreement Date 3
 Antitrust Laws..... 45
 Assumed Benefit Plans 22
 Assumed Contracts 23
 Assumed Liabilities 22
 Assumption Notice..... 24
 Audited Financial Statements 31
 Available Contracts..... 23
 Balance Sheets 31
 Bankruptcy Code 4
 Bankruptcy Court..... 4
 Bankruptcy Milestones 47
 Bill of Sale and Assignment and Assumption Agreement 26
 Business 3
 Buyer..... 3
 Cases 4
 Closing Date..... 25
 Contracting Parties..... 56
 Copyrights..... 9
 Designation Notice..... 23
 Determination Date..... 23
 Disclosure Schedules 27
 Effect..... 10
 Enforceability Exceptions 28
 Excluded Assets 20
 Excluded Contracts 21
 Excluded Liabilities 23
 Express Representations 35
 Extended Contract Period 23
 Financial Statements 31
 Interim Financial Statements 31
 Key Employee Agreements 22
 Marks 9
 Non-Recourse Persons 56

Notices	52
Outside Date.....	50
Parties.....	3
Party	3
PGX Agreement.....	4
PGX IP	13
PMT	13
Pre-Closing Taxes.....	44
Previously Omitted Contract.....	25
Previously Omitted Contract Notice.....	25
Progrexion.....	13
Projections.....	34
PTI.....	13
Purchase Price.....	26
PXG ASG.....	13
Related Party	32
Related Party Transaction.....	32
Seller	3
Third Party Consents.....	42
Trade Secrets.....	9
Transaction Dispute	54
Transfer Offer	40
Transferred Employees	40
Wind Down Amount.....	8
Wind Down Budget	8

1.3 Other Definitional Provisions and Rules of Interpretation.

(a) The words “hereof,” “herein” and “hereunder” and words of similar import when used in this Agreement shall refer to this Agreement as a whole and not to any particular provision of this Agreement, and Section, Schedule and Exhibit references are to this Agreement unless otherwise specified. All Exhibits and Schedules annexed hereto or referred to herein are hereby incorporated in and made a part of this Agreement as if set forth in full herein. The preliminary draft of the Disclosure Schedules shall be prepared by Seller and furnished to Buyer no later than twenty-one (21) days following the Petition Date. The Parties shall thereafter negotiate the final Disclosure Schedules in good faith. Upon agreement by the Parties of the final Disclosure Schedules, the Disclosure Schedules shall be deemed incorporated and made a part hereof (and an integral part of this Agreement). Any capitalized terms used in any Schedule or Exhibit but not otherwise defined therein shall be defined as set forth in this Agreement.

(b) The meanings given to terms defined herein shall be equally applicable to both singular and plural forms of such terms.

(c) Whenever the words “include,” “includes” or “including” are used in this Agreement they shall be deemed to be followed by the words “without limitation.” Where the context permits, the use of the term “or” will be equivalent to the use of the term “and/or.”

(d) Words denoting any gender shall include all genders. Where a word or phrase is defined herein, each of its other grammatical forms shall have a corresponding meaning.

(e) A reference to any Party to this Agreement shall include such Party's successors and permitted assigns.

(f) The word "extent" in the phrase "to the extent" means the degree to which a subject or other thing extends, and such phrase does not mean simply "if".

(g) References herein to any Law shall be deemed to refer to such Law as amended, modified, codified, reenacted, replaced, supplemented or superseded in whole or in part and in effect from time to time, including any successor legislation thereto, and also to all rules and regulations promulgated thereunder, and references to any section or other provision of a Law means that section or provision of such Law in effect from time to time and constituting the substantive amendment, modification, codification, reenactment, replacement or supplement of such section or other provision; provided that for purposes of any representation or warranty set forth herein, with respect to any violation of or non-compliance with, or alleged violation of or non-compliance, with any Law, the reference to such Law means such as in effect at the time of such violation or non-compliance or alleged violation or non-compliance.

(h) All references to "\$" and dollars shall be deemed to refer to the currency of the United States of America.

(i) The provision of a table of contents, the division into Articles, Sections and other subdivisions and the insertion of headings are for convenience of reference only and shall not affect or be utilized in construing or interpreting this Agreement. References to the terms "Article," "Section," "clause," "Schedule" and "Exhibit" are references to the Articles, Sections, clauses, Schedules and Exhibits to this Agreement unless otherwise specified.

(j) References to "days" means calendar days unless Business Days are expressly specified. When calculating the period of time before which, within which or following which any act is to be done or step taken pursuant to this Agreement, the date that is the reference date in calculating such period will be excluded. If the last day of such period is a day other than a Business Day, the period in question will end on the next succeeding Business Day.

(k) References to "written" or "in writing" include in electronic form (including by e-mail transmission or electronic communication by portable document format (.pdf)).

(l) The word "will" will be construed to have the same meaning and effect as the word "shall". The words "shall," "will," or "agree(s)" are mandatory, and "may" is permissive.

(m) Any document or item will be deemed "delivered," "provided" or "made available" by Seller, within the meaning of this Agreement if such document or item (a) is included in the Dataroom, (b) actually delivered or provided to Buyer or any of Buyer's Representatives or (c) made available upon request, including at Seller's office(s).

(n) Any reference to any agreement or Contract will be a reference to such agreement or Contract, as amended, modified, supplemented or waived.

**ARTICLE II
TRANSFER OF ASSETS AND LIABILITIES**

2.1 Purchased Assets. At the Closing, and upon the terms and subject to the conditions set forth herein and in the Sale Order and, with respect to Seller, subject to the approval of the Bankruptcy Court pursuant to sections 105, 363 and 365 of the Bankruptcy Code, Seller shall sell, convey, assign, transfer and deliver to Buyer, and Buyer shall purchase, acquire and accept from Seller, all of the right, title and interest of Seller, free and clear of any Encumbrances (other than Permitted Encumbrances), in, to and under, all of the Purchased Assets. The Purchased Assets shall include Seller's right, title and interest in, to and under each of the following of Seller:

- (a) other than the Excluded Cash, (i) all cash, money orders, third-party checks, wire transfers and any other funds of Seller, commercial paper, marketable securities, demand deposits, reserves for Taxes, certificates of deposit and other bank deposits, deposits of Seller with any third-party (including any vendor, manufacturer, customer, utility or landlord or other cash deposits for rent, electricity, telephone or otherwise), treasury bills, and other cash equivalents and liquid investments (in each case, net of bank overdrafts, issued but uncleared checks, wire transfers and drafts, and negative cash balances in other accounts), and (ii) the Acquired Bank Accounts;
- (b) all deposits, credits, and prepaid charges and expenses from whatever source paid;
- (c) all accounts receivable;
- (d) all Avoidance Actions (including the Buyer Avoidance Actions but, for the avoidance of doubt, excluding the Insider Avoidance Actions) with respect to the Purchased Assets;
- (e) all Claims that Seller may have against any Person (including Governmental Entities) for refund or credit, rebate, abatement, deposit, prepayment, or other recovery of any type, together with any refund of interest due thereon or penalty rebate arising therefrom, in each case solely with respect to Taxes accrued with respect to periods ending on or prior to the Closing Date;
- (f) all royalties, advances, prepaid assets, and other current assets;
- (g) all machinery, furniture, fixtures, furnishings, equipment, and other tangible personal property owned or used or held for use by Seller in the conduct of the Business, including all artwork, desks, chairs, tables, hardware, copiers, telephone lines and numbers, facsimile machines and other telecommunication equipment, cubicles and miscellaneous office furnishings and supplies;
- (h) all rights of Seller under or pursuant to all warranties, representations and guarantees, including those made by suppliers, manufacturers and contractors or any other third party to and for the benefit of Seller;
- (i) all current and prior insurance policies, to the extent transferable, and any proceeds therefrom, other than any directors and officers insurance policies;

- (j) all Permits, including those listed on Schedule 2.1(j), to the extent transferable or assignable under Law;
- (k) all Assumed Contracts;
- (l) all Documents;
- (m) all Acquired Intellectual Property and all of Seller's rights to institute and pursue Proceedings against third parties for past, present and future infringement, misappropriation or dilution of any of the foregoing, or other conflict therewith, and all of Seller's rights to recover damages or lost profits in connection with any of the foregoing;
- (n) [all Owned Real Property;]
- (o) all rights under non-disclosure or confidentiality, non-compete or non-solicitation agreements with employees and non-employee agents of Seller or with third parties (including any non-disclosure or confidentiality, non-compete, or non-solicitation agreement entered into in connection with the Auction);
- (p) any interest in any internet websites, URLs or internet domain names, and any applications and registrations pertaining thereto;
- (q) any loans owed to Seller by any current or former employee, officer or director of Seller;
- (r) the sponsorship of all Assumed Benefit Plans and all right, title and interest in any assets thereof or relating thereto;
- (s) all other assets or rights of every kind and description of Seller related to the Business, wherever located, whether real, personal or mixed, tangible or intangible; and
- (t) all goodwill related to the foregoing.

2.2 Excluded Assets. Notwithstanding anything herein contained to the contrary, from and after the Closing, Seller shall retain, and Buyer shall not purchase, Seller's right, title and interest in and to (and the Purchased Assets shall not include any of) the following assets and properties of Seller (collectively, the "Excluded Assets"), all of which shall remain the exclusive property of the Seller:

- (a) any Contract other than (i) any Assumed Contract, or (ii) any Contract otherwise included as a Purchased Asset under Section 2.1(h), Section 2.1(k), or Section 2.1(o) (collectively, the "Excluded Contracts");
- (b) any Contract or arrangement (including any loan or similar arrangement) with or binding upon any of Seller and any Related Party (as defined below);
- (c) all Claims which Seller may have against any Person (other than Avoidance Actions with respect to the Purchased Assets), including (i) all other rights, claims, causes of

action, rights of recovery, rights of set-off, and rights of recoupment as of the Closing of Seller, in each case, arising out of or relating to events occurring on or prior to the Closing Date, and (ii) all claims that Seller may have against any Person with respect to any other Excluded Assets or any Excluded Liabilities;

(d) all rights of Seller under this Agreement and the agreements and instruments delivered to Seller by Buyer pursuant to this Agreement;

(e) all Documents (i) to the extent they relate to any of the Excluded Assets or Excluded Liabilities (including information stored on the computer systems, data networks or servers of Seller); (ii) that are Seller's financial accounting Documents, all minute books, organizational documents, stock registers and such other books and records of Seller as pertaining to ownership, organization or existence of Seller, Tax Returns (and any related work papers), corporate seal, checkbooks, and canceled checks; (iii) that Seller is required by Law to retain; or (iv) that are governed under GDPR or collected from natural persons with addresses in the European Union or European Economic Area; provided that, to the extent not prohibited by applicable Law, Buyer shall have the right to make copies of any portions or all of such Documents;

(f) all privileged materials, documents and records of Seller or any of its Affiliates;

(g) the Seller's directors and officers liability insurance policies, if any, and all rights and benefits of any nature of Seller with respect thereto, including all insurance recoveries thereunder and rights to assert claims with respect to any such insurance recoveries;

(h) all assets owned or used by Seller that are specifically identified in Schedule 2.2(h);

(i) every asset of Seller that would otherwise constitute a Purchased Asset (if owned immediately prior to the Closing) if conveyed or otherwise disposed of during the period from the date hereof until the Closing Date (i) in the Ordinary Course of Business, (ii) at the direction of the Bankruptcy Court or (iii) as otherwise permitted by the terms of this Agreement;

(j) all deposits, credits, prepaid charges and expenses, and other similar amounts, to the extent related to any Excluded Liability;

(k) all Permits other than those listed on Schedule 2.1(j);

(l) the sponsorship of all Benefit Plans that are not Assumed Benefit Plans and all right, title and interest in any assets thereof or relating thereto; and

(m) the Excluded Cash.

2.3 Assumed Liabilities. Upon the terms and subject to the conditions set forth in this Agreement and the Sale Order, and subject to the exclusions set forth in Section 2.4 (and in the event of any conflict between the exclusions set forth in Section 2.4 and the provisions of this Section 2.3, the exclusions set forth in Section 2.4 shall prevail), as partial consideration for the

Purchased Assets, Buyer shall, on and after the Closing, assume only the following Liabilities of Seller (the “Assumed Liabilities”):

(a) all Liabilities under the Assumed Contracts to the extent that any such Liabilities under such Assumed Contracts: (i) arise out of or relate to events, occurrences, acts or omissions occurring solely after the Closing Date, (ii) do not arise from a breach, violation or default of such Assumed Contract by Seller prior to the Closing; and (iii) are not required to be performed prior to the Closing;

(b) all Liabilities relating to Buyer’s ownership or operation of the Purchased Assets to the extent arising out of or relating to events, occurrences, acts or omissions occurring solely after the Closing Date;

(c) all Cure Amounts;

(d) all accrued and unpaid Administrative Expenses incurred by Seller prior to the Closing Date (other than Professional Fees and Expenses) and those listed on Schedule 2.3(d), not to exceed \$[4,400,000] in the aggregate;

(e) all Liabilities in respect of wages and other compensation of Business Employees for periods prior to the Closing Date;

(f) all Liabilities of Seller under the employment agreements set forth on Schedule 2.3(g) (the “Key Employee Agreements”);

(g) all Liabilities relating to Transferred Employees accruing on or after the Closing Date;

(h) all Liabilities relating to Transferred Employees’ vacation and other paid time off to the extent set forth in Section 6.6;

(i) all Liabilities with respect to the Benefit Plans listed on Schedule 2.3(i) (the “Assumed Benefit Plans”);

(j) all Liabilities for Transfer Taxes pursuant to Section 6.10(a);

(k) those Tax Liabilities specifically set forth on Schedule 2.3(l); and

(l) any Claim in connection with or arising from or relating to any Excluded Asset, including any Taxes associated therewith.

2.4 Excluded Liabilities. Notwithstanding anything to the contrary set forth herein, Buyer shall not assume, and shall not be deemed to have assumed, and Seller shall be solely and exclusively liable with respect to, all Liabilities of Seller or any of its Affiliates or any of their respective predecessors other than the Assumed Liabilities (collectively, the “Excluded Liabilities”). For the avoidance of doubt, and without limiting the foregoing, Buyer shall not be obligated to assume, nor assumes, and Buyer hereby disclaims, all of the Excluded Liabilities.

2.5 Assumption and Assignment of Assumed Contracts.

(a) At the Closing Seller shall assume and assign, or cause to be assigned, to Buyer, and Buyer shall accept assignment of, each of the PGX Operating Agreements.

(b) Schedule 2.5(b) sets forth a list of the executory Contracts other than the PGX Operating Agreement to which Seller is a party, together with estimated Cure Amounts for each Assumed Contract (the “Available Contracts”), which Schedule 2.5(b) may be updated from time to time prior to the date that is fifteen (15) days following the Agreement Date to add any Contracts inadvertently excluded from such schedule. By the date that is two (2) Business Days prior to the Closing (such date, the “Determination Date”), Buyer shall designate in writing (each such writing, a “Designation Notice”) which Available Contracts from Schedule 2.5(b) Buyer wishes for Seller to assume and assign to Buyer at the Closing (such contracts, together with the PGX Operating Agreements and the Key Employee Agreements, the “Assumed Contracts”). Buyer shall have the right to amend a Designation Notice in any respect at any time prior to the Determination Date. All Contracts of Seller that are listed on Schedule 2.5(b) and which Buyer does not designate in writing pursuant to a Designation Notice for assumption shall not constitute Assumed Contracts or Purchased Assets and shall automatically be deemed Excluded Assets; provided, however, that if an Available Contract is subject to a Cure Amount dispute or other dispute as to the assumption or assignment of such Available Contract that has not been resolved to the mutual satisfaction of Buyer and Seller prior to the Determination Date, then the Determination Date shall be extended (but only with respect to such Available Contract) to no later than the earlier of (A) the date on which such dispute has been resolved to the mutual satisfaction of Buyer and Seller, (B) the date on which such Available Contract is deemed rejected by operation of section 365 of the Bankruptcy Code and (C) the date upon which such dispute is finally determined by the Bankruptcy Court (the “Extended Contract Period”). If a Designation Notice with respect to such Available Contract is not delivered by Buyer in writing by the date which is three (3) Business Days following the expiration of such Extended Contract Period, such Available Contract shall be automatically deemed an Excluded Asset. For the avoidance of doubt, except as set forth in Section 2.3, Buyer shall not assume or otherwise have any Liability with respect to any Excluded Asset. At Buyer’s reasonable request, Seller shall make reasonably available to Buyer the appropriate employees of Seller necessary to discuss the outstanding Available Contracts. Notwithstanding the foregoing, for the avoidance of doubt, the Key Employee Agreements and the PGX Operating Agreements shall, in any event, be Assumed Contracts.

(c) Seller shall use commercially reasonable efforts to take all actions required by the Bankruptcy Court to obtain an Order (which may be the Sale Order) containing a finding that the proposed assumption and assignment of the Assumed Contracts to Buyer satisfies all applicable requirements of section 365 of the Bankruptcy Code.

(d) At the Closing, Seller shall, pursuant to the Sale Order and the Bill of Sale and Assignment and Assumption Agreement, assume and assign, or cause to be assigned, to Buyer, each of the Assumed Contracts that is capable of being assumed and assigned as of such date.

(e) Buyer will cooperate with Seller in communicating with third parties to Available Contracts as may be reasonably necessary to assist Seller in establishing that Buyer has

satisfied the requirement of adequate assurance of future performance contained in sections 365(b)(1)(C) and 365(f) of the Bankruptcy Code with respect to the applicable Available Contracts.

(f) In the event Seller is unable to assign any such Assumed Contract to Buyer without the consent of another Person, then the Parties shall use their commercially reasonable efforts to obtain, and to cooperate in obtaining, all required consents necessary to assume and assign such Assumed Contracts to Buyer.

(g) As soon as practicable after the Agreement Date (and in no event later than three (3) Business Days after entry of the Bidding Procedures Order), Seller shall file a list of the Available Contracts (the "Assumption Notice") with the Bankruptcy Court and shall serve such Assumption Notice via first class mail on each counterparty to an Available Contract listed thereon. The Assumption Notice shall identify all Available Contracts and set forth a good faith estimate of the amount of the Cure Amounts applicable to each such Contract.

(h) Not later than one (1) Business Day following the Determination Date, Seller shall file with the Bankruptcy Court an amended and restated Assumption Notice, which notice shall set forth only the Assumed Contracts (and exclude all other Available Contracts).

(i) On the Closing Date, with respect to Cure Amounts not disputed as of the Closing Date, Buyer shall pay all Cure Amounts to the applicable counterparty and Seller shall have no Liability therefor. With respect to Cure Amounts that are disputed as of the Closing Date, the Parties shall cooperate and diligently pursue resolution of such disputes. Upon the resolution of any disputed Cure Amount following the Closing, Buyer shall pay such Cure Amount promptly, and in no event later than two (2) Business Days following such resolution.

(j) Upon payment by Buyer of the Cure Amounts, all defaults under the Assumed Contracts (monetary or otherwise) and all actual or pecuniary losses that have or may have resulted from such defaults shall be deemed cured, including any Tax, rental obligation, common area maintenance, percentage rent, base rent or utility payments, whether or not such obligation became due, or accrued, after the effective date of the assignment of such Assumed Contracts, as the case may be.

(k) Notwithstanding anything in this Agreement to the contrary, from and after the date hereof through the Closing, Seller will not reject or take any action (or fail to take any action that would result in rejection by operation of Law) to reject, repudiate or disclaim any Contract without the prior written consent of Buyer.

(l) Previously Omitted Contracts.

(i) If prior to or following the date which is thirty (30) days following the Agreement Date, it is discovered by any Party that a Contract should have been listed on Schedule 2.5(b) but was not listed on Schedule 2.5(b) and has not been rejected by the Seller (any such Contract, a "Previously Omitted Contract"), the discovering Party shall, promptly following the discovery thereof (but in no event later than two (2) Business Days following the discovery thereof), notify the other Parties in writing of such Previously Omitted Contract and then the Seller shall, promptly following such notification (but in no event later than two (2) Business Days following such notification), notify Buyer of Seller's

good faith estimate of all Cure Amounts (if any) for such Previously Omitted Contract. Buyer may thereafter deliver a Designation Notice to Seller, no later than the earlier of (x) the Determination Date or the expiration of the Extended Contract Period, as applicable, and (y) five (5) Business Days following notification of such Previously Omitted Contract from the Seller with respect to such Previously Omitted Contract and, if such Designation notice is so delivered, such contract shall be an Assumed Contract under this Agreement. All Previously Omitted Contracts with respect to which Buyer fails to timely deliver a Designation Notice, shall be an Excluded Asset.

(ii) If Buyer delivers a Designation Notice in accordance with Section 2.5(1)(i), the Seller shall serve a notice (the “Previously Omitted Contract Notice”) on the counterparties to such Previously Omitted Contract notifying such counterparties of the Cure Amounts with respect to such Previously Omitted Contract and Seller’s intention to assume and assign such Previously Omitted Contract in accordance with this Section 2.5. The Previously Omitted Contract Notice shall provide the counterparties to such Previously Omitted Contract with fourteen (14) Business Days to object, in writing to Seller and Buyer, to the Cure Amounts or the assumption of its Contract. If the counterparties, Seller and Buyer are unable to reach a consensual resolution with respect to the objection, Seller shall seek an expedited hearing before the Bankruptcy Court to determine the Cure Amounts and approve the assumption. If no objection is served on Seller and Buyer, Seller shall obtain an order of the Bankruptcy Court fixing the Cure Amounts and approving the assumption of the Previously Omitted Contract. Buyer shall be responsible for all Cure Amounts relating to such Previously Omitted Contracts and for any obligations or Liabilities relating to such Previously Omitted Contracts arising during the Extended Contract Period.

ARTICLE III CLOSING AND PURCHASE PRICE

3.1 Closing; Transfer of Possession; Certain Deliveries.

(a) Unless this Agreement shall have been terminated and the Transactions shall have been abandoned pursuant to Article IX, the Closing shall take place at 10:00 a.m. (prevailing Eastern Time) on the date (the “Closing Date”) that is two (2) Business Days after all the conditions set forth in Article VIII shall have been satisfied or waived (excluding, but subject to the satisfaction or waiver of, conditions that, by their nature, are to be satisfied at the Closing), or such other time or date as agreed to in writing by the Parties. The Closing shall take place by telephone or video conference and electronic exchange of documents, unless otherwise mutually agreed to by the Parties. The Closing shall be effective as of 12:01 a.m. (prevailing Eastern Time) on the Closing Date.

(b) At the Closing, Seller shall deliver, or shall cause to be delivered, to Buyer the following:

(i) a counterpart to the Bill of Sale and Assignment and Assumption Agreement in substantially the form attached hereto as Exhibit C (the “Bill of Sale and Assignment and Assumption Agreement”), duly executed by Seller;

(ii) one (1) or more assignments of the Owned Intellectual Property, in a form reasonably acceptable to Buyer and Seller, duly executed by the applicable Seller(s);

(iii) a certificate of a duly authorized officer of Seller dated the Closing Date certifying as to the matters set forth in Section 8.1(a), Section 8.1(b) and Section 8.1(d);

(iv) [customary quitclaim deed(s) with respect to the Owned Real Property, and] terminations and/or assignments of the Leases, in each case, as reasonably requested by Buyer with respect to the Real Property;

(v) a certification of non-foreign status from Seller, duly completed and executed in compliance with Treasury Regulation Section 1.1445-2(b); and

(vi) such other closing instruments and certificates as may be reasonably requested by Buyer, in each case in form and substance reasonably acceptable to Buyer and Seller.

(c) At the Closing, Buyer shall deliver, or shall cause to be delivered to Seller, the following:

(i) a counterpart to the Bill of Sale and Assignment and Assumption Agreement, duly executed by Buyer;

(ii) a certificate of a duly authorized officer of Buyer dated the Closing Date, certifying as to the matters set forth in Section 8.2(a) and Section 8.2(b); and

(iii) such other closing instruments and certificates as may be reasonably requested by the Seller, in each case, in form and substance reasonably acceptable to the Seller and Buyer.

3.2 Purchase Price; Related Matters.

(a) Purchase Price. The aggregate consideration for the Purchased Assets shall be (i) the assumption and cure of the PGX Operating Agreements, *plus* (ii) the assumption by Buyer of the Assumed Liabilities (collectively, the “Purchase Price”).

(b) Bulk Sales Laws. Buyer acknowledges that Seller will not comply with the provisions of any “bulk-transfer” Laws of any jurisdiction in connection with the sale and transfer of the Purchased Assets and Buyer hereby waives all Claims related to the non-compliance therewith. Pursuant to section 363(f) of the Bankruptcy Code, the transfer of the Purchased Assets of the Seller shall be free and clear of any Encumbrances, other than Permitted Encumbrances, in each case pursuant to the Bankruptcy Code, whether arising prior to or subsequent to the Petition Date, including any Encumbrances or claims arising out of the “bulk-transfer” Laws.

3.3 Allocation of Purchase Consideration. Seller and Buyer agree to allocate the Purchase Price among the Purchased Assets for all purposes (including tax and financial accounting) in accordance with the allocation methodology set forth in Schedule 3.3 attached hereto. Within ninety (90) days following the Closing Date, [Buyer] will provide to Seller an

Allocation Schedule prepared in accordance with such allocation methodology. Buyer and Seller shall file all applicable Tax Returns (including Form 8594, any amended Tax Returns, and any claims for refund) consistent with the Allocation Schedule and shall take no position contrary thereto or inconsistent therewith (including in any audits or examinations by any taxing authority or any other proceedings) absent a contrary “determination” (within the meaning of Section 1313(a) of the Code).

3.4 Withholding. Buyer or any other paying agent (as applicable) shall be entitled to deduct and withhold from the amounts payable under this Agreement such amounts as may be required to be deducted and withheld under the Code and any other applicable Tax Laws. Any such withheld amount shall be treated as though it had been paid to the Person in respect of which such withholding was required.

ARTICLE IV REPRESENTATIONS AND WARRANTIES OF SELLER

Except as set forth in the Disclosure Schedules delivered to Buyer in connection with this Agreement and subject to Section 10.18 (the “Disclosure Schedules”), the Seller hereby makes the following representations and warranties to Buyer as of the Agreement Date:

4.1 Organization and Good Standing. Seller (a) is an entity duly formed, validly existing and in good standing under the Laws of its jurisdiction of incorporation or formation, and (b) subject to any limitations that may be imposed on such Seller as a result of filing a petition for relief under the Bankruptcy Code, has full organizational power and authority to own, lease and operate its properties, to perform all of its obligations under the Available Contracts, and carry on the Business as it is now being conducted.

4.2 Power and Authority. Subject to entry and effectiveness of the Sale Order in respect of Seller, Seller has the requisite organizational power and authority to enter into this Agreement and to perform its obligations hereunder, and the execution and delivery of this Agreement by Seller and, subject to the approval of this Agreement by the Bankruptcy Court, the consummation by Seller of the Transactions and the performance of Seller’s obligations hereunder have been duly authorized by all requisite organizational action on the part of Seller. This Agreement has been duly executed and delivered by Seller and (assuming the due and valid authorization, execution and delivery thereof by Buyer), following the approval of this Agreement and the Transactions by the Bankruptcy Court pursuant to the Sale Order, will constitute the legal, valid and binding obligation of Seller, enforceable against Seller in accordance with its terms, except that such enforceability (a) may be limited by bankruptcy, insolvency, fraudulent transfer, reorganization, moratorium and other similar Laws of general application affecting or relating to the enforcement of creditors’ rights generally and (b) is subject to general principles of equity, whether considered in a proceeding at law or in equity (collectively, the “Enforceability Exceptions”). Seller has the requisite organizational power to operate its business with respect to the Purchased Assets that it owns as now conducted and is duly qualified as a foreign entity to do business, and to the extent legally applicable, is in good standing, with respect to the Business, in each jurisdiction in which the character of its owned, operated or leased properties or the nature of its activities makes such qualification necessary, except where the failure to be so qualified or in good standing has not had a Material Adverse Effect.

4.3 Litigation. Except for Orders or Proceedings that do not have, and would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect, as of the date of this Agreement, there are no outstanding Orders or Proceedings pending, or, to the Knowledge of Seller, threatened against Seller relating to the ownership or use of the Purchased Assets or conduct of the Business by Seller or otherwise affecting the Purchased Assets or the Business.

4.4 No Contravention. Subject to the entry and effectiveness of the Sale Order by the Bankruptcy Court, and except as set forth on Schedule 4.4, neither the execution and delivery of this Agreement and compliance by Seller with any provisions hereof, nor the consummation of the Transactions, will (a) violate or conflict with any provision of Seller's Organizational Documents, (b) with or without the giving of notice or the lapse of time or both violate, or result in a breach of, or constitute a default under, or conflict with, or accelerate the performance required by, any of the terms of any Available Contract or Lease, (c) violate or conflict with any Order, or any Law or Permit that is required to be discharged prior to Closing applicable to Seller, or (d) result in the creation of any Encumbrance upon any of the Purchased Assets (other than a Permitted Encumbrance); except, in the case of above clauses (b), (c), and (d), for compliance with the applicable requirements of the HSR Act or other Antitrust Laws if required, or as would not, individually or in the aggregate, reasonably be expected to be material to the Business, taken as a whole.

4.5 Consents and Approvals. Except (a) to the extent excused or made unenforceable as a result of the filing of the Cases, (b) to the extent not required if the Sale Order is entered, or (c) as set forth on Schedule 4.5, the execution, delivery and performance by Seller of this Agreement and the Transactions, and the legality, validity, binding effect or enforceability of this Agreement and any agreements contemplated hereby, do not require any consents, waivers, authorizations or approvals of, or filings with, any (i) Governmental Entities or (ii) other third Persons, except with respect to clause (ii) as would not reasonably be expected to have a Material Adverse Effect, or, with respect to clause (i), for any filings required to be made under the HSR Act or any applicable Antitrust Laws, or as would not reasonably be expected to be material to the Business, taken as a whole.

4.6 Title to Purchased Assets; Sufficiency.

(a) Seller has, and subject to the entry and effectiveness of the Sale Order in respect of the Purchased Assets, at the Closing, Buyer will have, good and valid title to each of the Purchased Assets (except for those Purchased Assets that are leased or licensed to Seller, as to which Seller has, and at the Closing, Buyer will have, valid licensed or leasehold interests), free and clear of any Encumbrances, other than (i) Permitted Encumbrances, (ii) liens or other Encumbrances upon Buyer's assets, if any, securing any loan made directly to Buyer or expressly assumed by Buyer as of the Closing Date, (iii) as subject to Section 2.5, or (iv) the Enforceability Exceptions.

(a) Other than the Excluded Assets, the Purchased Assets constitute all of the assets used in or held for use in the Business by Seller and are sufficient for Buyer to conduct the Business from and after the Closing Date without interruption and in the Ordinary Course of

Business as it has been conducted by Seller prior to the Closing Date, in each case, except as would not be material to the Business taken as a whole.

4.7 Validity of Available Contracts. As of the date of this Agreement, subject to requisite Bankruptcy Court approvals, and assumption by the applicable Seller of the applicable Contract in accordance with applicable Law (including satisfaction of any applicable Cure Amounts) and except (i) as a result of the commencement of the Cases, and (ii) with respect to any Contract that has previously expired in accordance with its terms, been terminated, restated, or replaced: (a) each Available Contract is a legal, valid and binding obligation of the Seller that is a party thereto, and is enforceable against such Seller in accordance with its terms and, to the Knowledge of Seller, is a legal, valid and binding obligation of each other party to such Contract and is enforceable against such other party thereto in accordance with its terms, subject to the Enforceability Exceptions, (b) Seller is not in default or breach of an Available Contract, (c) to the Knowledge of Seller, during the twelve (12) months preceding the date hereof, no other party to any Available Contract has materially breached such Contract, (d) to the Knowledge of Seller, there does not exist any event, condition or omission that would constitute a material default or breach (or event which, with the giving of notice or lapse of time or both would become such a default or breach) under any Available Contract, (e) to the Knowledge of Seller, Seller has not received any written notice of termination or cancellation with respect to any Available Contract, and (f) with respect to the Assumed Contracts, upon entry of the Sale Order and payment of the Cure Amounts, Seller will not be in breach or default of its obligations thereunder, except, in each case, as would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

4.8 Intellectual Property. Except as would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect, (a) Seller owns all right, title and interest in, or has the right to use, pursuant to a license or otherwise, all Intellectual Property required to operate the Business as presently conducted, in each case, (i) free and clear of any Encumbrances except Permitted Encumbrances, and (ii) other than non-exclusive licenses of, or covenants with respect to, Intellectual Property granted in the Ordinary Course of Business, and (b) as of the date of this Agreement, (i) there are no pending, and Seller has not received, since December 31, 2021, any written notice of any actual or threatened Proceedings alleging a violation, misappropriation or infringement of the Intellectual Property of any other Person by Seller except for any of the foregoing that have since been resolved, (ii) to the Knowledge of Seller, the operation of the Business as currently conducted does not violate, misappropriate or infringe the Intellectual Property of any other Person, and (iii) to the Knowledge of Seller, no other Person has violated, misappropriated or infringed any Intellectual Property of Seller.

4.9 Employee Benefits.

(a) Schedule 4.9(a) lists all material Benefit Plans

(b) True, correct and complete copies of the following documents, with respect to each of the Benefit Plans, have been made available to Buyer: (i) any plan documents and all material amendments thereto, (ii) the most recent Form 5500, if applicable, and (iii) the most recent summary plan descriptions (including letters or other documents updating such descriptions).

(c) Except as would not, individually or in the aggregate, have a Material Adverse Effect:

(i) Each Benefit Plan is in material compliance with all applicable Laws, including ERISA and the Code.

(ii) Each Benefit Plan that is intended to be a qualified plan under Section 401(a) of the Code has received a favorable determination or opinion letter to that effect from the IRS and, to the Knowledge of Seller, no event has occurred since the date of such determination or opinion that would reasonably be expected to adversely affect such determination or opinion.

(iii) No condition exists that is reasonably likely to subject Seller to any direct or indirect liability under Title IV of ERISA.

(iv) No Proceeding (other than routine claims for benefits in the Ordinary Course of Business) are pending or, to the Knowledge of Seller, threatened with respect to any Benefit Plan.

4.10 Labor Matters.

(a) Schedule 4.10(a) sets forth a complete list of all Business Employees and, based on the Seller's records as of the Agreement Date, correctly reflects, with respect to each individual, as applicable: (i) date of hire; (ii) job title; (iii) hourly pay rate or annual salary; (iv) exempt versus non-exempt status (as applicable); (v) accrued paid time off balance; and (vi) to the extent known, leave of absence status.

(b) Seller is not, with respect to the Business, a party to any labor or collective bargaining agreement and there are no labor or collective bargaining agreements which pertain to any Business Employees, and no such agreements are being negotiated as of the date of this Agreement. No Business Employees are represented by a labor or trade union or works council, no labor organization or group of Business Employees has made a pending demand for recognition, and there are no representation proceedings or petitions seeking a representation proceeding presently pending or, to the Knowledge of Seller, threatened to be brought or filed, with the U.S. National Labor Relations Board with respect to the Business. There is no organizing activity pending or, to the Knowledge of Seller, threatened by any labor organization with respect to the Business Employees.

(c) Seller has not taken any actions relating to the Business at any single site of employment in the ninety (90)-day period prior to the Closing Date that would, individually or in the aggregate, constitute a "mass layoff" or "plant closing" within the meaning of the WARN Act, or any similar applicable Law.

4.11 Conduct of Business. Except as set forth on Schedule 4.11, and except as would not reasonably be expected, individually or in the aggregate, to be material to the Business taken as a whole and except for the Cases, the DIP Documents, all negotiation and preparation therefor, and the negotiation, execution, delivery and performance of this Agreement, from January 1, 2023 to the Agreement Date, (a) the Business has been conducted in the Ordinary Course of Business

consistent with past practice and Seller has not entered into any transaction (including any transfer or sale of assets) out of the ordinary course of business consistent with past practice, (b) Seller has owned and operated the Purchased Assets in the Ordinary Course of Business consistent with past practice, and (c) there has been no Material Adverse Effect.

4.12 Compliance with Laws; Permits.

(a) Except as disclosed on Schedule 4.12(a), Seller is conducting, and to the Knowledge of Seller has conducted since [●], the Business and Purchased Assets in compliance, in all material respects, with all applicable Laws, notices, approvals and Orders, except for failures to comply or violations that would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

(b) Seller has all material Permits which are required for the lawful operation of the Business as presently conducted and the ownership and operation of the Purchased Assets, and each such Permit is valid, binding and in full force and effect, in each case except as would not reasonably be expected to have a Material Adverse Effect. Except as set forth on Schedule 4.12(b), to the Knowledge of Seller, Seller is not and has not been in material default or violation (and no event has occurred which, with notice or the lapse of time or both, would constitute a default or violation) of any term, condition or provision of any Permit to which it is a party.

4.13 Financial Statements. Seller has delivered to Buyer (a) the audited consolidated balance sheet of the Business dated as of December 31, 2021 and the audited consolidated statements of operations and income, shareholders' equity and cash flow of the Business for the year then ended (the "Audited Financial Statements"), and (b) the unaudited consolidated balance sheets of the Business dated as of April 30, 2023 (the "Balance Sheets") and the unaudited consolidated statements of operations and income, shareholders' equity and cash flow of the Business for the year ended December 31, 2022 and the four (4) month period ended April 30, 2023, respectively (the "Interim Financial Statements" and together with the Audited Financial Statements, the "Financial Statements"). Except as set forth on Schedule 4.13, the Financial Statements present fairly in all material respects the consolidated financial position, results of operations and cash flows of each of Seller on the basis stated therein as of the dates and for the applicable periods stated therein, subject, in the case of the Interim Financial Statements, to normal year-end audit adjustments and the absence of related notes.

4.14 Financial Advisors. Except as set forth on Schedule 4.14, no Person has acted, directly or indirectly, as a broker, finder or financial advisor for Seller in connection with the Transactions and no Person is entitled to any fee or commission or like payment in respect thereof.

4.15 Tax Matters.

(a) Except as set forth in Schedule 4.15(a), Seller has timely filed (taking into account any valid extensions of time to file) all income and other material Tax Returns which are required to be filed by Seller, all such Tax Returns are true, correct and complete in all material respects, and all Taxes due and payable by Seller prior to the date hereof have been timely and fully paid.

(b) Except as set forth on Schedule 4.15(b), there are no liens for Taxes upon the Purchased Assets other than for Permitted Encumbrances.

(c) Except as set forth on Schedule 4.15(c), to the Knowledge of Seller, Seller has complied in all material respects with all applicable Laws relating to the withholding, collection and payment of Taxes and have duly and timely withheld, collected and paid over to the appropriate Governmental Entity all amounts required to be so withheld, collected and paid under all applicable Laws.

(d) Seller has not received any notice in writing from any taxing authority or Governmental Entity asserting that Seller may be subject to Tax in any jurisdiction in which Seller does not file Tax Returns.

(e) No action, suit, proceeding or audit is pending against or with respect to Seller regarding Taxes.

(f) Seller has not waived any statute of limitations in respect of Taxes or agreed to any extension of time with respect to a Tax assessment or deficiency, other than any waiver or exclusion which has expired.

(g) None of the Purchased Assets is an interest (other than indebtedness within the meaning of Section 163 of the Code) in an entity taxable as a corporation, partnership, trust or real estate mortgage investment conduit for U.S. federal income tax purposes.

4.16 Related Party Transactions.

(a) To the Knowledge of Seller, neither Seller nor any executive officer, director, member, manager, equityholder or Affiliate of Seller nor any individual who is a lineal descendant, sibling, parent or spouse of any such Person (each, a "Related Party") is a party to any Contract or arrangement (including any loan or similar arrangement) with or binding upon any of Seller or the Purchased Assets or has any interest in any asset (each, a "Related Party Transaction") other than as set forth on Schedule 4.16(a). Except as set forth on Schedule 4.16(a), Seller has not made any payments to or on behalf of any Related Party (including by exercise of set-off rights, cancellation of intercompany indebtedness, or otherwise).

(b) Except as disclosed on Schedule 4.16(b), to the Knowledge of Seller, no Related Party will, immediately following the Closing, hold any asset (tangible or intangible), property, right, claim, cause of action (including any counterclaim) or defense used in or related to the Business.

4.17 Disclaimer of Other Representations and Warranties. Except for the representations and warranties expressly set forth in this Article IV (as modified by the Disclosure Schedules hereto), the Seller does not make and has not made, nor has any other Person made, and Buyer and the Buyer Group have not relied, are not relying, and will not rely on, any representation and warranty, express or implied, in respect of Seller, the Purchased Assets, the Business or the Assumed Liabilities, and any such other representations or warranties, express or implied, are hereby expressly disclaimed.

ARTICLE V
REPRESENTATIONS AND WARRANTIES OF BUYER

Buyer hereby represents and warrants to Seller as follows:

5.1 Organization and Good Standing. Buyer is a limited liability company duly organized, validly existing and in good standing under the Laws of its jurisdiction of formation, and has full power and authority to own, lease and operate its properties and carry on its business as it is now being conducted.

5.2 Power and Authority. Buyer has the requisite power and authority to enter into this Agreement and to perform its obligations hereunder, and the execution and delivery of this Agreement and the consummation of the Transactions and the performance of Buyer's obligations hereunder have been duly authorized by all requisite company action on the part of Buyer. This Agreement has been duly executed and delivered by Buyer and constitutes (assuming the due and valid authorization, execution and delivery thereof by the other parties thereto and the entry of approval of this Agreement and the Transactions by the Bankruptcy Court pursuant to the Sale Order) the legal, valid and binding obligation of Buyer, enforceable against Buyer in accordance with its terms.

5.3 No Contravention. Neither the execution and delivery of this Agreement nor the consummation of the Transactions will (a) violate or conflict with any provision of Buyer's Organizational Documents, or (b) violate or conflict with any Order, Governmental Entity or arbitrator, or any Law applicable to Buyer; other than, in the case of clause (b), compliance with the applicable requirements of the HSR Act or other Antitrust Laws if required.

5.4 Consents and Approvals. Except for (a) entry of the Sale Order, and (b) any consents or approvals as are reflected on Schedule 5.4, the execution, delivery and performance by Buyer of this Agreement and the Transactions, and the legality, validity, binding effect or enforceability of this Agreement and any agreements contemplated hereby, do not require any consents, waivers, authorizations or approvals of, or filings with, any third Persons or Governmental Entities, other than any filings required to be made under the HSR Act or applicable Antitrust Laws.

5.5 Litigation. There are no Proceedings pending or, to the knowledge of Buyer, threatened, that would reasonably be expected to adversely affect the ability of Buyer to consummate the Transactions in any material respect.

5.6 Financial Advisors. No Person has acted, directly or indirectly, as a broker, finder or financial advisor for Buyer in connection with the Transactions and no Person is entitled to any fee or commission or like payment in respect thereof.

5.7 Sufficient Funds; Adequate Assurances. Buyer has or will have as of the Closing, immediately available funds sufficient for the satisfaction of all of Buyer's obligations under this Agreement, including all fees, expenses of, and other amounts required to be paid by, Buyer in connection with the transactions contemplated hereby. As of the Closing, Buyer shall be capable of satisfying the conditions contained in sections 365(b)(1)(C) and 365(f)(2)(B) of the Bankruptcy Code with respect to the Assumed Contracts and the related Assumed Liabilities.

5.8 Acknowledgements; “As Is” “Where Is” Transaction.

(a) BUYER, ON ITS OWN BEHALF AND ON BEHALF OF THE BUYER GROUP, HEREBY ACKNOWLEDGES AND AGREES THAT IT HAS CONDUCTED TO ITS FULL SATISFACTION AN INDEPENDENT INVESTIGATION AND VERIFICATION OF THE BUSINESS, INCLUDING ITS FINANCIAL CONDITION, RESULTS OF OPERATIONS, ASSETS, LIABILITIES, PROPERTIES, CONTRACTS, ENVIRONMENTAL COMPLIANCE, EMPLOYEE MATTERS, REGULATORY COMPLIANCE, BUSINESS RISKS AND PROSPECTS OF SELLER, ITS AFFILIATES, AND THEIR RESPECTIVE BUSINESSES AND SUBSIDIARIES (AS APPLICABLE) AND THE PURCHASED ASSETS AND THE ASSUMED LIABILITIES, AND, IN MAKING ITS DETERMINATION TO PROCEED WITH THE TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT, BUYER AND THE BUYER GROUP HAVE RELIED SOLELY ON THE RESULTS OF THEIR OWN INDEPENDENT INVESTIGATION.

(b) BUYER, ON ITS OWN BEHALF AND ON BEHALF OF THE BUYER GROUP, HEREBY ACKNOWLEDGES AND AGREES THAT BUYER AND THE BUYER GROUP HAVE RECEIVED FROM SELLER CERTAIN PROJECTIONS, FORWARD-LOOKING STATEMENTS AND OTHER FORECASTS, AND PROSPECTIVE FORWARD-LOOKING STATEMENTS AND OTHER FORECASTS OR THIRD-PARTY INFORMATION RELATING TO SELLER, THE BUSINESS, THE PURCHASED ASSETS AND THE ASSUMED LIABILITIES (WHETHER IN WRITTEN, ELECTRONIC, OR ORAL FORM, AND INCLUDING IN THE DATAROOM, MANAGEMENT MEETINGS, ETC.) (COLLECTIVELY, “PROJECTIONS”). BUYER, ON BEHALF OF ITSELF AND ON BEHALF OF THE BUYER GROUP, ACKNOWLEDGES THAT (I) SUCH PROJECTIONS ARE BEING PROVIDED SOLELY FOR THE CONVENIENCE OF BUYER AND THE BUYER GROUP TO FACILITATE THEIR OWN INDEPENDENT INVESTIGATION OF SELLER, (II) THERE ARE UNCERTAINTIES INHERENT IN ATTEMPTING TO MAKE SUCH PROJECTIONS AND FORECASTS AND IN SUCH INFORMATION; (III) BUYER AND THE BUYER GROUP ARE FAMILIAR WITH SUCH UNCERTAINTIES, AND (IV) BUYER AND THE BUYER GROUP ARE TAKING FULL RESPONSIBILITY FOR MAKING THEIR OWN EVALUATION OF THE ADEQUACY AND ACCURACY OF ALL SUCH PROJECTIONS, FORECASTS, AND INFORMATION SO FURNISHED (INCLUDING THE REASONABLENESS OF THE ASSUMPTIONS UNDERLYING SUCH PROJECTIONS AND FORECASTS); AND (V) NEITHER SELLER NOR ANY OTHER PERSON MAKES ANY REPRESENTATIONS OR WARRANTIES WITH RESPECT TO SUCH PROJECTIONS AND FORECASTS. BUYER, ON ITS OWN BEHALF AND ON BEHALF OF THE BUYER GROUP, HEREBY DISCLAIMS RELIANCE ON ANY OF SUCH PROJECTIONS OR FORECASTS.

(c) BUYER, ON ITS OWN BEHALF AND ON BEHALF OF THE BUYER GROUP, FURTHER ACKNOWLEDGES AND AGREES THAT (I) THE REPRESENTATIONS AND WARRANTIES MADE BY SELLER TO BUYER IN Article IV (AS QUALIFIED BY DISCLOSURE SCHEDULES) OR IN THE DOCUMENTS DELIVERED BY SELLER TO BUYER IN ACCORDANCE WITH SECTION 3.1(b) AT THE CLOSING (COLLECTIVELY, THE “EXPRESS REPRESENTATIONS”) ARE THE SOLE AND EXCLUSIVE REPRESENTATIONS, WARRANTIES AND STATEMENTS OF ANY KIND MADE TO BUYER AND ON WHICH BUYER OR THE BUYER GROUP MAY RELY IN CONNECTION

WITH THE TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT AND (II) ALL OTHER REPRESENTATIONS, WARRANTIES AND STATEMENTS OF ANY KIND OR NATURE EXPRESSED OR IMPLIED, WHETHER IN WRITTEN, ELECTRONIC OR ORAL FORM, INCLUDING (A) THE COMPLETENESS OR ACCURACY OF, OR ANY OMISSION TO STATE OR TO DISCLOSE, ANY INFORMATION (OTHER THAN SOLELY TO THE EXTENT OF THE EXPRESS REPRESENTATIONS), INCLUDING IN THE DATAROOM, PROJECTIONS, MEETINGS, CALLS OR CORRESPONDENCE WITH MANAGEMENT OF SELLER OR ANY OTHER PERSON ON BEHALF OF SELLER OR ANY OF ITS AFFILIATES OR REPRESENTATIVES, AND (B) ANY OTHER STATEMENT RELATING TO THE HISTORICAL, CURRENT OR FUTURE BUSINESS, FINANCIAL CONDITION, RESULTS OF OPERATIONS, ASSETS, LIABILITIES, PROPERTIES, CONTRACTS, ENVIRONMENTAL COMPLIANCE, EMPLOYEE MATTERS, REGULATORY COMPLIANCE, BUSINESS RISKS AND PROSPECTS OF SELLER OR ANY OF ITS AFFILIATES OR SUBSIDIARIES, OR THE QUALITY, QUANTITY OR CONDITION OF SELLER'S ASSETS, ARE, IN EACH CASE, EXPRESSLY DISCLAIMED BY SELLER, INCLUDING WITH RESPECT TO (I) ANY WARRANTY, EXPRESS OR IMPLIED, OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE AS TO ANY PORTION OF THE PURCHASED ASSETS, AND (II) WITH RESPECT TO THE BUSINESS, FINANCIAL CONDITION, RESULTS OF OPERATIONS, ASSETS, LIABILITIES, AND PROSPECTS OF SELLER OR THE BUSINESS OF SELLER, THE MERCHANTABILITY OR FITNESS OF THE PERSONAL PROPERTY OR ANY OTHER PORTION OF THE PURCHASED ASSETS FOR ANY PARTICULAR PURPOSE, OR ANY OTHER MATTER RELATING TO THE PURCHASED ASSETS OR ANY PORTION THEREOF.

(d) UPON THE CLOSING DATE, SUBJECT TO THE EXPRESS REPRESENTATIONS AND THE PROVISIONS OF SECTION 10.4, BUYER WILL ACCEPT THE PURCHASED ASSETS AT THE CLOSING "AS IS," "WHERE IS," AND "WITH ALL FAULTS."

ARTICLE VI COVENANTS OF THE PARTIES

6.1 Conduct of Business Pending the Closing. Except (a) as required by applicable Law or by order of the Bankruptcy Court, (b) as otherwise expressly contemplated by this Agreement, (c) as limited by the terms of the DIP Documents, or (c) with the prior written consent of Buyer (not to be unreasonably withheld, conditioned, or delayed), during the period from the Agreement Date and continuing until the earlier of the termination of this Agreement in accordance with its terms or the Closing, Seller shall (taking into account the commencement of the Cases, the anticipated liquidation and shut-down of operations of Seller other than the Purchased Assets and the Business and other changes, facts and circumstances that customarily result from the events leading up to and following the commencement of bankruptcy proceedings) carry on the Business in the Ordinary Course of Business (subject to the requirements of the Bankruptcy Code and Bankruptcy Court) and use commercially reasonable efforts to preserve in all material respects (a) the operations, organization and goodwill of the Business intact (including by maintaining and renewing its Permits) and (b) relationships with Governmental Entities, customers, suppliers, partners, lessors, licensors, licensees, vendors, contractors, distributors, agents, officers and employees and others having business dealings with the Business. Seller shall notify Buyer in

writing of any event, occurrence, fact, condition or change in the Business, assets, operations or prospects of Seller that results in, or would reasonably be expected to result in, a Material Adverse Effect, promptly upon the occurrence of any such event, occurrence, fact, condition or change.

6.2 Negative Covenants. Except as otherwise expressly provided by this Agreement or consented to in writing by Buyer (such consent not to be unreasonably withheld, conditioned or delayed), or as may be required by order of the Bankruptcy Court or the DIP Documents, or as may be limited by the terms of the DIP Documents, during the period from the date of this Agreement until the earlier of the termination of this Agreement in accordance with its terms or the Closing, Seller shall not take any of the following actions:

(a) incur or commit to incur any capital expenditures other than as expressly contemplated under the Approved Budget;

(b) acquire or agree to acquire (by merging or consolidating with, or by purchasing any portion of the stock of, or other ownership interests in, or substantial portion of assets of, or by any other manner), any business or division or any corporation, partnership, association, limited liability company or other entity;

(c) sell, lease, mortgage, pledge, transfer, license, sublease, or terminate or surrender any [Owned Real Property] or grant any lien on or otherwise encumber or dispose of (or consent to the disposition of) any of the Purchased Assets (including any Available Contract), including the capital stock or equity interests of Seller, other than Permitted Encumbrances or inventory sold in the Ordinary Course of Business;

(d) sell, assign, transfer, license, sublicense, covenant not to sue with respect to, abandon, cancel, terminate, permit to lapse or expire, or otherwise dispose of any Acquired Intellectual Property;

(e) adjust, split, combine, redeem, repurchase or reclassify any capital stock or equity interests or issue or propose or authorize the issuance of any other securities (including Debt securities, options, profits interests, warrants or any similar security exercisable for, or convertible into, such other security);

(f) incur or assume any Debt (other than in connection with the DIP Documents);

(g) guarantee any Debt of any Person or enter into any “keep well” or other agreement to maintain any financial condition of another Person or enter into any arrangement having the economic effect of any of the foregoing (other than pursuant to the DIP Documents);

(h) enter into, amend, restate, supplement, modify, waive or terminate any Available Contract that would reasonably be expected to be material to the business, taken as a whole;

(i) adopt any amendments to the articles of incorporation, bylaws or other Organizational Documents of Seller;

(j) initiate, compromise, settle or agree to settle any Claim, complaint, or Proceeding, other than compromises or settlements in the Ordinary Course of Business that (i) involve only the payment of money damages not in excess of \$[●] individually or \$[●] in the aggregate, (ii) do not impose ongoing limits on the conduct of the Business, and (iii) result in a full release of Seller with regard to the Claims or complaint giving rise to such Proceeding;

(k) make, change or revoke any material Tax election (including entity classification elections), change any financial or Tax accounting method, except insofar as may have been required by applicable Law or a change in GAAP, consent to an extension or waiver of the limitation period applicable to any Tax claim or assessment, or surrender any right to claim a refund of a material amount of Taxes;

(l) except as required by Law, enter into, amend, negotiate or terminate any collective bargaining agreement or similar agreement with any labor union or labor organization representing any employees;

(m) except as required by Law, by the terms of any Benefit Plan or in the Ordinary Course of Business, (i) increase the compensation payable to or to become payable to, or the benefits provided to, pay any bonus to, or grant any equity or equity-based award to, any current or former employee, director, independent contractor or other individual service provider of Seller; (ii) grant, increase, pay, provide or modify any severance, retention, change in control or termination payment or benefit to, or loan or advance or accelerate any amount to, any current or former employee, director, independent contractor or other individual service provider of Seller; (iii) accelerate the vesting or payment, or fund or in any other way secure the payment, of any compensation or benefit for any current or former employee, director, independent contractor or other individual service provider of Seller; (iv) approve, establish, adopt, enter into, amend or terminate any Assumed Benefit Plan; or (v) hire or terminate (other than for cause) any Business Employee, or independent contractor or other individual service provider of the Business with annual target cash compensation greater than \$100,000;

(n) implement any employee layoffs that would result in an obligation to give notice at or before the Closing Date under the WARN Act or other similar law;

(o) (i) enter into any Contract or arrangement (including any loan or similar arrangement) with a related party or that would be a related party transaction if it existed on the Agreement Date or (ii) make payments to or on behalf of any related party (including by exercise of set-off rights or otherwise), other than in accordance with the terms of an existing, disclosed related party transaction;

(p) receive, collect, compile, use, store, process, share, safeguard, secure (technically, physically and administratively), dispose of, destroy, disclose, or transfer (including cross-border) Personal Information (or fail to do any of the foregoing, as applicable) in violation of any (i) applicable Privacy Laws, (ii) privacy policies or notices of Seller, or (iii) the Seller's contractual obligations with respect to Personal Information; or

(q) commit to take any of the foregoing actions.

6.3 Access.

(a) Subject to applicable Law, until the Closing Date, Seller (i) shall give Buyer and its Representatives reasonable access during normal business hours to the offices, assets, contracts, properties, officers, employees, accountants, auditors, financial advisors, counsel (other than counsel to Seller in connection with the Cases) and other representatives, books and records, of Seller and its Affiliates, (ii) shall furnish to Buyer and its Representatives such financial, operating and property related data and other information as such Persons reasonably request, (iii) shall instruct the employees, accountants, counsel and financial advisors of Seller and its Affiliates to cooperate reasonably with Buyer in its investigation of the Business; and (iv) shall, upon reasonable request of Buyer, use commercially reasonable efforts to provide Buyer with access to their customers, suppliers, vendors, distributors, manufacturers and other Persons with whom the Business has had material dealings; provided, however, that Buyer will not, and will not permit any of its Representatives to, contact any officer, manager, director, employee, customer, supplier, lessee, lessor, lender, licensee, licensor, distributor, noteholder or other material business relation of Seller prior to the Closing with respect to Seller, their business or the transactions contemplated by this Agreement without the prior written consent of Seller for each such contact. No investigation by Buyer prior to or after the date of this Agreement shall diminish or obviate any of the representations, warranties, covenants or agreements of Seller contained in this Agreement. For the avoidance of doubt, nothing in this Section 6.3(a) shall require Seller to take any such action if (i) such action may result in a waiver or breach of any attorney/client privilege or (ii) such action could reasonably be expected to result in violation of any applicable Law or Order.

(b) From and after the Closing Date until the conclusion of the Cases and dissolution of Seller, Buyer shall give Seller and Seller's Representatives reasonable access during normal business hours to the books and records, including work papers, schedules, memoranda, Tax Returns, Tax schedules, Tax rulings, and other documents (for the purpose of examining and copying) relating to the Purchased Assets, the Excluded Assets, the Assumed Liabilities or the Excluded Liabilities with respect to periods or occurrences prior to the Closing Date, 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 Seller under this Agreement, or (iii) as is necessary to administer, or satisfy their obligations in connection with, the Cases. Buyer shall, and shall cause each of its controlled Affiliates to, cooperate with Seller as may reasonably be requested by Seller for such purposes. For the avoidance of doubt, nothing in this Section 6.3(b) shall require Buyer to take any such action if (i) such action may result in a waiver or breach of any attorney/client privilege, (ii) such action could reasonably be expected to result in violation of any applicable Law or Order, or (iii) providing such access or information would be reasonably expected to be disruptive to its normal business operations. Unless otherwise consented to in writing by Seller, Buyer will not, for a period of three (3) years following the Closing Date, destroy, alter or otherwise dispose of any of the books and records without first offering to surrender to Seller such books and records or any portion thereof that Buyer may intend to destroy, alter or dispose of. From and after the Closing, Buyer will, and will cause its employees to, provide Seller with reasonable assistance, support and cooperation with Seller's 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) The information provided pursuant to this Section 6.3 will be used solely for the purpose of consummating the transactions contemplated hereby. Seller does not make any representation or warranty as to the accuracy of any information, if any, provided pursuant to this

Section 6.3, and Buyer may not rely on the accuracy of any such information, in each case, other than the Express Representations.

6.4 Confidentiality. From and after the Closing Date:

(a) Seller will treat and hold as confidential all of the Confidential Information, and will not, directly or indirectly, without the prior written consent of Buyer, disclose or use any Confidential Information. Seller's obligation not to disclose Confidential Information shall not apply to Confidential Information that it shall be required to disclose by Law; provided, however, that, prior to making such disclosure, Seller shall notify Buyer promptly to the extent not prohibited by Law so that Buyer may seek confidential treatment or protection of such Confidential Information at Buyer's sole cost and expense.

(b) In the event that Seller is required in any Proceeding to disclose any Confidential Information, Seller will notify Buyer promptly of the requirement to the extent not prohibited by Law so that Buyer may seek an appropriate protective order at Buyer's sole cost and expense or waive compliance with the provisions of this Section 6.4.

6.5 Public Announcements. From the Agreement Date, Buyer and Seller will consult with each other before issuing, and provide each other the reasonable opportunity to review and comment upon, any press release, any court filing or pleading filed with the Bankruptcy Court relating primarily to this Agreement or the Transactions, or other public statements with respect to the Transactions, and neither Buyer nor Seller shall issue any such press release or make any such public statement without the prior written approval of the other Party, in each case except as may be required by Law, or by obligations pursuant to any listing agreement with any national securities exchange. Seller shall use its commercially reasonable efforts to cause its Affiliates, employees, officers and directors to comply with this Section 6.5.

6.6 Employment Matters.

(a) At least ten (10) days prior to Closing, Buyer shall extend to each Business Employee a written offer of employment, which shall have been first reviewed by Seller, and which Seller shall have had an opportunity to comment upon, providing for a position that is the same or no less favorable than such employee's position immediately prior to the Closing (including level of responsibility, primary location of employment and authority) on the terms set forth in this Section 6.6 (each offer, a "Transfer Offer") and that, if accepted, shall become effective immediately after the Closing. Business Employees who accept such Transfer Offers and begin active employment with Buyer in accordance with this Section 6.6 shall be referred to herein as "Transferred Employees." For a period of no less than one (1) year or, if sooner, the Transferred Employee's termination of employment with Buyer or its Affiliates, Buyer or its affiliates shall provide each Transferred Employee (i) at least the same base salary or hourly wage rate and target incentive cash bonus opportunities applicable to such Transferred Employee as of the Closing Date and (ii) other material employee benefits (but excluding any equity based compensation, defined benefit plan benefits or long-term deferred compensation) that are comparable in the aggregate to the benefits such Transferred Employee received under the Benefit Plans as of the Closing Date. Buyer shall notify Seller in a reasonable timeframe with respect to whether each such offer has been accepted or rejected. Nothing herein shall be construed as a representation or guarantee by

Seller or any of its respective Affiliates that any or all of the employees of Seller will accept the Transfer Offer or will continue in employment with Buyer following the Closing for any period of time. Buyer shall carry out all necessary actions to effect the timely transfer of employment to it of each such Transferred Employee who has accepted a Transfer Offer. Effective as of the Closing, each Transferred Employee shall cease to be an employee of the Seller or its respective Affiliate(s).

(b) Solely to the extent required by applicable Law, Seller shall pay each Transferred Employee all accrued but unused vacation or paid time-off for periods prior to the Closing Date as soon as administratively practicable following the Closing Date or as required by applicable Law. Buyer shall promptly (and, in any event, within ten (10) Business Days following the later of the Closing Date and the date of the applicable payment) reimburse Seller for any payments made by Seller to any Transferred Employees in respect of earned but unused vacation, sick leave and personal time paid to Transferred Employees in accordance with this Section 6.6(b). To the extent that applicable Law does not require Seller to pay any accrued but unused vacation, sick leave and personal time to any Transferred Employee in accordance with this Section 6.6(b), Buyer shall recognize and assume all Liabilities with respect to such Transferred Employee's accrued but unused vacation, sick leave and personal time. In addition, Buyer shall allow Transferred Employees to take any vacation, sick leave and personal time that was scheduled prior to the Closing.

(c) Following the Closing, Buyer shall give each Transferred Employee full credit for prior service with Seller for purposes of (i) eligibility and vesting under any health or welfare Benefit Plans of Buyer (for the avoidance of doubt, excluding defined benefit pension accruals, deferred compensation, or equity or equity-based incentive plans, or any plan under which such crediting would be prohibited), and (ii) determination of benefit levels under any employee benefit plans of Buyer relating to paid time off, in each case, for which the Transferred Employee is otherwise eligible and in which the Transferred Employee is offered participation, except where such credit would result in a duplication of benefits. Buyer shall use commercially reasonable efforts to waive, or cause to be waived, any limitations on benefits relating to pre-existing conditions to the same extent such limitations are waived under any comparable plan of Seller and use commercially reasonable efforts to recognize for purposes of annual deductible and out-of-pocket limits under its medical and dental plans, deductible and out-of-pocket expenses paid by Transferred Employees in the calendar year in which the Closing Date occurs.

(d) Without limiting the generality of Section 2.4, Seller shall retain responsibility for, and satisfy all Liabilities with respect to, all payments and benefits of the employees (and their spouses, dependents and beneficiaries, and all former employees, agents and representatives) under Benefit Plans that are not Assumed Benefit Plans accrued up to the Closing Date or which relate to events prior to the Closing Date in accordance with the terms thereof and applicable Laws. Seller and Buyer shall work in good faith to transfer sponsorship of any Assumed Benefit Plan (including any third-party insurance contracts or services agreements thereto) from Seller to Buyer or its Affiliates.

(e) Without limiting the generality of Article II, Seller shall be responsible for the following claims or benefit payments of all employees (and their spouses, dependents and beneficiaries, and all former employees, agents and representatives) accrued up to the Closing Date

or which related to events prior to the Closing Date regardless of whether such claims are filed before or after the Closing Date under each Benefit Plan that is not an Assumed Benefit Plan:

(i) with respect to death or dismemberment claims, those in respect of which the event occurred prior to the Closing Date;

(ii) with respect to health claims, those in respect of which the services were provided or the supplies were purchased prior to the Closing Date; and

(iii) with respect to short term and/or long term disability claims and workers' compensation claims, for those claims resulting from events that occurred prior to the Closing Date, including, to the extent covered under the Benefit Plans, for recurring illnesses which first originated with events occurring prior to the Closing Date, whether or not such claims continue after the Closing Date.

(f) This Section 6.6 shall operate exclusively for the benefit of Seller and Buyer and not for the benefit of any other Person, including any current or former employees of the Seller or the Transferred Employees, which Persons shall have no rights to enforce this Section 6.6. Nothing in this Section 6.6 shall: (i) entitle any Transferred Employee to employment with Buyer; (ii) change such Transferred Employee's status as an employee-at-will or restrict the ability of Buyer to terminate the service of any Transferred Employee at any time or for any reason; (iii) create any third party rights in any current or former service provider of Seller (including any beneficiary or dependent thereof); or (iv) be treated as an amendment of any Benefit Plan or other employee benefit plan or arrangement or restrict the ability of Buyer, Seller or any of its Affiliates to amend, modify, discontinue or terminate any Benefit Plan or other employee benefit plan or arrangement.

(g) Buyer shall be solely responsible for any and all obligations and Liabilities arising under Section 4980B of the Tax Code with respect to all "M&A qualified beneficiaries" as defined in 26 C.F.R. § 54.4980B-9.

(h) For any Transferred Employees who are principally based outside the United States, the provisions of this Section 6.6 shall apply to such employees *mutatis mutandis* to the maximum extent permitted by applicable Law.

6.7 Reasonable Efforts; Approvals.

(a) Buyer and Seller will use reasonable best efforts to take, or cause to be taken, all actions and use reasonable best efforts to do, or cause to be done, and to assist and cooperate with the other Parties in doing, all things which are necessary, proper or advisable to consummate and make effective the Transactions including: (i) the transfer, modification or reissuance of all Permits, (ii) the obtaining or taking of all other necessary actions, non-actions or waivers from Governmental Entities and the making of all other necessary registrations and filings with Governmental Entities (including any regulatory authorizations), and (iii) the execution and delivery of any additional certificates, agreements, instruments, reports, schedules, statements, consents, documents and information necessary to consummate the Transactions. The covenants in this Section 6.7(a) shall survive the Closing.

(b) In furtherance of the foregoing, Buyer and Seller shall use their commercially reasonable efforts to obtain any consents and approvals from any third party other than a Governmental Entity that may be required in connection with the Transactions (the “Third Party Consents”). Without limiting the generality of the foregoing sentence, Seller shall not be required to compensate any applicable third party, commence or participate in any Proceeding or offer or grant any accommodation (financial or otherwise, including any accommodation or arrangement to indemnify, remain primarily, secondarily or contingently liable for any Assumed Liability) to any applicable third party in connection with Seller’s obligations under this Section 6.7(b); provided that Seller shall obtain the written consent of Buyer prior to Seller paying any such compensation, commencing or participating in any Proceeding, or offering or granting any such accommodation. The covenants in this Section 6.7(b) shall survive the Closing.

(c) The obligations of Seller pursuant to this Agreement, including this Section 6.7, 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 Cases), Seller’s DIP Facility, Seller’s obligations as a debtor-in-possession to comply with any Order of the Bankruptcy Court (including the Bidding Procedures Order and the Sale Order) and Seller’s duty to seek and obtain the highest or otherwise best price for the Purchased Assets as required by the Bankruptcy Code.

6.8 Corporate Name Change. Within 30 days following the Closing, Seller shall deliver to Buyer (a) duly executed and acknowledged articles of amendment to Seller’s articles of incorporation or other Organizational Document which is required to change Seller’s corporate or other entity name to a new name that is, in Buyer’s reasonable judgment, sufficiently dissimilar to such Seller’s present name and, in all cases, does not include the name “Lexington Law” so as to avoid confusion and to make Seller’s present name available to Buyer, and (b) appropriate documents, duly executed and acknowledged, which are required to change such Seller’s name to such new name in any jurisdiction in which such Seller is qualified to do business, in forms reasonably satisfactory to Buyer. Buyer and any Affiliate of Buyer are hereby authorized (but not obligated) to file such certificates or other documents (at Buyer’s expense) with the applicable Governmental Entities in order to effectuate such change of name at or after the Closing as Buyer may elect.

6.9 Assignment of Contracts and Rights. To the maximum extent permitted by the Bankruptcy Code, the Purchased Assets of Seller shall be assumed and assigned to Buyer pursuant to section 365 of the Bankruptcy Code as of the Closing Date or such other date as specified in the Sale Order or this Agreement, as applicable. Notwithstanding any other provision of this Agreement to the contrary, this Agreement shall not constitute an agreement to assign any asset or any right thereunder if, after giving effect to the Sale Order, an attempted assignment without the consent of a third party (including any Governmental Entity) would constitute a breach or in any way adversely affect the rights of Buyer following the Closing. If, as of the Closing Date, such consent is not obtained or such assignment is not attainable pursuant to sections 105, 363 or 365 of the Bankruptcy Code other than as a result of the failure by Buyer to pay or otherwise satisfy the Cure Amounts, then Seller and Buyer will cooperate in a mutually agreeable arrangement, to the extent feasible (without infringing upon the legal rights of any third party or violating any Law), under which Buyer would obtain the benefits and assume the obligations (to the extent otherwise constituting Assumed Liabilities hereunder, as if such asset were transferred to the

Buyer at Closing) thereunder in accordance with this Agreement, including subcontracting, sublicensing or subleasing to Buyer, or under which Seller would enforce for the benefit of, and at the direction of, Buyer, with Buyer assuming all of Seller's obligations (to the extent constituting Assumed Liabilities hereunder as if such asset were transferred to the Buyer at Closing), and any and all rights of Seller thereunder.

6.10 Tax Matters.

(a) Subject to Section 2.3(j), all Transfer Taxes arising out of the transfer of the Purchased Assets and any Transfer Taxes required to effect any recording or filing with respect thereto shall be borne by Buyer. The Transfer Taxes shall be calculated assuming that no exemption from Transfer Taxes is available, unless otherwise indicated in the Sale Order or, at Closing, Seller or Buyer, as appropriate, provide an appropriate resale exemption certificate or other evidence acceptable to Buyer or Seller, as appropriate, of exemption from such Transfer Taxes. Seller and Buyer shall cooperate to timely prepare and file any Tax Returns relating to such Transfer Taxes, including any claim for exemption or exclusion from the application or imposition of any Transfer Taxes. Seller shall file all necessary documentation and returns with respect to such Transfer Taxes when due, and shall promptly, following the filing thereof, furnish a copy of such return or other filing and a copy of a receipt showing payment of any such Transfer Tax to Buyer. Each Party shall furnish or cause to be furnished to the other, upon request, as promptly as practicable, such information and assistance relating to the Purchased Assets and the Business as is reasonably necessary for filing of all Tax Returns, including any claim for exemption or exclusion from the application or imposition of any Taxes or making of any election related to Taxes, the preparation for any audit by any taxing authority and the prosecution or defense of any claim, suit or proceeding relating to any Tax Return.

(b) Other than Transfer Taxes, all Liability for Taxes with respect to the Purchased Assets attributable to the Pre-Closing Tax Period (the "Pre-Closing Taxes") shall be borne by Seller, and all Liability for Taxes with respect to the Purchased Assets attributable to the Post-Closing Tax Period, shall be borne by Buyer. For the purposes of this Agreement, with respect to Taxes attributable to any taxable year or other taxable period beginning on or before and ending after the Closing Date, the portion of any such Taxes that are treated as Pre-Closing Taxes shall be: (i) in the case of Taxes based upon, or related to income, receipts, profits, or wages or imposed in connection with the sale, transfer or assignment of property, or required to be withheld, deemed equal to the amount which would be payable if such taxable year or other taxable period ended on the Closing Date, and (ii) in the case of other Taxes deemed to be the amount of such Taxes for the entire period multiplied by a fraction the numerator of which is the number of days in the period ending on the Closing Date and the denominator of which is the number of days in the entire period.

(c) The Parties agree that the transfer of the Purchased Assets to the Buyer is intended to be treated as a taxable acquisition of assets and the Parties shall prepare and file all relevant U.S. federal income Tax Returns consistent with such intended treatment and Section 3.3, respectively, absent a contrary "determination" (within the meaning of Section 1313(a) of the Code).

(d) The obligations set forth in this Section 6.10 with respect to Taxes shall survive until the date that is thirty (30) days following the expiration of the applicable statute of limitations.

6.11 Available Contracts List. Seller shall use commercially reasonable efforts to provide Buyer with a true and correct list of all Available Contracts (and copies thereof) promptly following the date hereof and in no event later than thirty (30) days from the Agreement Date.

6.12 HSR Act; Antitrust Laws.

(a) Seller and Buyer shall, if required in connection with the transactions contemplated hereby, (i) promptly make the filings required by any Governmental Entity, including under the HSR Act or any other Antitrust Laws and, in any event, within ten (10) Business Days after the Agreement Date in the case of all filings required under the HSR Act and all other filings required by other Antitrust Laws, (ii) comply at the earliest practicable date with any request for additional information, documents or other materials received from any Governmental Entity, whether such request is formal or informal, (iii) cooperate with the other Parties in connection with resolving any investigation or other inquiry concerning the transactions contemplated by this Agreement commenced by any Governmental Entity, and (iv) cooperate with the other Parties in connection with any other Party's filing. Each Party shall be responsible for the payment of its respective fees and expenses, including legal fees and expenses, in complying with any request for additional information or documentary material from any Governmental Entity; *provided* that all filing fees required to be paid in connection with any filings hereunder shall be borne equally by Seller and Buyer. Except where prohibited by applicable Law or any Governmental Entity, and subject to Section 6.4, each Party shall promptly inform the other Parties of any oral communication with, and provide copies of written communications with, any Governmental Entity regarding any such filing. No Party shall agree to participate in any formal meeting with any Governmental Entity in respect of any such filings, investigation, or other inquiry without giving the other Parties prior notice of the meeting and, to the extent permitted by such Governmental Entity, the opportunity to attend and/or participate. Subject to applicable Laws and any Governmental Entity, the Parties will coordinate, consult and cooperate with one another in connection with any analyses, appearances, presentations, memoranda, briefs, arguments, opinions and proposals made or submitted by or on behalf of any Party relating to proceedings under the HSR Act or any other Antitrust Law, if any. Except where prohibited by applicable Law or any Governmental Entity, and subject to Section 6.4, the Parties will provide each other with copies of all correspondence, filings or communications, including any documents, information and data contained therewith, between them or any of their representatives, on the one hand, and any Governmental Entity or members of its staff, on the other hand, with respect to this Agreement and the transactions contemplated hereby.

(b) Buyer and Seller shall use their respective reasonable best efforts to obtain any required approval from any Governmental Entity and to resolve such objections, if any, as may be asserted by any Governmental Entity with respect to the transactions contemplated by this Agreement under the HSR Act, the Sherman Act, as amended, the Clayton Act, as amended, the Federal Trade Commission Act, as amended, and any other United States federal or state or foreign Laws that are designed to prohibit, restrict or regulate actions having the purpose or effect of monopolization or restraint of trade (collectively, the "Antitrust Laws"). Buyer and Seller shall

use their respective reasonable best efforts to take such action as may be required to cause the expiration of the notice periods under the HSR Act or other Antitrust Laws with respect to such transactions as promptly as practicable after the execution of this Agreement.

ARTICLE VII BANKRUPTCY PROVISIONS

7.1 Bankruptcy Court Orders and Related Matters.

(a) Seller and Buyer acknowledge that this Agreement and the Transactions are subject to entry of, as applicable, the Bidding Procedures Order and the Sale Order. In the event of any discrepancy between this Agreement and the Bidding Procedures Order and the Sale Order, the Bidding Procedures Order and the Sale Order shall govern. In the event the entry of the Sale Order or the Bidding Procedures Order is appealed, Seller shall use commercially reasonable efforts to defend such appeal, and Buyer shall cooperate in such efforts. Buyer and Seller acknowledge that Seller must take reasonable steps to demonstrate that it has sought to obtain the highest or otherwise best offer for the Purchased Assets, including giving notice thereof to the creditors of Seller and other interested parties, providing information about the Business to prospective bidders, entertaining higher or otherwise better offers from such prospective bidders, and, in the event that additional qualified prospective bidders desire to bid for the Purchased Assets, conducting the Auction. Buyer agrees and acknowledges that Seller and its Affiliates will be permitted, and will be permitted to cause their Representatives, to initiate contact with, solicit or encourage submission of any inquiries, proposals or offers by, respond to any unsolicited inquiries, proposals or offers submitted by, and enter into any discussions or negotiations regarding any of the foregoing with, any Person (in addition to Buyer and its Affiliates, agents and Representatives).

(b) The bidding procedures to be employed with respect to this Agreement and the Auction will be those reflected in the Bidding Procedures Order, which shall be in a form mutually agreed between Buyer and Seller.

(c) Buyer will provide adequate evidence and assurance under the Bankruptcy Code of the future performance by Buyer of each Assumed Contract. Buyer will, and will cause its Affiliates to, reasonably and promptly take all actions reasonably required or requested by Seller to assist in obtaining a Bankruptcy Court finding that there has been an adequate demonstration of adequate assurance of future performance under the Assumed Contracts, such as furnishing affidavits, non-confidential financial information and other documents or information for filing with the Bankruptcy Court and making Buyer's Representatives available to testify before the Bankruptcy Court. Subject to the other terms and conditions of this Agreement, Buyer will, from and after the Closing Date, (i) assume all Liabilities of Seller under the Assumed Contracts and (ii) satisfy and perform all of the Liabilities related to each of the Assumed Contracts when the same are due thereunder.

(d) If this Agreement and the sale of the Purchased Assets to Buyer on the terms and conditions hereof are determined to be the "highest or otherwise best offer" in accordance with the Bidding Procedures Order, Buyer and Seller agree to use commercially reasonable efforts to

cause the Bankruptcy Court to enter the Sale Order in a form mutually agreed between Buyer and Seller.

(e) Seller shall, consistent with its obligations as a fiduciary under the Bankruptcy Code, cooperate with Buyer concerning the Bidding Procedures Order, the Sale Order, and any other orders of the Bankruptcy Court relating to the Transactions. Seller shall give notice under the Bankruptcy Code of the request for the relief specified in the Bidding Procedures Motion to all creditors and parties in interest entitled to notice thereof pursuant to the Bidding Procedures Order, the Bankruptcy Code, the Bankruptcy Rules, the local rules of the Bankruptcy Court, and any other applicable orders of the Bankruptcy Court, including all Persons that have asserted Encumbrances on any of Seller's assets, and all non-debtor parties to the Available Contracts of Seller and other appropriate notice, including such additional notice as the Bankruptcy Court shall direct or as Buyer may reasonably request, and provide appropriate opportunity for hearing, to all parties entitled thereto, of all motions, orders, hearings, or other Proceedings in the Bankruptcy Court relating to this Agreement, the Transactions and the Bidding Procedures Motion.

(f) Seller shall provide draft copies of all orders, motions, pleadings, applications and other material documents it intends to file with the Bankruptcy Court in connection with the sale of the Purchased Assets or the Transactions not less than three (3) Business Days prior to the date when Seller plans to file such document (provided that if the delivery of such drafts at least three (3) Business Days prior to the date when Seller plans to file such document is not reasonably practicable, such drafts shall be delivered to Buyer as soon as reasonably practicable prior to filing). The form and substance of any such document hereunder shall be mutually acceptable to Buyer and Seller, provided that no Party shall unreasonably withhold, condition or delay its consent.

(g) Seller covenants and agrees that if the Sale Order is entered, the terms of any plan submitted by Seller to the Bankruptcy Court for confirmation, or the terms of any other sale of (including the Liquidating Plan) Seller's or its Affiliates' assets (or any other Order) submitted by Seller to the Bankruptcy Court, for approval, will not conflict with, supersede, abrogate, nullify, modify or restrict the terms of this Agreement and the rights of Buyer hereunder, or in any way prevent or interfere with the consummation or performance of the Transactions including any transaction that is contemplated by or approved pursuant to the Sale Order.

(h) For the avoidance of doubt, nothing in this Agreement will restrict Seller or its Affiliates from selling, disposing of or otherwise transferring any Excluded Assets (other than Available Contracts, which Seller may not terminate, amend, or otherwise dispose of, or reject in the Cases, without Buyer's consent) or from settling, delegating or otherwise transferring any Excluded Liabilities, or from entering into discussions or agreements with respect to the foregoing.

7.2 Bankruptcy Milestones. The Parties shall achieve the following milestones by the dates set forth below (or such later date as may be agreed between the Parties, such agreement not to be unreasonably withheld, conditioned or delayed) (collectively, the "Bankruptcy Milestones"):

(a) On the Petition Date, Seller and the PGX Debtors shall file a motion with the Bankruptcy Court seeking approval of the DIP Facility.

(b) On or before the date that is two (2) days after the Petition Date, Seller and the PGX Debtors shall have filed the Bidding Procedures Motion in the Bankruptcy Court.

(c) On or before the date that is four (4) days after the Petition Date, the Bankruptcy Court shall have entered the Interim DIP Order.

(d) On or before the date that is twenty-five (25) days after the Petition Date, the Bankruptcy Court shall have entered the Final DIP Order.

(e) On or before the date that is thirty (30) days after the Petition Date, the Bankruptcy Court shall have entered the Bidding Procedures Order.

(f) On or before the date that is no later than fifty-eight (58) days after the Petition Date, Seller shall have filed schedules and statements of financial affairs pursuant to rule 1007 of the Federal Rules of Bankruptcy Procedure.

(g) On or before the date that is sixty (60) days after the Petition Date, the Bid Deadline (as defined in the Bidding Procedures Order) shall have occurred.

(h) On or before the date that is sixty-five (65) days after the Petition Date, Seller shall have commenced the Auction, if necessary.

(i) On or before the date that is seventy (70) days after the Petition Date, the Bankruptcy Court shall have entered the Sale Order.

(j) On or before the date that is one hundred and five (105) days after the Petition Date, the Closing shall have occurred.

ARTICLE VIII CONDITIONS TO OBLIGATIONS OF THE PARTIES

8.1 Conditions Precedent to Obligations of Buyer. The obligation of Buyer to consummate the Transactions is subject to the satisfaction (or waiver by Buyer in Buyer's sole discretion) on or prior to the Closing Date of each of the following conditions:

(a) Accuracy of Representations and Warranties. The representations and warranties of Seller contained in Section 4.1 (Organization and Good Standing), Section 4.2 (Power and Authority), Section 4.14 (Financial Advisors) and Section 4.16 (Related Party Transactions) shall be true and correct on the date hereof and on and as of the Closing Date, with the same force and effect as though such representations and warranties had been made on and as of the Closing Date (except to the extent that any such representation or warranty is expressly made as of a specified date). The representations and warranties of Seller contained in Section 4.6 (Title to Purchased Assets) shall be true and correct in all material respects on the date hereof and on and as of the Closing Date, with the same force and effect as though such representations and warranties had been made on and as of the Closing Date (except to the extent that any such representation or warranty is expressly made as of a specified date). All other representations and warranties of Seller contained in Article IV shall be true and correct on the date hereof and as of the Closing Date (except to the extent that any such representation or warranty is expressly made

as of a specified date), except where the failure of any such representations or warranties to be true and correct (without giving effect to any limitations to “material” or “Material Adverse Effect”), either individually or in the aggregate, has resulted in or would reasonably be expected to result in a Material Adverse Effect.

(b) Performance of Obligations. Seller shall have performed in all material respects all obligations and agreements contained in this Agreement required to be performed by it on or prior to the Closing Date.

(c) Third Party Consents. Seller shall have obtained all consents and approvals set forth in Schedule 4.5.

(d) No Material Adverse Effect. There shall have been no Material Adverse Effect from the Agreement Date through the Closing Date.

(e) Deliverables. Seller shall have delivered, or caused to be delivered, to Buyer each deliverable required pursuant to Section 3.1(b).

(f) Bidding Procedures Order. The Bankruptcy Court shall have entered the Bidding Procedures Order, which Order shall have become a Final Order.

(g) Sale Order. The Bankruptcy Court shall have entered the Sale Order, which Order shall have become a Final Order.

(h) PGX Sale Transaction. The PGX Debtors shall have entered into or shall concurrently herewith enter into the PGX Agreement, and shall have consummated or shall concurrently herewith consummate the PGX Sale.

8.2 Conditions Precedent to the Obligations of Seller. The obligation of Seller to consummate the Transactions is subject to the satisfaction (or waiver by the Seller) at or prior to the Closing Date of each of the following conditions:

(a) Accuracy of Representations and Warranties. The representations of Buyer contained in Section 5.1 (Organization and Good Standing), Section 5.2 (Power and Authority), Section 5.3 (No Contravention) and Section 5.6 (Financial Advisors) shall be true and correct on the date hereof and on and as of the Closing Date, with the same force and effect as though such representations and warranties had been made on and as of the Closing Date (except to the extent that any such representation or warranty is expressly made as of a specified date). All other representations and warranties contained in Article V shall be true and correct on the date hereof and as of the Closing Date (except to the extent that any such representation or warranty is expressly made as of a specified date), except where the failure of any such representations or warranties to be true and correct (without giving effect to any limitations to “material” or similar qualifier), either individually or in the aggregate, has resulted in or would reasonably be expected to have an adverse effect on Buyer’s ability to perform its obligations under this Agreement in any material respect.

(b) Performance of Obligations. Buyer shall have performed in all material respects all obligations and agreements contained in this Agreement required to be performed by it prior to or on the Closing Date.

(c) Deliverables. Buyer shall have delivered to Seller each deliverable required pursuant to Section 3.1(c).

(d) Bidding Procedures Order. The Bankruptcy Court shall have entered the Bidding Procedures Order, which Order shall not be subject to a stay or otherwise have been vacated.

(e) Sale Order. The Bankruptcy Court shall have entered the Sale Order, which Order shall not be subject to a stay or otherwise have been vacated.

8.3 Conditions Precedent to Obligations of Buyer and Seller. The respective obligations of Buyer and Seller to consummate the Transactions are subject to the fulfillment, on or prior to the Closing Date, of the condition (which may be waived by the Parties in whole or in part to the extent permitted by applicable Law) that (a) no provision of any applicable Law or Order enacted, entered, promulgated, enforced or issued by any Governmental Entity shall be in effect that prevents, renders illegal or otherwise prohibits the sale and purchase of the Purchased Assets or any of the other Transactions, and (b) the waiting period applicable to the transactions contemplated by this Agreement under the HSR Act and any other applicable Antitrust Laws, if required, shall have expired or early termination shall have been granted.

8.4 Frustration of Closing Conditions. Upon the occurrence of the Closing, any condition set forth in this Article VIII that was not satisfied as of the Closing will be deemed to have been waived for all purposes by the Party having the benefit of such condition as of and after the Closing. Neither Seller nor Buyer may rely on the failure of any condition to their respective obligations to consummate the Transactions set forth in Section 8.1, Section 8.2 or Section 8.3, as the case may be, to be satisfied if such failure was caused by such Party's failure to comply with or breach of any provision of this Agreement.

ARTICLE IX TERMINATION

9.1 Termination of Agreement. This Agreement may be terminated and the Transactions abandoned at any time prior to the Closing:

(a) by written agreement of Seller and Buyer;

(b) by Buyer, if:

(i) there shall have been a breach by Seller of any of its representations, warranties, covenants or agreements contained in this Agreement, which breach would result in the failure to satisfy one or more of the conditions set forth in Section 8.1, and such breach shall be incapable of being cured or, if capable of being cured, shall not have been cured by the earlier of (A) [September 17, 2023] (or such later date as the Parties may agree upon in writing, the "Outside Date") or (B) five (5) Business Days after written notice

thereof shall have been received by Seller, provided that the right to terminate this Agreement pursuant to this Section 9.1(b)(i) will not be available to Buyer at any time that Buyer is in material breach of, any covenant, representation or warranty hereunder;

(ii) the Cases are (A) converted to cases under chapter 7 of the Bankruptcy Code or (B) dismissed prior to the Closing;

(iii) a trustee or examiner is appointed under section 1104 of the Bankruptcy Code;

(iv) Buyer is not the Successful Bidder at the Auction for any of the Purchased Assets;

(v) Seller enters into a definitive agreement with respect to an Alternate Transaction or an Order of the Bankruptcy Court or other court of competent jurisdiction is entered approving an Alternate Transaction, in each case, other than with the Successful Bidder;

(vi) if the Closing shall not have occurred by the Outside Date; provided that the right to terminate this Agreement pursuant to this Section 9.1(b)(vi) will not be available to Buyer at any time that Buyer is in material breach of, any covenant, representation or warranty hereunder; or

(vii) if Buyer is not the Successful Bidder at the Auction.

(c) by Seller, if:

(i) there shall have been a breach by Buyer of any of its representations, warranties, covenants or agreements contained in this Agreement, which breach would result in the failure to satisfy one or more of the conditions set forth in Section 8.2, and such breach shall be incapable of being cured or, if capable of being cured, shall not have been cured within the earlier of (A) the Outside Date or (B) ten (10) Business Days after written notice thereof shall have been received by Buyer;

(ii) the PGX Agreement is terminated;

(iii) Seller enters into a definitive agreement with respect to an Alternate Transaction, or an Order of the Bankruptcy Court or other court of competent jurisdiction is entered approving an Alternate Transaction;

(iv) Seller or the board of directors (or similar governing body) of Seller determines that proceeding with the transactions contemplated by this Agreement or failing to terminate this Agreement would be inconsistent with its or such Person's or body's fiduciary duties; or

(v) if Buyer is not the Successful Bidder at the Auction.

(d) by either Buyer or Seller, if any Governmental Entity shall have enacted or issued a Law or Order or taken other action permanently restraining, prohibiting or enjoining any of the Parties from consummating the Transactions.

9.2 Consequences of Termination.

(a) If either Buyer, on the one hand, or Seller, on the other hand, desire to terminate this Agreement pursuant to Section 9.1, such Party (or Parties, as applicable) shall give written notice of such termination to the other Parties. Upon delivery of such notice of termination, this Agreement will become void and have no further force and effect and all further obligations of the Parties to each other under this Agreement will terminate without further obligation or liability of the Parties.

(b) Notwithstanding anything to the contrary in this Agreement, if this Agreement is terminated for any reason, no expense reimbursement of any nature is or shall be owed to Buyer.

(c) Notwithstanding the foregoing set forth in this Section 9.2, Section 1.1 (Defined Terms), Section 6.5 (Public Announcements), this Section 9.2 (Consequences of Termination) and Article X (Miscellaneous) shall survive any termination of this Agreement.

(d) Nothing in this Section 9.2 shall relieve Buyer or Seller of any liability for a breach of this Agreement prior to the date of termination.

ARTICLE X MISCELLANEOUS

10.1 Expenses. Except as set forth in this Agreement or the Sale Order, and whether or not the Transactions are consummated, each Party shall bear all costs and expenses incurred or to be incurred by such Party in connection with this Agreement and the consummation of the Transactions.

10.2 Assignment. Neither this Agreement nor any of the rights or obligations hereunder may be assigned by Seller without the prior written consent of Buyer, or by Buyer without the prior written consent of Seller. Subject to the foregoing, this Agreement shall be binding upon and inure to the benefit of the Parties and their respective successors and permitted assigns.

10.3 Parties in Interest. This Agreement shall be binding upon and inure solely to the benefit of Seller and Buyer, and nothing in this Agreement, express or implied, is intended to or shall confer upon any other Person any rights, benefits or remedies of any nature whatsoever under or by reason of this Agreement except as expressly set forth herein. Without limiting the foregoing, no direct or indirect holder of any equity interests or securities of either Seller or Buyer (whether such holder is a limited or general partner, member, stockholder or otherwise), nor any Affiliate of either Seller or Buyer, nor any Representative, or controlling Person of each of the Parties and their respective Affiliates, shall have any liability or obligation arising under this Agreement or the Transactions.

10.4 Risk of Loss. Seller will bear all risk of loss occurring to or upon any portion of the Purchased Assets prior to the Closing Date. In the event that any material portion of any Purchased Assets is damaged or destroyed prior to the Closing Date, then, with respect to such Purchased Assets, Buyer may, at Buyer's option, either (i) proceed to close notwithstanding the damage or destruction of such Purchased Assets or (ii) exclude such Purchased Assets, in which event Buyer shall have no obligation to close if as a consequence of the exclusion of such Purchased Assets any condition to Closing in Section 8.1 would not be satisfied. If Buyer closes notwithstanding an unrepaired or unrestored loss to a Purchased Asset, Seller will deliver and/or assign to Buyer any insurance proceeds with respect to such damage or destruction, and all claims against third parties relating thereto, and the adjustment to the Purchase Price shall be limited to the amount of any deductible or self-insured retention under the applicable policies of insurance.

10.5 Notices. All notices, demands, requests, waivers, consents, approvals or other communications (collectively, "Notices") required or permitted to be given hereunder or that are given with respect to this Agreement shall be in writing and shall be personally served, delivered by a nationally recognized overnight delivery service with charges prepaid, or transmitted by hand delivery or electronic mail, addressed as set forth below, or to such other address as such Party shall have specified most recently by written Notice. Notice shall be deemed given on the date of service or transmission if personally served or transmitted by electronic mail with confirmation of receipt (excluding "out of office" or similar automated replies); provided, however, that, if delivered or transmitted on a day other than a Business Day (or if transmitted by email after 5:00pm Eastern Time), notice shall be deemed given on the next Business Day. Notice otherwise sent as provided herein shall be deemed given on the next Business Day following timely deposit of such Notice with an overnight delivery service:

If to the Seller:	John C. Heath, Attorney at Law PC P.O. Box 1173 Salt Lake City, UT 84110 <u>Attention:</u> John C. Heath <u>Email:</u> [●]
-------------------	--

With a copy to:	Kirkland & Ellis LLP 300 North LaSalle Chicago, IL 60654 <u>Attention:</u> Steve Toth Dan Daines Spencer A. Winters Whitney C. Fogelberg <u>Email:</u> steve.toth@kirkland.com daniel.daines@kirkland.com spencer.winters@kirkland.com whitney.fogelberg@kirkland.com
-----------------	--

If to Buyer:	John C. Heath 4861 W. Fish Hook Road South Jordan, Utah 84009
--------------	---

Email: jch@johnheathlaw.com

With a copy to:

Young Conaway Stargatt & Taylor, LLP
1000 North King Street
Wilmington Delaware, 19801

Attention: Joseph Barry, Joseph M. Mulvihill, and
Lauren McCrery

Email: jbarry@ycst.com, jmulvihill@ycst.com,
lmccrery@ycst.com

Rejection of or refusal to accept any Notice, or the inability to deliver any Notice because of changed address of which no Notice was given, shall be deemed to be receipt of the Notice as of the date of such rejection, refusal or inability to deliver.

10.6 Entire Agreement; Amendments and Waivers. This Agreement and all agreements entered into pursuant hereto and thereto and all certificates and instruments delivered pursuant hereto and thereto constitute the entire agreement between the Parties pertaining to the subject matter hereof and supersede all prior agreements, understandings, negotiations, and discussions, whether oral or written, of the Parties; provided that nothing herein shall modify or alter the terms, rights or obligations of the Seller under the DIP Documents prior to Closing. This Agreement may be amended, supplemented or modified, and any of the terms, covenants, representations, warranties or conditions may be waived, only by a written instrument executed by Buyer and Seller, or in the case of a waiver, by the Party waiving compliance. No waiver of any of the provisions of this Agreement shall be deemed or shall constitute a waiver of any other provision hereof (whether or not similar), and no such waiver shall constitute a continuing waiver unless otherwise expressly provided. No failure on the part of any Party to exercise, and no delay in exercising, any right, power or remedy hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of such right, power or remedy by such Party preclude any other or further exercise thereof or the exercise of any other right, power or remedy.

10.7 Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same instrument. Counterparts to this Agreement may be delivered via electronic delivery, “pdf” or facsimile. In proving this Agreement, it shall not be necessary to produce or account for more than one such counterpart signed by the Party against whom enforcement is sought.

10.8 Invalidity. If any one or more of the provisions contained in this Agreement or in any other instrument referred to herein, shall, for any reason, be held to be invalid, illegal or unenforceable in any respect, the Parties shall negotiate in good faith to modify this Agreement, to ensure that this Agreement shall reflect as closely as practicable the intent of the Parties on the date hereof. If the final judgment of a court of competent jurisdiction or other Governmental Entity 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.

10.9 Governing Law. This Agreement, and any Proceeding that may be based upon, arise out of or relate or be incidental to the Transactions, this 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 (each, a “Transaction Dispute”), 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 or rule that would cause the Laws of any jurisdiction other than the State of Delaware to be applied, except to the extent that such Laws are superseded by the Bankruptcy Code.

10.10 Dispute Resolution; Consent to Jurisdiction.

(a) Without limiting any Party’s right to appeal any order of the Bankruptcy Court, (i) the Bankruptcy Court shall retain exclusive jurisdiction to enforce the terms of this Agreement and to decide any Transaction Dispute, and (ii) any and all proceedings related to the foregoing shall be filed and maintained only in the Bankruptcy Court, and the Parties hereby consent to and submit to the jurisdiction and venue of the Bankruptcy Court and shall receive notices at such locations as indicated in Section 10.5; provided, however, upon the closing of the Cases (except for any matter(s) with respect to Seller and/or the Cases in which the Bankruptcy Court retains jurisdiction with respect to such matter with respect to Seller and/or the Cases), or if the Bankruptcy Court is unwilling or unable to hear such Transaction Dispute, then, the Parties agree to unconditionally and irrevocably submit to the exclusive jurisdiction of the U.S. District Court for the [District of Delaware] sitting in [●] County or the courts of the State of [Delaware] sitting in [●] County and any appellate court from any jurisdiction thereof, for the resolution of any such Transaction Dispute. In that context, and without limiting the generality of the foregoing, each Party irrevocably and unconditionally: (i) submits for itself and its property to the exclusive jurisdiction of such courts with respect to any Transaction Dispute and for recognition and enforcement of any judgment in respect thereof, and agrees that all claims in respect of any Transaction Dispute shall be heard and determined in such courts; (ii) agrees that venue would be proper in such courts, and waives any objection that it may now or hereafter have that any such court is an improper or inconvenient forum for the resolution of any Transaction Dispute; and (iii) agrees that Notice demand in accordance with Section 10.5, will be effective service of process; provided, however, that nothing herein will be deemed to prevent a Party from making service of process by any means authorized by the Laws of the State of [Delaware].

(b) The foregoing consent to jurisdiction will not constitute submission to jurisdiction or general consent to service of process in the State of [Delaware] for any purpose except with respect to any Transaction Dispute.

10.11 WAIVER OF RIGHT TO TRIAL BY JURY. EACH PARTY HEREBY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT THEY MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY PROCEEDING IN CONNECTION WITH A TRANSACTION DISPUTE.

10.12 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 Buyer or Seller may have under law or equity, each Party shall be entitled to injunctive relief to prevent any breaches of the provisions of this Agreement by the other Parties and to enforce specifically this Agreement and the terms and provisions hereof.

10.13 Third Party Beneficiaries. Nothing in this Agreement, express or implied, is intended to confer upon any other Person any rights or remedies of any nature under or by reason of this Agreement, except as expressly provided herein, including Section 10.16.

10.14 Counting. If the due date for any action to be taken under this Agreement (including the delivery of Notices) is not a Business Day, then such action shall be considered timely taken if performed on or prior to the next Business Day following such due date.

10.15 Survival. Except as expressly set forth in this Agreement to the contrary, all representations and warranties and covenants of Buyer and Seller, respectively, contained in this Agreement or in any document delivered pursuant hereto shall not survive the Closing Date and thereafter shall be of no further force and effect. Notwithstanding the foregoing, all covenants and agreements set forth in this Agreement, which by their terms would require performance after the Closing Date, shall survive until fully performed or until such covenant or agreement expires by its terms.

10.16 Non-Recourse. All claims, Liabilities, Proceedings, or causes of action (whether in contract or in tort, in law or in equity, or granted by statute) that may be based upon, in respect of, arise under, out or by reason of, be connected with, or relate in any manner to a Transaction Dispute, may be made only against (and are expressly limited to) the entities that are expressly identified as parties hereto in the preamble to this Agreement or, if applicable, their permitted assignees (collectively, the "Contracting Parties"). No Person who is not a Contracting Party, including any past, present or future director, officer, employee, incorporator, member, partner, manager, equityholder, Affiliate, agent, attorney, or representative of, and any financial advisor or lender to, any Contracting Party (other than the Persons listed on Schedule 10.16), or any director, officer, employee, incorporator, member, partner, manager, equityholder, Affiliate, agent, attorney, or representative of, and any financial advisor or lender to, any of the foregoing (collectively, the "Non-Recourse Persons"), shall have any Liability (whether in contract or in tort, in law or in equity, or granted by statute) for any claims, Liabilities, or causes of action, arising under, out of, in connection with, or related in any manner to a Transaction Dispute; and, to the maximum extent permitted by Law, each Contracting Party hereby waives and releases all such claims, Liabilities, and causes of action, against any such Non-Recourse Persons.

10.17 Preparation of this Agreement. Buyer and Seller hereby acknowledge that (a) Buyer and Seller jointly and equally participated in the drafting of this Agreement and all other agreements contemplated hereby, (b) Buyer and Seller have been adequately represented and advised by legal counsel with respect to this Agreement and the Transactions, and (c) no presumption shall be made that any provision of this Agreement shall be construed against either Party by reason of such role in the drafting of this Agreement and any other agreement contemplated hereby.

10.18 Schedules. The Disclosure Schedules have been arranged for purposes of convenience in separately numbered sections corresponding to the sections of this Agreement; provided that each section of the Disclosure Schedules will be deemed to incorporate by reference all information disclosed in any other section of the Disclosure Schedules, and any disclosure in the Disclosure Schedules will be deemed a disclosure against any representation or warranty set forth in this Agreement. Capitalized terms used in the Disclosure Schedules and not otherwise defined therein have the meanings given to them in this Agreement. The specification of any dollar amount or the inclusion of any item in the representations and warranties contained in this Agreement, the Disclosure Schedules or the attached exhibits is not intended to imply that the amounts, or higher or lower amounts, or the items so included, or other items, are or are not required to be disclosed (including whether such amounts or items are required to be disclosed as material or threatened) or are within or outside of the Ordinary Course of Business, and no Party will use the fact of the setting of the amounts or the fact of the inclusion of any item in this Agreement, the Disclosure Schedules or exhibits in any dispute or controversy between the Parties as to whether any obligation, item or matter not set forth or included in this Agreement, the Disclosure Schedules or exhibits is or is not required to be disclosed (including whether the amount or items are required to be disclosed as material or threatened) or are within or outside of the Ordinary Course of Business. In addition, matters reflected in the Disclosure Schedules are not necessarily limited to matters required by this Agreement to be reflected in the Disclosure Schedules. Such additional matters are set forth for informational purposes only and do not necessarily include other matters of a similar nature. No information set forth in the Disclosure Schedules will be deemed to broaden in any way the scope of the Parties' representations and warranties. Any description of any agreement, document, instrument, plan, arrangement or other item set forth on the Disclosure Schedules is qualified in its entirety by the terms of such agreement, document, instrument, plan, arrangement, or item which terms will be deemed disclosed for all purposes of this Agreement. The information contained in this Agreement, in the Disclosure Schedules and exhibits hereto is disclosed solely for purposes of this Agreement, and no information contained herein or therein will be deemed to be an admission by any Party to any third party of any matter whatsoever, including any violation of Law or breach of Contract.

10.19 Fiduciary Obligation. Nothing in this Agreement, or any document related to the transactions contemplated hereby, will require Seller or any of its managers, officers or members, in each case, in their capacity as such, to take any action, or to refrain from taking any action, to the extent inconsistent with their fiduciary obligations or applicable Law. For the avoidance of doubt, Seller retains the right to pursue any transaction or restructuring strategy that, in Seller's business judgment, will maximize the value of their estates.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, this Agreement has been duly executed and delivered by the duly authorized officers of Seller and Buyer as of the date first above written.

SELLER:

**John C. Heath, Attorney At Law PC d/b/a
Lexington Law**

By: _____

Name:

Title:

BUYER:

[AcquisitionCo]

By: _____
Name:
Title:

EXHIBIT 4

Sale Notice

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

In re:)	
	)	Chapter 11
PGX HOLDINGS, INC., <i>et al.</i> , ¹	)	Case No. 23-10718 (CTG)
)	
Debtors.	)	(Jointly Administered)
)	

NOTICE OF SALE BY AUCTION AND SALE HEARING

PLEASE TAKE NOTICE that on [●], 2023, the above-captioned debtors and debtors in possession (collectively, the “Debtors”) filed the *Motion of the Debtors for Entry of Order (I)(A) Approving Bidding Procedures for Substantially All of the Debtors’ Assets, (B) Authorizing the Debtors to Enter into One or More Stalking Horse Agreements and to Provide Bidding Protections Thereunder, (C) Scheduling an Auction and Approving the Form and Manner of Notice Thereof, (D) Approving Assumption and Assignment Procedures, and (E) Scheduling A Sale Hearing and Approving the Form and Manner of Notice Thereof; (II)(A) Approving the Sale of the Debtors’ Assets Free and Clear of Liens, Claims, Interests and Encumbrances and (B) Approving the Assumption and Assignment of Executory Contracts and Unexpired Leases; and (III) Granting Related Relief* [Docket No. [●]] (the “Sale Motion”)² with the United States Bankruptcy Court for the District of Delaware (the “Court”) seeking, among other things, entry of an order (the “Sale Order”) authorizing and approving: (a) the sale of substantially all of the assets of PGX to Lender AcquisitionCo LLC and of substantially all of the assets of Lexington Law to AcquisitionCo, free and clear of liens, claims, encumbrances, and other interests, except as set forth in the applicable Stalking Horse Agreement, or an alternative asset purchase agreement with a Successful Bidder at auction (the “Sale”); and (b) the assumption and assignment of certain executory contracts and unexpired leases (collectively, the “Contracts”).

PLEASE TAKE FURTHER NOTICE that the Debtors are soliciting offers for the purchase of the substantially all of the assets of the Debtors consistent with the bidding procedures (the “Bidding Procedures”) approved by the Court by entry of an order on [●], 2023 [Docket No. [●]] (the “Bidding Procedures Order”). **All interested bidders should carefully read the Bidding Procedures and Bidding Procedures Order.** To the extent that there are any inconsistencies between this notice and the Bidding Procedures or Bidding Procedures Order, the

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, are: PGX Holdings, Inc. (2510); Credit Repair UK, Inc. (4798); Credit.com, Inc. (1580); Creditrepair.com Holdings, Inc. (7536); Creditrepair.com, Inc. (7680); eFolks Holdings, Inc. (5213); eFolks, LLC (5256); John C. Heath, Attorney At Law PC (8362); Progrexion ASG, Inc. (5153); Progrexion Holdings, Inc. (7123); Progrexion IP, Inc. (5179); Progrexion Marketing, Inc. (5073); and Progrexion Teleservices, Inc. (5110). The location of the Debtors’ service address for purposes of these chapter 11 cases is: 257 East 200 South, Suite 1200, Salt Lake City, Utah 84111.

² Capitalized terms used herein but not otherwise defined shall have the meanings ascribed to such terms in the Sale Motion or Bidding Procedures Order, as applicable.

Bidding Procedures or Bidding Procedures Order, as applicable, shall govern in all respects.

PLEASE TAKE FURTHER NOTICE that, if the Debtors receive qualified competing bids within the requirements and time frame specified by the Bidding Procedures, the Debtors will conduct an auction (the “Auction”) of the Assets **on [●] [●], 2023 at [●]:00 a/p.m. (prevailing Eastern Time)** at the offices of Kirkland & Ellis LLP, 601 Lexington Avenue, New York, New York 10022-4611 (or at any other location or electronically as the Debtors may hereafter designate on proper notice).

PLEASE TAKE FURTHER NOTICE that the Debtors will seek approval of the Sale at a hearing scheduled to commence on or before **[●], 2023, at [●]:00 p.m. (prevailing Eastern Time)** (the “Sale Hearing”) before the Honorable Craig T. Goldblatt, United States Bankruptcy Judge for the Bankruptcy Court for the District of Delaware, 824 North Market Street, 3rd Floor, Courtroom No. 7, Wilmington, Delaware 19801.

PLEASE TAKE FURTHER NOTICE that, except as otherwise set forth in the Bidding Procedures Order with respect to any objections to proposed cure amounts or the assumption and assignment of Contracts, objections to the relief requested in the Sale Motion ***must***: (a) be in writing; (b) conform to the applicable provisions of the Bankruptcy Rules and the Local Rules; (c) state with particularity the legal and factual bases for the objection and the specific grounds therefor; and (d) be filed with the Court and served so as to be **actually received on or before [●], 2023 at 5:00 p.m. (prevailing Eastern Time)** by the following parties:

Counsel to the Debtors	Co-Counsel to the Debtors
<p style="text-align: center;">Kirkland & Ellis LLP 601 Lexington Ave New York, New York 10022 Attn. Joshua A. Sussberg, P.C. Chris Ceresa Email: joshua.sussberg@kirkland.com chris.ceresa@kirkland.com</p> <p style="text-align: center;">Kirkland & Ellis LLP 300 North LaSalle Street Chicago, Illinois 60654 Attn.: Spencer Winters Whitney Fogelberg Alison J. Wirtz Email: spencer.winters@kirkland.com whitney.fogelberg@kirkland.com alison.wirtz@kirkland.com</p>	<p style="text-align: center;">Klehr Harrison Harvey Branzburg LLP 919 North Market Street, Suite 1000 Wilmington, Delaware 19801 Attn: Domenic E. Pacitti Michael W. Yurkewicz Email: dpacitti@klehr.com myurkewicz@klehr.com</p> <p style="text-align: center;">Klehr Harrison Harvey Branzburg LLP 1835 Market Street, Suite 1400 Philadelphia, Pennsylvania 19103 Attn: Morton R. Branzburg Email: mbranzburg@klehr.com</p>

Counsel to the Committee	The United States Trustee
[•]	Office of the United States Trustee for the District of Delaware 844 King Street, Suite 2207, Lockbox 35, Wilmington, Delaware 19801 Attn.: Jane M. Leamy jane.m.leafy@usdoj.gov
Counsel to the PGX Stalking Horse Bidder	Co-Counsel to the PGX Stalking Horse Bidder
King & Spalding LLP 1185 Avenue of the Americas, 34th Floor New York, New York 10036 Attn.: Roger Schwartz Email: rschwartz@kslaw.com	Proskauer Rose LLP One International Place Boston, Massachusetts 02110-2600 Attn.: Peter Antoszyk David M. Hillman Email: pantoszyk@proskauer.com dhillman@proskauer.com
Counsel to the PGX Stalking Horse Bidder	
Young Conway Stargatt & Taylor, LLP Rodney Square 1000 North King Street Wilmington, Delaware 19801 Attn: Joseph M. Barry Lauren McCrery Joseph M. Mulvihill Joseph Barry Email: jbarry@ycst.com lmccrery@ycst.com jmulvihill@ycst.com	

CONSEQUENCES OF FAILING TO TIMELY MAKE AN OBJECTION

ANY PARTY OR ENTITY WHO FAILS TO TIMELY MAKE AN OBJECTION TO THE SALE ON OR BEFORE THE SALE OBJECTION DEADLINE IN ACCORDANCE WITH THE BIDDING PROCEDURES ORDER SHALL BE FOREVER BARRED FROM ASSERTING ANY OBJECTION TO THE SALE, INCLUDING WITH RESPECT TO THE TRANSFER OF THE DEBTORS’ ASSETS FREE AND CLEAR OF ALL LIENS, CLAIMS, ENCUMBRANCES, AND OTHER INTERESTS, EXCEPT AS SET FORTH IN THE APPLICABLE PURCHASE AGREEMENT.

PLEASE TAKE FURTHER NOTICE that copies of the Sale Motion, Bidding Procedures, and Bidding Procedures Order, as well as all related exhibits, including the PGX Stalking Horse APA, is available: (a) free of charge upon request to Kurtzman Carson Consultants LLC (the notice and claims agent retained in these chapter 11 cases) by calling (888) 249-2721 (U.S./Canada) or (310) 751-2604 (International); (b) by visiting the website maintained in these chapter 11 cases at www.kccllc.net/PGX; or (c) for a fee via PACER by visiting <http://www.deb.uscourts.gov>.

PLEASE TAKE FURTHER NOTICE that you may obtain additional information concerning the above-captioned chapter 11 cases at the website maintained in these chapter 11 cases at www.kccllc.net/PGX.

[Remainder of page intentionally left blank]

Dated: June [____], 2023
Wilmington, Delaware

/s/ Draft

**KLEHR HARRISON HARVEY
BRANZBURG LLP**

Domenic E. Pacitti (DE Bar No. 3989)
Michael W. Yurkewicz (DE Bar No. 4165)
919 North Market Street, Suite 1000
Wilmington, Delaware 19801
Telephone: (302) 426-1189
Facsimile: (302) 426-9193
Email: dpacitti@klehr.com
myurkewicz@klehr.com

-and-

Morton R. Branzburg (admitted *pro hac vice*)
1835 Market Street, Suite 1400
Philadelphia, Pennsylvania 19103
Telephone: (215) 569-3007
Facsimile: (215) 568-6603
Email: mbranzburg@klehr.com

*Proposed Co-Counsel to the Debtors and Debtors
in Possession*

**KIRKLAND & ELLIS LLP
KIRKLAND & ELLIS INTERNATIONAL LLP**

Joshua A. Sussberg, P.C. (admitted *pro hac vice*)
601 Lexington Ave
New York, New York 10022
Telephone: (212) 446-4800
Facsimile: (212) 446-4900
Email: joshua.sussberg@kirkland.com

- and -

Spencer Winters (admitted *pro hac vice*)
Whitney C. Fogelberg (admitted *pro hac vice*)
Alison J. Wirtz (admitted *pro hac vice*)
300 North LaSalle
Chicago, Illinois 60654
Telephone: (312) 862-2000
Facsimile: (312) 862-2200
Email: spencer.winters@kirkland.com
whitney.fogelberg@kirkland.com
alison.wirtz@kirkland.com

*Proposed Co-Counsel to the Debtors and Debtors in
Possession*

EXHIBIT 5

Assumption and Assignment Notice

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

In re:)	
	)	Chapter 11
PGX HOLDINGS, INC., <i>et al.</i> , ¹	)	Case No. 23-10718 (CTG)
)	
Debtors.	)	(Jointly Administered)
)	

**NOTICE TO CONTRACT PARTIES TO POTENTIALLY
ASSUMED EXECUTORY CONTRACTS AND UNEXPIRED LEASES**

**YOU ARE RECEIVING THIS NOTICE BECAUSE YOU
OR ONE OF YOUR AFFILIATES IS A COUNTERPARTY TO AN
EXECUTORY CONTRACT OR UNEXPIRED LEASE WITH ONE OR MORE
OF THE DEBTORS AS SET FORTH ON EXHIBIT A ATTACHED HERETO.**

PLEASE TAKE NOTICE that on June [●], 2023, the United States Bankruptcy Court for the District of Delaware (the “Court”) entered the *Order (I)(A) Approving Bidding Procedures for Substantially All of the Debtors’ Assets, (B) Authorizing the Debtors to Enter into One or More Stalking Horse Agreements and to Provide Bidding Protections Thereunder, (C) Scheduling an Auction and Approving the Form and Manner of Notice Thereof, (D) Approving Assumption and Assignment Procedures, and (E) Scheduling A Sale Hearing and Approving the Form and Manner of Notice Thereof; (II)(A) Approving the Sale of the Debtors’ Assets Free and Clear of Liens, Claims, Interests and Encumbrances and (B) Approving the Assumption and Assignment of Executory Contracts and Unexpired Leases; and (III) Granting Related Relief* [Docket No. [●]] (the “Bidding Procedures Order”),² authorizing the Debtors³ to conduct an auction (the “Auction”) to select the party to purchase the Debtors’ assets. The Auction will be governed by the bidding procedures approved pursuant to the Bidding Procedures Order (attached to the Bidding Procedures Order as Exhibit 2, the “Bidding Procedures”).

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, are: PGX Holdings, Inc. (2510); Credit Repair UK, Inc. (4798); Credit.com, Inc. (1580); Creditrepair.com Holdings, Inc. (7536); Creditrepair.com, Inc. (7680); eFolks Holdings, Inc. (5213); eFolks, LLC (5256); John C. Heath, Attorney At Law PC (8362); Progexion ASG, Inc. (5153); Progexion Holdings, Inc. (7123); Progexion IP, Inc. (5179); Progexion Marketing, Inc. (5073); and Progexion Teleservices, Inc. (5110). The location of the Debtors’ service address for purposes of these chapter 11 cases is: 257 East 200 South, Suite 1200, Salt Lake City, Utah 84111.

² All capitalized terms used but not otherwise defined herein shall have the meaning ascribed to them in the Bidding Procedures Order or the Sale Motion, as applicable.

³ This relief granted in the Bidding Procedures Order is solely limited to the Debtors.

PLEASE TAKE FURTHER NOTICE that, pursuant to the Bidding Procedures and the terms of any Successful Bid, the Debtors **may** assume and assign to the Successful Bidder the contract or agreement listed on **Exhibit A** to which you are a counterparty, upon approval of the Sale. The Debtors have conducted a review of their books and records and have determined that the cure amount for unpaid monetary obligations under such Assigned Contracts is as set forth on **Exhibit A** attached hereto (the “**Cure Amounts**”).

PLEASE TAKE FURTHER NOTICE that if you disagree with the proposed Cure Amounts, object to a proposed assignment to the Successful Bidder of any Assigned Contract, or object to the ability of the Successful Bidder to provide adequate assurance of future performance with respect to any Assigned Contract, your objection must: (i) be in writing; (ii) comply with the applicable provisions of the Bankruptcy Rules, Local Bankruptcy Rules, and any order governing the administration of these chapter 11 cases; (iii) state with specificity the nature of the objection and, if the objection pertains to the proposed Cure Amounts, state the correct cure amount alleged to be owed to the objecting Contract Counterparty, together with any applicable and appropriate documentation in support thereof; and (iv) be filed with the Court and served and **actually received no later than [●], 2023, at 5:00 p.m. (prevailing Central Time)** (the “**Contract Objection Deadline**”) by the Court and the following parties: (i) proposed counsel to the Debtors, Kirkland & Ellis LLP, 601 Lexington Avenue, New York, New York 10022, Attn: Joshua A. Sussberg, P.C. (joshua.sussberg@kirkland.com) and Chris Ceresa (chris.ceresa@kirkland.com), and Kirkland & Ellis LLP, 300 North LaSalle, Chicago, Illinois 60654, Attn: Spencer Winters (spencer.winters@kirkland.com), Whitney C. Fogelberg (whitney.fogelberg@kirkland.com), and Alison J. Wirtz (alison.wirtz@kirkland.com); (ii) proposed co-counsel to the Debtors, Klehr Harrison Harvey Branzburg LLP, 919 North Market Street, Suite 1000, Wilmington, Delaware 19801, Attn: Domenic E. Pacitti (dpacitti@klehr.com) and Michael W. Yurkewicz (myurkewicz@klehr.com), and Klehr Harrison Harvey Branzburg LLP, 1835 Market Street, Suite 1400, Philadelphia, Pennsylvania 19103, Attn: Morton R. Branzburg (mbranzburg@klehr.com); and (iii) the Debtors’ proposed investment banker, Greenhill & Co., LLC, 1271 Avenue of the Americas, New York, New York 10020, Attn: Nail Augustine (ProjectPretzel@greenhill.com).

PLEASE TAKE FURTHER NOTICE that if no objection to (a) the Cure Amounts(s), (b) the proposed assignment and assumption of any Assigned Contract, or (c) adequate assurance of the Successful Bidder’s ability to perform is filed by the Contract Objection Deadline, then (i) you will be deemed to have stipulated that the Cure Amounts as determined by the Debtors are correct, (ii) you will be forever barred, estopped, and enjoined from asserting any additional cure amount under the proposed Assigned Contract, and (iii) you will be forever barred, estopped, and enjoined from objecting to such proposed assignment to the Successful Bidder on the grounds that the Successful Bidder has not provided adequate assurance of future performance as of the closing date of the Sale.

PLEASE TAKE FURTHER NOTICE that any objection to the proposed assumption and assignment of an Assigned Contract or related Cure Amounts in connection with the Successful Bid that otherwise complies with these procedures yet remains unresolved as of the commencement of the Sale Hearing, shall be heard at a later date as may be fixed by the Court.

PLEASE THAT FURTHER NOTICE that, notwithstanding anything herein, the mere listing of any Assigned Contract on the Cure Notice does not require or guarantee that such Assigned Contract will be assumed by the Debtors at any time or assumed and assigned, and all rights of the Debtors and the Successful Bidder with respect to such Executory Contracts and/or Unexpired Leases are reserved. Moreover, the Debtors explicitly reserve their rights, in their reasonable discretion, to seek to reject or assume each Assigned Contract pursuant to section 365(a) of the Bankruptcy Code and in accordance with the procedures allowing the Debtors and/or the Successful Bidder, as applicable, to designate any Assigned Contract as either rejected or assumed on a post-closing basis.

PLEASE TAKE FURTHER NOTICE that, nothing herein (i) alters in any way the prepetition nature of the Assigned Contracts or the validity, priority, or amount of any claims of a counterparty to any Assigned Contract against the Debtors that may arise under such Assigned Contract, (ii) creates a postpetition contract or agreement, or (iii) elevates to administrative expense priority any claims of a counterparty to any Assigned Contract against the Debtors that may arise under such Assigned Contract.

PLEASE TAKE FURTHER NOTICE that you may obtain additional information concerning the above-captioned chapter 11 cases at the website maintained in these chapter 11 cases at www.kccllc.net/PGX.

[Remainder of page intentionally left blank]

Dated: June [____], 2023

Wilmington, Delaware

/s/ Draft

**KLEHR HARRISON HARVEY
BRANZBURG LLP**

Domenic E. Pacitti (DE Bar No. 3989)
Michael W. Yurkewicz (DE Bar No. 4165)
919 North Market Street, Suite 1000
Wilmington, Delaware 19801
Telephone: (302) 426-1189
Facsimile: (302) 426-9193
Email: dpacitti@klehr.com
myurkewicz@klehr.com

-and-

Morton R. Branzburg (admitted *pro hac vice*)
1835 Market Street, Suite 1400
Philadelphia, Pennsylvania 19103
Telephone: (215) 569-3007
Facsimile: (215) 568-6603
Email: mbranzburg@klehr.com

*Proposed Co-Counsel to the Debtors and Debtors
in Possession*

**KIRKLAND & ELLIS LLP
KIRKLAND & ELLIS INTERNATIONAL LLP**

Joshua A. Sussberg, P.C. (admitted *pro hac vice*)
601 Lexington Ave
New York, New York 10022
Telephone: (212) 446-4800
Facsimile: (212) 446-4900
Email: joshua.sussberg@kirkland.com

- and -

Spencer Winters (admitted *pro hac vice*)
Whitney C. Fogelberg (admitted *pro hac vice*)
Alison J. Wirtz (admitted *pro hac vice*)
300 North LaSalle
Chicago, Illinois 60654
Telephone: (312) 862-2000
Facsimile: (312) 862-2200
Email: spencer.winters@kirkland.com
whitney.fogelberg@kirkland.com
alison.wirtz@kirkland.com

*Proposed Co-Counsel to the Debtors and Debtors in
Possession*