

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

In re: : Chapter 11
: Case No. 21-11194 (JTD)
Sequential Brands Group, Inc., *et al.*,¹ : (Jointly Administered)
: **Ref. Docket Nos. 19, 135, 138, 139, 173**
Debtors. :
:

**NOTICE OF FILING OF PROPOSED SALE ORDERS IN CONNECTION WITH
SALE OF SUBSTANTIALLY ALL OF THE DEBTORS' ASSETS**

PLEASE TAKE NOTICE that, on August 31, 2021, Sequential Brands Group, Inc. and its affiliated debtors and debtors in possession in the above-captioned cases (collectively, the “Debtors”) filed 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’ 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. 19] (the “Bidding Procedures Motion”) with the United States Bankruptcy Court for the District of Delaware (the “Bankruptcy Court”).

PLEASE TAKE FURTHER NOTICE that, on September 24, 2021, the Bankruptcy Court entered the *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 Assignment Procedures, (V) Scheduling a Sale Hearing and Approving the Form and Manner of Notice Thereof and (VI) Granting Related Relief* [Docket No. 138] (the “Bidding Procedures Order”) ² authorizing and approving the Bidding Procedures Motion.

¹ The Debtors, along with the last four digits of each Debtor’s tax identification number, are: Sequential Brands Group, Inc. (2789), SQBG, Inc. (9546), Sequential Licensing, Inc. (7108), William Rast Licensing, LLC (4304), Heeling Sports Limited (0479), Brand Matter, LLC (1258), SBG FM, LLC (8013), Galaxy Brands LLC (9583), The Basketball Marketing Company, Inc. (7003), American Sporting Goods Corporation (1696), LNT Brands LLC (3923), Joe’s Holdings LLC (3085), Gaiam Brand Holdco, LLC (1581), Gaiam Americas, Inc. (8894), SBGGaiam Holdings, LLC (8923), SBG Universe Brands, LLC (4322), and GBT Promotions LLC (7003). The Debtors’ corporate headquarters and the mailing address for each Debtor is 1407 Broadway, 38th Floor, New York, NY 10018.

² All capitalized terms used but not otherwise defined herein shall be given the meanings ascribed to them in the Bidding Procedures Order.



PLEASE TAKE FURTHER NOTICE that, on September 24, 2021, in connection with the Bidding Procedures Order, the Debtors filed a *Notice of Sale, Bidding Procedures, Auction, Sale Hearing and Other Deadlines Related Thereto* [Docket No. 139].

PLEASE TAKE FURTHER NOTICE that, on October 28, 2021, the Debtors filed the *Notice of Selection of Successful Bidders and Cancellation of Auction* [Docket No. 262] cancelling the Auction and identifying the Successful Bidders for their Assets.

PLEASE TAKE FURTHER NOTICE that, in connection with the Bidding Procedures Order, the Debtors hereby file the following proposed forms of orders (and exhibits thereto) (collectively, the “Proposed Sale Orders”):

Exhibit 1: Approval of APA with Gainline Galaxy Holdings LLC

Exhibit 1A: Redline comparison (against form of order filed at Docket No. 138 with the Galaxy APA)

Exhibit 2: Approval of APA with Centric Brands, LLC

Exhibit 2A: Redline comparison (against form of order filed at Docket No. 173)

Exhibit 2B: Redline comparison (against APA filed at Docket No. 135, Exhibit A-1)

Exhibit 3: Approval of APA with With You, Inc.

Exhibit 4: Approval of APA with JJWHP, LLC

PLEASE TAKE FURTHER NOTICE that Debtors will seek approval of the Proposed Sale Orders at the Hearing scheduled to commence on **November 4, 2021, at 10:00 a.m. (prevailing Eastern Time)** before the Honorable John T. Dorsey, United States Bankruptcy Judge, in the United States Bankruptcy Court for the District of Delaware, located at 824 N. Market Street, Wilmington, Delaware 19801. Accordingly, the Debtors reserve all rights to further revise the Proposed Sale Orders at any time prior to the Hearing.

[Remainder of Page Intentionally Left Blank]

Dated: October 29, 2021

PACHULSKI STANG ZIEHL & JONES LLP

/s/ Timothy P. Cairns

Laura Davis Jones (DE Bar No. 2436)
Timothy P. Cairns (Bar No. 4228)
919 North Market Street, 17th Floor
P.O. Box 8705
Wilmington, Delaware 19899 (Courier 19801)
Telephone: (302) 652-4100
Facsimile: (302) 652-4400
Email: ljones@pszjlaw.com
tcairns@pszjlaw.com

-and-

GIBSON, DUNN & CRUTCHER LLP

Scott J. Greenberg (admitted *pro hac vice*)
Joshua K. Brody (admitted *pro hac vice*)
Jason Zachary Goldstein (admitted *pro hac vice*)
200 Park Avenue
New York, New York 10166
Tel: (212) 351-4000
Fax: (212) 351-4035
Email: sgreenberg@gibsondunn.com
jbrody@gibsondunn.com
jgoldstein@gibsondunn.com

Counsel to the Debtors and Debtors in Possession

Exhibit 1

Proposed Sale Order re: Gainline Galaxy Holdings LLC

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

	X	
In re	:	Chapter 11
	:	
Sequential Brands Group, Inc., <u>et al.</u> , ¹	:	Case No. 21-21-11194 (JTD)
	:	
Debtors.	:	(Jointly Administered)

**ORDER (I) APPROVING PURCHASE AGREEMENT AMONG DEBTORS
AND GAINLINE GALAXY HOLDINGS LLC, (II) APPROVING SALE OF CERTAIN
OF DEBTORS' ASSETS FREE AND CLEAR OF LIENS, CLAIMS, INTERESTS AND
ENCUMBRANCES, (III) AUTHORIZING ASSUMPTION AND ASSIGNMENT OF
CERTAIN EXECUTORY CONTRACTS AND UNEXPIRED LEASES AND
(IV) GRANTING RELATED RELIEF**

Upon the motion (the "Motion") of Sequential Brands Group, Inc. and its affiliated debtors and debtors-in-possession (collectively, the "Debtors"), for entry of an order (this "Order") pursuant to sections 105(a), 363, 365, 503 and 507 of title 11 of the United States Code, 11 U.S.C. §§ 101 et seq. (the "Bankruptcy Code"), rules 2002, 6004, 6006, 9007, 9008, and 9014 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"), and Rules 2002-1 and 6004-1 of the Local Rules of Bankruptcy Practice and Procedures of the United States Bankruptcy Court for the District of Delaware (the "Local Rules"), (i) approving the sale of the Debtors' assets free and clear of liens, claims, interests and encumbrances (other than Permitted Post-Closing Encumbrances),² (ii) authorizing assumption and assignment of certain executory contracts and

¹ The Debtors, along with the last four digits of each Debtor's tax identification number, are: Sequential Brands Group, Inc. (2789), SQBG, Inc. (9546), Sequential Licensing, Inc. (7108), William Rast Licensing, LLC (4304), Heeling Sports Limited (0479), Brand Matter, LLC (1258), SBG FM, LLC (8013), Galaxy Brands LLC (9583), The Basketball Marketing Company, Inc. (7003), American Sporting Goods Corporation (1696), LNT Brands LLC (3923), Joe's Holdings LLC (3085), Gaiam Brand Holdco, LLC (1581), Gaiam Americas, Inc. (8894), SBG-Gaiam Holdings, LLC (8923), SBG Universe Brands, LLC (4322), and GBT Promotions LLC (7003). The Debtors' corporate headquarters and the mailing address for each Debtor is 1407 Broadway, 38th Floor, New York, NY 10018.

² Capitalized terms not defined herein have the meanings given them in the Purchase Agreement (as defined below) or, if not defined therein, the meanings given them in the Bid Procedures (as defined below).

unexpired leases; and (iii) granting related relief; and the Court having entered a prior order, dated September 24, 2021 [Docket No. 138] (the “Bid Procedures Order”), approving bidding procedures for the Debtors’ assets (the “Bid Procedures”) and approving procedures for the assumption and assignment of the Debtors’ executory contracts and unexpired leases (the “Assumption and Assignment Procedures”), and granting certain related relief; and the Debtors having identified the bid by Buyer as the highest or otherwise best bid for the Transferred Assets; and upon the Declaration of Derek Herbert in support of the Motion [Docket No. 134]; and the Auction having been cancelled in accordance with the Bid Procedures; and the Debtors having filed the *Notice of Selection of Successful Bidders and Cancellation of Auction* [Docket No. 262] (the “Successful Bidder Notice”), designating the Buyer as the Successful Bidder for the Transferred Assets; and the Court having jurisdiction to consider the Motion pursuant to 28 U.S.C. §§ 157 and 1334; and venue of these chapter 11 cases and the Motion in this district being proper pursuant to 28 U.S.C. §§ 1408 and 1409; and this matter being a core proceeding pursuant to 28 U.S.C. § 157(b); and the Court having found that proper and adequate notice of the Motion and the relief requested therein has been provided in accordance with the Bankruptcy Rules and the Local Rules, and that, except as otherwise ordered herein, no other or further notice is necessary; and any objections (if any) to the Motion having been withdrawn or overruled on the merits; and a hearing on the Motion (the “Sale Hearing”) having been held to consider the relief requested in the Motion and to review and consider (i) the Motion and the exhibits thereto, and (ii) the Asset Purchase Agreement, dated as of August 31, 2021, by and among the Debtors and Buyer, a copy of which is attached hereto as **Exhibit A** (together with any schedules and exhibits thereto, the “Purchase Agreement”), whereby the Debtors have agreed, among other things, to sell the Transferred Assets (as defined in the Purchase Agreement) to Buyer on the terms and conditions

set forth in the Purchase Agreement (collectively, the “Sale Transaction”); and the Debtors having determined that the Qualified Bid submitted by Buyer as embodied in the Purchase Agreement is the highest and otherwise best bid for the Transferred Assets and having selected such bid as the Successful Bid pursuant to the Bid Procedures; and upon the record of the Sale Hearing and all of the proceedings had before the Court; and the Court having found and determined that the relief sought in the Motion as it pertains to the relief granted hereby is in the best interests of the Debtors, their estates, their creditors and all other parties-in-interest; and that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and upon the full record of the Sale Hearing and all other pleadings and proceedings in these chapter 11 cases, including the Motion; and after due deliberation and sufficient cause appearing therefor,

THE COURT MAKES THE FOLLOWING FINDINGS OF FACT AND CONCLUSIONS OF LAW BASED ON THE PLEADINGS, THE REPRESENTATIONS OF THE PARTIES, AND THE RECORD ESTABLISHED AND EVIDENCE PRESENTED AT THE HEARING:

A. Fed. R. Bankr. P. 7052. The findings and conclusions set forth herein constitute the Court’s findings of fact and conclusions of law pursuant to Bankruptcy Rule 7052. To the extent that 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.

B. Jurisdiction and Venue; Final Order. The Court has jurisdiction to consider and decide the Motion pursuant to 28 U.S.C. §§ 157 and 1334. This matter is a core proceeding pursuant to 28 U.S.C. § 157(b). Venue of these chapter 11 cases and the Motion is proper pursuant to 28 U.S.C. §§ 1408 and 1409. The Court may enter a final order with respect to the Motion, the Purchase Agreement, the transactions contemplated thereby, and all related relief, in each case, consistent with Article III of the United States Constitution.

C. Final Order. This Order constitutes a final and appealable order as set forth in 28 U.S.C. § 158(a), except as otherwise set forth herein.

D. Statutory and Rule Predicates. The statutory and other legal predicates for the relief sought in the Motion are sections 105(a), 363 and 365 of the Bankruptcy Code, Bankruptcy Rules 2002, 6004, 6006, 9007, 9008, and 9014, Local Rules 2002-1 and 6004-1.

E. Opportunity to Object. A fair and reasonable opportunity to object or be heard regarding the relief granted by this Order, including, but not limited to, the assumption and assignment of the Assigned Contracts and the Cure Costs (each as defined below), has been afforded to all interested Persons and Entities (as defined below), including, but not limited to, the Sale Notice Parties.

F. Sound Business Purpose. The Debtors have demonstrated that their entry into the Purchase Agreement and related or ancillary agreements thereto or contemplated thereby (collectively, the “Ancillary Agreements”) is supported by good, sufficient and sound business reasons. A sale of the Transferred Assets, including the assignment of the Closing Assumed Contracts and the Additional Assumed Contracts and assumption of the Assumed Liabilities, will maximize the value of the Debtors’ estates and represents a reasonable exercise of the Debtors’ sound business judgment. The Debtors determined that the Purchase Agreement constitutes the highest and otherwise best offer for the Transferred Assets, and pursuant to the terms and conditions of the Purchase Agreement, the Debtors have agreed to transfer to Buyer all of the Debtors’ right, title and interest in and to, and Buyer has agreed to assume certain specified Assumed Liabilities that are not Excluded Liabilities related to, the Transferred Assets free and clear of all Liens (other than the Permitted Post-Closing Encumbrances) and, if requested by Buyer, to assume and assign the Closing Assumed Contracts and the Additional Assumed

Contracts (collectively, the “Assigned Contracts”) to Buyer subject to the terms and conditions of the Purchase Agreement and this Order, and such determination is a valid and sound exercise of the Debtors’ business judgment.

G. The consummation of the Sale Transaction and the assumption and assignment of the Assigned Contracts are legal, valid, and properly authorized under all applicable provisions of the Bankruptcy Code, including, without limitation, sections 105(a), 363(b), 363(f), 363(m), and 365 of the Bankruptcy Code, and all of the applicable requirements of such sections have been complied with in respect of the Sale Transaction.

H. Compliance with Bid Procedures. As demonstrated by evidence proffered or adduced and the representations of counsel at the Sale Hearing, the Bid Procedures (as approved by the Bid Procedures Order) were substantively and procedurally fair to all parties, were the result of arm’s length negotiations, and provided a full, fair and reasonable opportunity for any party to make an offer to purchase the Transferred Assets. The Debtors, Buyer and their respective counsel and other advisors have complied with the Bid Procedures Order, the Bid Procedures, and the Assumption and Assignment Procedures in all respects. Buyer submitted a Qualified Bid pursuant to the Bid Procedures approved by the Court, was determined to be the Successful Bidder for the Transferred Assets, and was granted certain Bid Protections in accordance with the Bid Procedures Order and the Bid Procedures.

I. Marketing Process. The Debtors and their advisors thoroughly and fairly marketed the Transferred Assets and conducted the related sale process in good faith and in a fair and open manner, soliciting offers to acquire the Transferred Assets from a wide variety of parties. The sale process and the Bid Procedures were non-collusive, duly noticed, and provided a full, fair, reasonable, and adequate opportunity for any Person or Entity that expressed an interest in

acquiring the Transferred Assets, or who the Debtors believed may have an interest in acquiring, and be permitted and able to acquire, the Transferred Assets, to conduct due diligence, make an offer to purchase the Debtors' assets, including, without limitation, the Transferred Assets, and submit higher and otherwise better offers for the Transferred Assets than Buyer's Successful Bid. The Debtors and Buyer have negotiated and undertaken their roles leading to the Sale Transaction and entry into the Purchase Agreement in a diligent, non-collusive, fair, reasonable, and good faith manner. The sale process conducted by the Debtors pursuant to the Bid Procedures Order and the Bid Procedures resulted in the highest and otherwise best offer for the Transferred Assets for the Debtors and their estates, was in the best interests of the Debtors, their creditors, and all parties-in-interest, and any other transaction would not have yielded as favorable a result. The Debtors' determinations that the Purchase Agreement constitutes the highest and otherwise best offer for the Transferred Assets and maximizes value for the benefit of the Debtors' estates constitutes a valid and sound exercise of the Debtors' business judgment and are in accordance and compliance with the Bid Procedures and the Bid Procedures Order. The Purchase Agreement represents fair and reasonable terms for the purchase of the Transferred Assets. No other Person or Entity has offered to purchase the Transferred Assets for greater overall value to the Debtors' estates than the Buyer. Approval of the Motion (as it pertains to the Sale Transaction) and the Purchase Agreement and the consummation of the transactions contemplated thereby will maximize the value of each of the Debtors' estates and are in the best interests of the Debtors, their estates, their creditors, and all other parties in interest. There is no legal or equitable reason to delay consummation of the transactions contemplated by the Purchase Agreement, including, without limitation, the Sale Transaction.

J. Good Faith. Buyer is not an “insider” or “affiliate” of any of the Debtors as those terms are defined in section 101 of the Bankruptcy Code, and no common identity of incorporators, directors, managers, or controlling stockholders existed between the Debtors and the Buyer. The Purchase Agreement and the Ancillary Agreements, and each of the transactions contemplated therein were negotiated, proposed and entered into by the Debtors and Buyer, their respective boards of directors or equivalent governing bodies, officers, directors, employees, agents, professionals, and representatives without collusion or fraud, in good faith, and from arm’s length bargaining positions, and are substantively and procedurally fair to all parties. The Buyer and its affiliates, with the consent and support of the Debtors and their professionals, engaged in discussions and negotiations with KKR Credit Advisors (US) LLC, on behalf of certain funds advised or managed by it, in its capacity as a Prepetition Term B Lender (as defined in the Final DIP Order (as defined herein)) and as a financing party in connection with the Buyer’s purchase of the Transferred Assets, regarding the terms of its bid, which ultimately was embodied in the Purchase Agreement and will maximize value to the Debtors’ estates. Buyer is purchasing the Transferred Assets, in accordance with the Purchase Agreement, in good faith and is a good-faith purchaser under section 363(m) of the Bankruptcy Code and, as such, is entitled to all of the protections afforded thereby. In particular, (i) Buyer recognized that the Debtors were free to deal with any other party interested in purchasing the Transferred Assets; (ii) Buyer in no way induced or caused the chapter 11 filing by the Debtors; (iii) Buyer has not engaged in any conduct that would cause or permit the Sale Transaction or the Purchase Agreement to be avoided or subject to monetary damages under section 363(n) of the Bankruptcy Code by any action or inaction; (iv) no common identity of directors, managers, officers, or controlling stockholders exist between Buyer, on the one hand, and any of the Debtors, on the other hand; (v) Buyer complied with the Bid

Procedures and all provisions of the Bid Procedures Order and the Assumption and Assignment Procedures; (vi) Buyer agreed to subject its Bid to the competitive Bid Procedures set forth in the Bid Procedures Order; and (vii) all payments to be made, and all other material agreements or arrangements entered into or to be entered into, by Buyer in connection with the Sale Transaction, including the Ancillary Agreements, have been disclosed.

K. No Collusion. Neither the Debtors nor the Buyer has engaged in any conduct that would cause or permit the Purchase Agreement or the consummation of the Sale Transaction to be avoided, or costs or damages to be imposed under section 363(n) of the Bankruptcy Code, and accordingly neither the Debtors nor the Buyer has violated section 363(n) of the Bankruptcy Code by any action or inaction. Specifically, the Buyer has not acted in a collusive manner with any entity (as such term is defined in the Bankruptcy Code, an “Entity”) and the Purchase Price paid by the Buyer for the Transferred Assets was not controlled by any agreement among potential bidders. The transactions under the Purchase Agreement may not be avoided, and no damages may be assessed against the Buyer Parties (as defined herein) or any other party under section 363(n) of the Bankruptcy Code or any other applicable bankruptcy or non-bankruptcy law.

L. Fair Consideration. The aggregate consideration from Buyer for the Transferred Assets as set forth in the Purchase Agreement: (i) was negotiated at arm’s length; (ii) is fair and reasonable; (iii) constitutes fair consideration and fair value under the Bankruptcy Code, the Uniform Voidable Transactions Act (formerly the Uniform Fraudulent Transfer Act), the Uniform Fraudulent Conveyance Act and other similar laws of the United States, any state, territory, possession, or the District of Columbia, and any foreign jurisdiction; (iv) is the highest and best value obtainable for the Transferred Assets; (v) will provide a greater recovery to creditors

than would be provided by any other available alternative; and (vi) constitutes reasonably equivalent value (as that term is defined in each of the Uniform Voidable Transactions Act (formerly the Uniform Fraudulent Transfer Act), the Uniform Fraudulent Conveyance Act, and section 548 of the Bankruptcy Code). Without limiting the foregoing, no objection was raised to the Sale Motion on the basis that the creditors of any particular Debtor were improperly prejudiced by the proposed sale. Based on the evidence before the Court, the sale consideration under the Purchase Agreement constitutes adequate consideration for the Transferred Assets of each Debtor and such consideration does not disadvantage the creditors of any particular Debtor.

M. No Successor or Other Derivative Liability. Except for Assumed Liabilities and Permitted Post-Closing Encumbrances, neither the Buyer, nor any of its successors or assigns, or any of their respective affiliates shall, to the fullest extent permitted by Law, have any liability for any Lien, Claim, or Interest that arose or occurred prior to the Closing, or otherwise may be asserted against the Debtors or is related to the Transferred Assets prior to the Closing. The Buyer (i) is not and shall not be deemed a “successor” to the Debtors or their estates; (ii) has not, *de facto* or otherwise, merged with or into any of the Debtors; (iii) does not have any common law or successor liability in relation to any employment plans; (iv) is not liable for any liability of Lien (other than Assumed Liabilities) against the Debtors or any of the Debtors’ predecessors or Affiliates; and (v) is not an alter ego or mere continuation or substantial continuation of the Debtors or the enterprise of the Debtors under any theory of law or equity as a result of any action taken in connection with the Purchase Agreement, Sale Transaction or any transactions or documents ancillary thereto or contemplated thereby or in connection with the acquisition of the Transferred Assets.

N. Sale Notice. As shown by the certificates of service filed with the Court and the representations or proffers made on the record at the Sale Hearing, (i) the Debtors have provided due, good, proper, timely, reasonable, adequate, appropriate, and sufficient notice of and sufficient opportunity to object to the Motion and the relief requested therein (including the Debtors' requested findings with respect to successor liability), the bidding process (including, without limitation, the deadline for submitting Qualified Bids), the Sale Hearing, the Sale Transaction, the application of proceeds from the Sale Transaction, the proposed assumption and assignment of the Assigned Contracts, and the proposed entry of this Order in compliance with all applicable requirements of the Bankruptcy Code, the Bankruptcy Rules, the Local Rules and the Sale Guidelines, (ii) such notice was adequate and sufficient under the circumstances of the chapter 11 cases and complied with the Bid Procedures Order and other orders of the Court, and (iii) no other or further notice is required.

O. Title to Assets. The Transferred Assets constitute property of the Debtors' estates and title or rights thereto is currently vested in the Debtors' estates within the meaning of section 541(a) of the Bankruptcy Code. The transfer of the Transferred Assets to the Buyer will be a legal, valid, and effective sale and transfer of the Transferred Assets and, except as provided in the Purchase Agreement or this Order, will vest the Buyer with all right, title, and interest of the Debtors to the Transferred Assets free and clear of all Liens (other than Permitted Post-Closing Encumbrances) and Liabilities (other than Assumed Liabilities). The Purchase Agreement is a valid and binding contract between the Debtors and the Buyer and shall be enforceable according to its terms.

P. Satisfaction of Section 363(f) Standards. The conditions of section 363(f) of the Bankruptcy Code, including 363(f)(1) and (2), have been satisfied in full. Upon entry of this

Order, the Debtors are authorized to transfer all of their right, title and interest in and to the Transferred Assets free and clear of any and all claims (as such term is defined by section 101(5) of the Bankruptcy Code), liabilities (including any liability that results from, relates to or arises out of tort or any other product liability claim), interests and matters of any kind and nature whatsoever, including, without limitation, hypothecations, mortgages, security deeds, deeds of trust, debts, levies, indentures, restrictions (whether on voting, sale, transfer, disposition or otherwise), leases, licenses, easements, rights of way, encroachments, instruments, preferences, priorities, security agreements, conditional sales agreements, title retention contracts and other title retention agreements and other similar impositions, options, judgments, offsets, rights of recovery, rights of preemption, rights of setoff, profit sharing interest, other third party rights, other impositions, imperfections or defects of title or restrictions on transfer or use of any nature whatsoever, claims for reimbursement, claims for contribution, claims for indemnity, claims for exoneration, products liability claims, alter-ego claims, successor-in-interest claims, successor liability claims, substantial continuation claims, COBRA claims, withdrawal liability claims, environmental claims, claims under or relating to any employee benefit plan, ERISA affiliate plan, or ERISA (including any pension or retirement plan), WARN Act claims or any claims under state or other laws of similar effect, tax claims (including claims for any and all foreign, federal, state and local taxes, including, but not limited to, sales, income, use or any other type of tax), escheatment claims, reclamation claims, obligations, liabilities, demands, and guaranties, and other encumbrances relating to, accruing, or arising any time prior to the Closing Date, duties, responsibilities, obligations, demands, commitments, assessments, costs, expense, losses, expenditures, charges, fees, penalties, fines, contributions, premiums, encumbrances, guaranties, pledges, consensual or nonconsensual liens (including any liens as that term is defined in section

101(37) of the Bankruptcy Code), statutory liens, real or personal property liens, mechanics' liens, materialman's liens, warehouseman's liens, tax liens, security interests, charges, options (including in favor of third parties), rights, contractual commitments, restrictions, restrictive covenants, covenants not to compete, rights to refunds, escheat obligations, rights of first refusal, rights and restrictions of any kind or nature whatsoever against the Debtors or the Transferred Assets, including, without limitation, any debts arising under or out of, in connection with, or in any way relating to, any acts or omissions, obligations, demands, guaranties, rights, contractual commitments, restrictions, product liability claims, environmental liabilities, employee pension or benefit plan claims, multiemployer benefit plan claims, retiree healthcare or life insurance claims, or claims for taxes of or against the Debtors, and any derivative, vicarious, transferee or successor liability claims, rights or causes of action (whether in law or in equity, under any law, statute, rule or regulation of the United States, any state, territory, or possession, or the District of Columbia), whether arising prior to or subsequent to the commencement of these chapter 11 cases, whether known or unknown, choate or inchoate, filed or unfiled, scheduled or unscheduled, noticed or unnoticed, recorded or unrecorded, secured or unsecured, perfected or unperfected, allowed or disallowed, contingent or non-contingent, liquidated or unliquidated, matured or unmatured, material or non-material, disputed or undisputed, and whether imposed by agreement, understanding, law, equity, or otherwise, including claims otherwise arising under doctrines of successor liability, successor-in-interest liability, continuation liability or substantial continuation liability, including, without limitation, that the Buyer is in any way a successor, successor-in-interest, continuation or substantial continuation of the Debtors or their business, arising under or out of, in connection with, or in any way related to the Debtors, the Debtors' interests in the Transferred Assets, the operation of the Debtors' respective businesses at or before the effective

time of the Closing pursuant to the Purchase Agreement, or the transfer of the Debtors' interests in the Transferred Assets to Buyer, and all Excluded Liabilities (collectively, "Liens"), as, and to the extent, provided for in the Purchase Agreement because in each case one or more of the standards set forth in section 363(f)(1)—(5) of the Bankruptcy Code has been satisfied. Except as otherwise expressly provided in the Purchase Agreement or this Order, such Liens shall attach to the proceeds allocated to the Debtors in the order of their priority, with the same validity, force and effect which they have against the Transferred Assets immediately prior to the Closing, subject to any claims and defenses the Debtors may possess with respect to such Liens. Those holders of Liens against the Transferred Assets who did not object or who withdrew their objections to the Purchase Agreement or the Motion are deemed to have consented to the transactions contemplated by the Purchase Agreement pursuant to section 363(f)(2) of the Bankruptcy Code and shall be forever barred from pursuing or asserting such Liens against Buyer or any of its respective assets, property, affiliates, successors, assigns, or the Transferred Assets.

Q. Buyer would not have entered into the Purchase Agreement if the transfer of the Transferred Assets were not free and clear of all Liens (other than Permitted Post-Closing Encumbrances) and Liabilities (other than the Assumed Liabilities) as set forth in the Purchase Agreement and this Order, or if in the future Buyer would or could be liable for any such Liens and Liabilities. The total consideration to be provided under the Purchase Agreement and herein reflects the Buyer's reliance on this Order to provide it, pursuant to sections 105(a) and 363 of the Bankruptcy Code, with title to, interest in and possession of the Transferred Assets free and clear of all Liens (other than Permitted Post-Closing Encumbrances) and Liabilities (other than Assumed Liabilities) of any kind or nature whatsoever.

R. Assumption and Assignment of the Assigned Contracts. The assumption and assignment of the Assigned Contracts are integral to the Purchase Agreement, are in the best interests of the Debtors and their estates and represent the reasonable exercise of the Debtors' sound business judgment. Specifically, the assumption and assignment of the Assigned Contracts (i) are necessary to sell the Transferred Assets to Buyer, (ii) allow the Debtors to maximize the value of the Transferred Assets, including the Assigned Contracts, (iii) limit the losses suffered by the counterparties to the Assigned Contracts, and (iv) maximize the recoveries to other creditors of the Debtors by limiting the amount of claims against the Debtors' estates by avoiding the rejection of the Assigned Contracts.

S. With respect to each of the Closing Assumed Contracts, the Debtors and the Buyer have met all requirements of section 365(b) of the Bankruptcy Code. Further, in compliance with the requirements of sections 365(b) and 365(f) of the Bankruptcy Code, Buyer has provided adequate assurance of future performance under the Closing Assumed Contracts to the extent that any such assurance is required and not waived by the counterparties to such Closing Assumed Contracts. Accordingly, the Closing Assumed Contracts may be assumed by the Debtors and assigned to Buyer as provided for in the Purchase Agreement, the Assumption and Assignment Procedures and this Order.

T. Cure Notice: Adequate Assurance of Future Performance. As shown by the certificates of service filed with the Court, the Debtors have served upon each non-Debtor counterparty to such contracts (each, a "Counterparty"), prior to the Sale Hearing, notices, dated September 29, 2021 [Docket No. 148], October 8, 2021 [Docket No. 175], and October 20, 2021 [Docket No. 225] (the "Notice of Potential Assignment") that Debtors may wish to assume and assign to the Successful Bidder certain executory contracts and unexpired leases (the "Identified

Contracts”) pursuant to section 365 of the Bankruptcy Code, and of the related proposed cure costs (if any) due under section 365(b) of the Bankruptcy Code (the “Cure Costs”) with respect to such contracts and leases. The service of the Notice of Potential Assignment was good, sufficient and appropriate under the circumstances of the chapter 11 cases and complied with the Assumption and Assignment Procedures and any orders of the Court, and no other or further notice is required with respect to the Cure Costs or for the assumption and assignment of the Identified Contracts, including, without limitation, the Closing Assumed Contracts and the Additional Assumed Contracts or Buyer’s provision of adequate assurance of future performance thereunder; provided, however, that, further notice with respect to any Additional Assumed Contracts is required as set forth in paragraphs 22-31 herein. All Counterparties to the Identified Contracts have had a reasonable and sufficient opportunity to object to the Cure Costs listed on the Notice of Potential Assignment in accordance with the Assumption and Assignment Procedures and, as to any Closing Assumed Contracts to be assumed by the Debtors and assigned to Buyer effective on and as of the Closing pursuant to Section 1.5 of the Purchase Agreement and to the assumption and assignment of such Closing Assumed Contract to Buyer in accordance with the Assumption and Assignment Procedures and the Bankruptcy Code. Accordingly, all Counterparties to Identified Contracts who did not object or who withdrew their objections to the Cure Costs listed on the Notice of Potential Assignment prior to the Sale Hearing are deemed to have consented to such Cure Costs, and all Counterparties to Closing Assumed Contracts who did not file an objection to the assumption by the Debtors of such Closing Assumed Contracts and the assignment thereof to Buyer prior to the Sale Hearing are deemed to have consented to the assumption of such Closing Assumed Contract and the assignment thereof to Buyer.

U. On October 28, 2021, the Debtors further served the Successful Bidder Notice identifying Buyer as the Successful Bidder for the Transferred Assets. All Counterparties to the Closing Assumed Contracts have had a reasonable and sufficient opportunity to object to Buyer's ability to provide adequate assurance of future performance as contemplated under sections 365(b)(1)(C) and 365(1)(1) of the Bankruptcy Code, in accordance with the Bid Procedures Order and the Assumption and Assignment Procedures. Accordingly, all Counterparties to Closing Assumed Contracts who did not object or who withdrew their objections to Buyer's ability to provide adequate assurance of future performance under the Closing Assumed Contracts are deemed to have consented to the assumption of such Closing Assumed Contract and the assignment thereof to Buyer.

V. Application of Proceeds. Pursuant to the interim and final orders authorizing and approving the Debtors' debtor in possession financing and use of cash collateral [Docket Nos. 70 and 110] (together, the "DIP Orders"), the Transferred Assets constitute Cash Collateral, Prepetition Collateral and DIP Collateral (each as defined in the DIP Orders) and are subject to the Adequate Protection Liens, Prepetition Liens and DIP Liens (each as defined in the DIP Orders). Subject to the "Payment in Full" (as defined in the DIP Orders) of the Prepetition BAML Obligations (as defined in the DIP Orders), pursuant to DIP Orders and the DIP Loan Documents (as defined in the DIP Orders), the Debtors are required to apply all consideration received from the sale of the Transferred Assets as follows: first, to the holders of the DIP Obligations as of the date of the initial funding under the DIP Credit Facility (as defined in the DIP Orders) (or as otherwise agreed to between the Buyer and such holders of the DIP Obligations) until such time as such DIP Obligations are paid in full in cash (or as otherwise agreed by the DIP Agent as directed by the Required DIP Lenders (as defined in the DIP Loan Documents)) and all

commitments to lend under the DIP Loan Documents have been terminated, and second, to the Prepetition Term B Agent (as defined in the DIP Orders) for distribution to the holders of the Prepetition Term B Obligations as of the Petition Date (or as otherwise agreed to between the Buyer and such holders of the Prepetition Term B Obligations) in accordance with the Prepetition Term B Credit Agreement (as defined in the DIP Orders) until the Prepetition Term B Obligations (as defined in the DIP Orders) have been paid in full in cash (or as otherwise agreed by the Prepetition Term B Agent (as defined in the DIP Orders) as directed by the Required Lenders (as defined in the Prepetition Term B Loan Documents)). The application of the consideration from the sale of the Transferred Assets pursuant to the immediately preceding sentence complies with the requirements of the DIP Orders and the DIP Loan Documents and is supported by good, sufficient and sound business reasons.

W. Record Retention. Pursuant to the terms of and subject to the conditions in Section 6.1(c) of the Purchase Agreement, following the Closing, the Debtors, their successors and assigns and any trustee in bankruptcy will have access to the Debtors' books and records for the specified purposes set forth in, and in accordance with, the Purchase Agreement.

X. Corporate Power and Authority. The Debtors and their applicable affiliates have (i) full corporate or similar power and authority to execute, deliver, and perform their obligations under the Purchase Agreement, the Ancillary Agreements and all other documents contemplated thereby, and the Debtors' sale of the Transferred Assets has been duly and validly authorized by all necessary corporate or similar action, (ii) all corporate or similar authority necessary to consummate the transactions contemplated by the Purchase Agreement and the Ancillary Agreements, and (iii) taken all corporate actions necessary to authorize and approve the Purchase Agreement and the consummation of the transactions contemplated thereby. No consents

or approvals, other than those expressly provided for in the Purchase Agreement, are required for the Debtors to consummate the transactions contemplated by the Purchase Agreement or execute the Purchase Agreement.

Y. The Purchase Agreement was not entered into for the purpose of hindering, delaying, or defrauding creditors under the Bankruptcy Code or under the laws of the United States, any state, territory, possession, or the District of Columbia. Neither the Debtors nor the Buyer is entering into the transactions contemplated by the Purchase Agreement fraudulently for the purpose of statutory and common law fraudulent conveyance and fraudulent transfer claims or similar claims.

Z. Valid and Binding Contract; Validity of Transfer. The Purchase Agreement is a valid and binding contract between the Debtors and Buyer and shall be enforceable pursuant to its terms. The Purchase Agreement, the Ancillary Agreements and the Sale Transaction itself, and the consummation thereof shall be specifically enforceable against and binding upon (without posting any bond) the Debtors, and any chapter 11 trustee appointed in these chapter 11 cases, or in the event the chapter 11 cases are converted to a case under chapter 7 of the Bankruptcy Code, a chapter 7 trustee, and shall not be subject to rejection or avoidance by the foregoing parties or any other Person. The consummation of the Sale Transaction is legal, valid, and properly authorized under all applicable provisions of the Bankruptcy Code, including, without limitation, sections 105(a), 363(b), 363(f), 363(m), 365(b), and 365(1) of the Bankruptcy Code and all of the applicable requirements of such sections have been complied with in respect of the Sale Transaction.

AA. No Sub Rosa Plan. The Sale Transaction, the Purchase Agreement and the other transactions contemplated thereby do not constitute a *sub rosa* chapter 11 plan. The Sale

Transaction neither impermissibly restructures the rights of the Debtors' creditors nor impermissibly dictates a liquidating chapter 11 plan for the Debtors.

BB. Waiver of Bankruptcy Rules 6004(h) and 6006(d). The Debtors have demonstrated (i) good, sufficient, and sound business purposes and justifications for approving the Purchase Agreement and the Sale Transaction, and (ii) compelling circumstances for the immediate approval and consummation of the transactions contemplated by the Purchase Agreement and all other Ancillary Documents for the Sale Transaction outside of (a) the ordinary course of business, pursuant to section 363(b) of the Bankruptcy Code, and (b) a chapter 11 plan, in that, among other things, the immediate consummation of the Sale Transaction to the Buyer and all transactions contemplated thereby are necessary and appropriate to maximize the value of the Debtors' estates, and the Sale Transaction will provide the means for the Debtors to maximize distributions to their creditors. Accordingly, there is cause to lift the stay contemplated by Bankruptcy Rules 6004 and 6006 with respect to the transactions contemplated by this Order. To maximize the value of the Transferred Assets and preserve the viability of the businesses to which they relate, it is essential that the Sale Transaction occur within the time constraints set forth in the Purchase Agreement. Time is of the essence in consummating the Sale Transaction. Given all of the circumstances of the chapter 11 cases and the adequacy and fair value of the Purchase Price under the Purchase Agreement, the proposed Sale Transaction constitutes a reasonable and sound exercise of the Debtors' business judgment and should be approved.

CC. Personally Identifiable Information. The appointment of a consumer privacy ombudsman pursuant to section 363(b)(1) or section 332 of the Bankruptcy Code is not required with respect to the relief requested in the Motion.

DD. Legal and Factual Bases. The legal and factual bases set forth in the Motion establish just cause for the relief granted herein. Entry of this Order is in the best interests of the Debtors and their estates, creditors, interest holders and all other parties-in-interest.

IT IS HEREBY ORDERED THAT:

1. The Motion as it pertains to the Sale Transaction and the Purchase Agreement is GRANTED as set forth herein.

2. Objections. All objections, reservations of rights regarding, or other responses to, the Motion or the relief requested therein, the Purchase Agreement, all other Ancillary Agreements, the Sale Transaction, entry of this Order, or the relief granted herein, including, without limitation, any objections to Cure Costs or relating to the cure of any defaults under any of the Assigned Contracts or the assumption and assignment of any of the Assigned Contracts to the Buyer by the Debtors, solely as it relates to the relief granted by this Order that have not been adjourned, withdrawn or resolved as reflected on the record at the Sale Hearing are overruled in all respects on the merits with prejudice, except as otherwise set forth herein. All Persons and Entities that failed to timely object to the Motion are deemed to have consented to the relief granted herein for all purposes.

3. Notice. Notice of the Motion, the Sale Hearing, the Purchase Agreement, the Closing Assumed Contracts, and the relief granted in this Order was fair, sufficient, proper and equitable under the circumstances and complied in all respects with (and the assumption and assignment of the Additional Assumed Contracts, when given in accordance with paragraphs 22 through 31) herein will be fair and equitable under the circumstances and comply in all respects with) sections 102(1) and 363 of the Bankruptcy Code, Bankruptcy Rules 2002, 6004 and 6006, Local Rules 2002-1 and 6004-1, the Assumption and Assignment Procedures, the Bid Procedures Order, and other orders of the Court.

4. Fair Purchase Price. The Buyer is giving substantial consideration under the Purchase Agreement, and as provided herein, for the benefit of the Debtors, their estates, and creditors. The consideration to be provided by Buyer under the Purchase Agreement is fair and reasonable and constitutes (a) reasonably equivalent value under the Bankruptcy Code and the Uniform Voidable Transactions Act (formerly the Uniform Fraudulent Transfer Act), (b) fair consideration under the Uniform Fraudulent Conveyance Act, (c) reasonably equivalent value, fair consideration and fair value under any other applicable laws of the United States, any state, territory or possession or the District of Columbia, and (d) valid and valuable consideration for the releases of any potential Liens pursuant to this Order, which releases shall be deemed to have been given in favor of Buyer by all holders of Liens of any kind whatsoever against any of the Debtors or any of the Transferred Assets, other than as otherwise expressly set forth in this Order. The consideration provided by Buyer for the Transferred Assets is fair and reasonable and may not be avoided by section 363(n) of the Bankruptcy Code.

5. Approval of the Purchase Agreement. The Purchase Agreement and the Sale Transaction, including, without limitation, all transactions contemplated therein or in connection therewith (including the Ancillary Agreements) and all of the terms and conditions thereof, are hereby approved in their entirety, subject to the terms and conditions of this Order. The failure specifically to include or make reference to any particular provision of the Purchase Agreement in this Order shall not impair the effectiveness of such provision, it being the intent of the Court that the Purchase Agreement, the Sale Transaction and the transactions contemplated therein or in connection therewith (including the Ancillary Agreements) are authorized and approved in their entirety.

6. Consummation of Sale Transaction. Pursuant to sections 105, 363 and 365 of the Bankruptcy Code, the Debtors are authorized to perform their obligations under and comply with the terms of the Purchase Agreement and the Ancillary Agreements, pursuant to and in accordance with the terms and conditions of the Purchase Agreement, the Ancillary Agreements and this Order. The Debtors, as well as their affiliates, officers, employees and agents, are authorized to execute and deliver, and empowered to perform under, consummate and implement, the Purchase Agreement, together with all additional instruments and documents that may be reasonably necessary or desirable to implement the Purchase Agreement and the Sale Transaction, including the Ancillary Agreements, and to take all further actions and execute such other documents as may be (a) necessary or appropriate to the performance of the obligations contemplated by the Purchase Agreement, including, without limitation, making any regulatory filings necessary or advisable in connection with such transfer, and (b) as may be reasonably requested by Buyer to implement the Purchase Agreement, the Ancillary Agreements and the Sale Transaction, in accordance with the terms thereof, without further order of the Court. The Buyer shall not be required to seek or obtain relief from the automatic stay under section 362 of the Bankruptcy Code to enforce any of its rights or remedies under the Purchase Agreement or any other Sale Transaction-related document. The automatic stay imposed by section 362 of the Bankruptcy Code is modified solely to the extent necessary to implement the preceding sentence and the other provisions of this Order; provided, however, that the Court shall retain exclusive jurisdiction over any and all disputes with respect thereto.

7. Direction to Government Agencies. Each and every federal, state, local, or foreign government or governmental or regulatory authority, agency, board, bureau, commission, court, department, or other Governmental Entity is hereby directed to accept any and all documents

and instruments necessary and appropriate to consummate the Sale Transaction and the other transactions contemplated by the Purchase Agreement and the Ancillary Agreements and approved by this Order.

8. Transfer of Assets Free and Clear and Injunction. Upon the Closing, pursuant to sections 105(a), 363(b), 363(f), 365(b) and 365(f) of the Bankruptcy Code, the transfer of the Transferred Assets to Buyer shall (a) constitute a legal, valid and effective transfer of all of Debtors' right, title and interest in and to such Transferred Assets subject to and in accordance with the Purchase Agreement, and (b) vest Buyer with all of the Debtors' right, title and interest in and to such Transferred Assets free and clear of all Liens (including those Liens identified in the Purchase Agreement but other than Permitted Post-Closing Encumbrances) and Liabilities (other than Assumed Liabilities), with such Liens, including, without limitation, the liens held by the DIP Agent for the benefit of the DIP Lenders, the Prepetition Liens held by the Prepetition BAML Agent for the benefit of the Prepetition BAML Lenders to the extent the Prepetition BAML Obligations have not been Paid-in-Full at the time of such sale and the Prepetition Liens held by the Prepetition Term B Agent for the benefit of the Prepetition Term B Lenders, attaching to the proceeds received by the Debtors in the order of their priority, with the same validity, force and effect which they had against such Transferred Assets immediately prior to the Closing. All Persons or Entities that are presently, or on or after the Closing may be, in possession of some or all of the Transferred Assets, are hereby directed to surrender possession of the Transferred Assets to Buyer or its respective designees on the Closing Date or at such time thereafter as Buyer may request.

9. Pursuant to sections 105(a) and 363(f) of the Bankruptcy Code, the sale and transfer of the Debtors' right, title and interest in the Transferred Assets to the Buyer pursuant to

the Purchase Agreement are a legal, valid, and effective disposition of the Transferred Assets, and vest the Buyer with all right, title, and interest of the Debtors to and in the Transferred Assets free and clear of all Liens (other than Permitted Post-Closing Encumbrances) and Liabilities (other than Assumed Liabilities). The conditions of section 363(f) of the Bankruptcy Code have been satisfied in full, and the Debtors' sale of the Transferred Assets shall be free and clear of any Liens in the Transferred Assets (other than Permitted Post-Closing Encumbrances) and Liabilities (other than Assumed Liabilities).

10. To the extent provided for in the Purchase Agreement, any and all of the Debtors' security deposits, or other security held by landlords, lessors, and other counterparties to the Assigned Contracts are being transferred and assigned to, and shall be the property of, the Buyer from and after the Closing, which transfer and assignment of security deposits, other deposits, or security shall satisfy in full the requirements of section 365(1) of the Bankruptcy Code for all contracts, leases, and licenses assumed and assigned pursuant to this Order or the Purchase Agreement.

11. The sale of the Transferred Assets is not subject to avoidance by any person or for any reason whatsoever, including, without limitation, pursuant to section 363(n) of the Bankruptcy Code and the Buyer and the Buyer Parties shall not be subject to damages, including any costs, fees, or expenses under section 363(n) of the Bankruptcy Code.

12. On the Closing Date, each of the Debtors' creditors, at the expense of the Debtors, is authorized to execute such documents and take all other actions as may be reasonably necessary to release its Liens or other interests in the Transferred Assets, if any, as such Liens may have been recorded or may otherwise exist.

13. The provisions of this Order authorizing the sale of the Transferred Assets free and clear of all Liens (other than Permitted Post-Closing Encumbrances) and all Liabilities (other than Assumed Liabilities) or as otherwise expressly set forth in this Order, shall be self-executing, and neither the Debtors nor the Buyer shall be required to execute or file releases, termination statements, assignments, consents, or other instruments in order to effectuate, consummate, and implement the provisions of this Order. If any Entity which has filed a financing statement, mortgage, mechanic's lien, *lis pendens*, or other statement, document, or agreement evidencing any Liens on, or in, all or any portion of the Transferred Assets (other than statements or documents with respect to Permitted Post-Closing Encumbrances) shall not have delivered to the Debtors prior to the Closing Date, in proper form for filing and executed by the appropriate parties, termination statements, instruments of satisfaction, releases, and/or any other documents necessary for the purpose of documenting the release and/or termination of all Liens which the Entity has or may assert with respect to all or any portion of the Transferred Assets, then (a) the Debtors and the Buyer are hereby authorized to execute and file such statements, instruments, releases, and/or other similar documents on behalf of such Entity with respect to the Transferred Assets, and (b) the Buyer is hereby authorized to file, register, or otherwise record a certified copy of this Order that, once filed, registered, or otherwise recorded, shall constitute conclusive evidence of the release and/or termination of all Liens of any kind or nature against or in the Assets (other than Permitted Post-Closing Encumbrances),

14. Except for the Assumed Liabilities, or as otherwise expressly set forth in this Order or the Purchase Agreement, the Buyer and the Buyer Parties shall not have any liability or other obligation of the Debtors arising under or related to any of the Transferred Assets, including, but not limited to, any liability for any liabilities whether known or unknown as of the

Closing, now existing or hereafter arising, whether fixed or contingent, with respect to the Debtors or any obligations of the Debtors, including, but not limited to, liabilities on account of any taxes arising, accruing, or payable under, out of, in connection with, or in any way relating to the operation of the Debtors' business prior to the Closing.

15. Upon the Closing, except with respect to Assumed Liabilities as to the Buyer only, or as otherwise expressly provided for in the Purchase Agreement or this Order, all Persons or Entities, including, but not limited to, all debt holders, equity security holders, governmental, tax and regulatory authorities, lenders, trade creditors, litigation claimants, Counterparties, customers, landlords, licensors, employees, and other creditors and holders of Liens or other interests of any kind or nature whatsoever against or in any of the Debtors or any portion of the Transferred Assets (whether legal or equitable, secured or unsecured, matured or unmatured, contingent or non-contingent, known or unknown, liquidated or unliquidated, senior or subordinate, asserted or unasserted, whether arising prior to or subsequent to the Petition Date, whether imposed by agreement, understanding, law, equity, or otherwise), arising under or out of, in connection with, or in any way relating to, the Debtors, the Transferred Assets, the operation of the Debtors' business prior to the Closing Date, or the transfer of the Transferred Assets to the Buyer shall be, and hereby are forever barred, estopped, and permanently enjoined from asserting against the Buyer or any of its Affiliates, its past, present and future members or shareholders, its lenders, financing parties, subsidiaries, parents, divisions, agents, representatives, insurers, attorneys, successors and assigns, or any of its or their respective directors, managers, officers, employees, agents, representatives, attorneys, contractors, subcontractors, independent contractors, owners, insurance companies, or partners (each a "Buyer Party" and collectively the "Buyer Parties"), or their respective assets or properties, including, without limitation, the

Transferred Assets, Liens of any kind or nature whatsoever such Person or Entity had, has, or may have against or in the Debtors, their estates, officers, directors, managers, shareholders, or the Transferred Assets, such Person's or Entities' Liens or any other interests in and to the Transferred Assets, including, without limitation, the following actions: (a) commencing or continuing in any manner any action or other proceeding, the employment of process, or any act (whether in law or equity, in any judicial, administrative, arbitral, or other proceeding) against the Buyer or any Buyer Party, or their respective assets or properties, including, without limitation, the Transferred Assets; (b) enforcing, attaching, collecting, or recovering in any manner any judgment, award, decree, or order against the Buyer or any Buyer Party, or their respective assets or properties, including, without limitation, the Transferred Assets; (c) creating, perfecting, or enforcing any Liens against the Buyer or any Buyer Party, or their respective assets or properties, including the Transferred Assets; (d) asserting any setoff, right of subrogation, or recoupment of any kind against any obligation due the Buyer or any Buyer Party, or their respective assets or properties, including, without limitation the Transferred Assets; (e) commencing or continuing any action, in any manner or place, that does not comply with or is inconsistent with the provisions of this Order, other orders of the Court, the Purchase Agreement, the other Ancillary Documents or any other agreements or actions contemplated or taken in respect thereof; or (f) revoking, terminating, failing, or refusing to transfer or renew any license, permit, or authorization to operate any of the Transferred Assets or conduct any of the businesses operated with the Transferred Assets in connection with the Sale Transaction.

16. To the greatest extent available under applicable law, the Buyer shall be authorized, as of the Closing Date, to operate under any license, permit, registration, and governmental authorization or approval of the Debtors with respect to the Transferred Assets, and

all such licenses, permits, registrations, and governmental authorizations and approvals are deemed to have been, and hereby are, deemed to be transferred to the Buyer as of the Closing Date.

17. To the extent provided by section 525 of the Bankruptcy Code, no Governmental Entity may revoke or suspend any grant, permit, or license relating to the operation of the Transferred Assets sold, transferred, assigned, or conveyed to the Buyer on account of the filing or pendency of these chapter 11 cases or the consummation of the Sale Transaction.

18. Subject to the terms, conditions, and provisions of this Order, all Entities are hereby forever prohibited and barred from taking any action that would adversely affect or interfere (a) with the ability of the Debtors to sell and transfer the Transferred Assets to Buyer in accordance with the terms of the Purchase Agreement and this Order, and (b) with the ability of the Buyer to acquire, take possession of, use and operate the Transferred Assets in accordance with the terms of the Purchase Agreement and this Order. Notwithstanding the foregoing, nothing in this Order or the Purchase Agreement shall prohibit any party from seeking to enforce or collect any of the Assumed Liabilities against the Buyer.

19. No Successor or Other Derivative Liability. Except for Assumed Liabilities, neither the Buyer, nor any of its successors or assigns, or any of their respective affiliates shall have any liability for any Lien, Claim, or Interest that arose or occurred prior to the Closing, or otherwise may be asserted against the Debtors or is related to the Transferred Assets prior to the Closing. The Buyer (i) is not and shall not be deemed a “successor” to the Debtors or their estates; (ii) has not, *de facto* or otherwise, merged with or into the Debtors; (iii) does not have any common law or successor liability in relation to any employment plans; (iv) is not liable for any liability (other than Assumed Liabilities) or Lien (other than Permitted Post-Closing Encumbrances) against the Debtors or any of the Debtors’ predecessors or Affiliates; and (v) is not an alter ego or

mere continuation or substantial continuation of the Debtors or the enterprise of the Debtors under any theory of law or equity as a result of any action taken in connection with the Purchase Agreement, the Sale Transaction or any transactions or documents ancillary thereto or contemplated thereby or in connection with the acquisition of the Transferred Assets. Thus, the Buyer shall have no successor, transferee, or vicarious liability of any kind or character, including, but not limited to, under any theory of foreign, federal, state, or local antitrust, environmental, successor, tax, ERISA, assignee, or transferee liability, labor, product liability, employment including but not limited to with respect to any Multiemployer Plan), *de facto* merger, substantial continuity, or other law, rule, or regulation, whether known or unknown as of the Closing Date, now existing or hereafter arising, whether asserted or unasserted, fixed or contingent, liquidated or unliquidated with respect to the Business, the Transferred Assets, the Debtors or any obligations of the Debtors arising prior to the Closing Date. The Buyer shall not be deemed to have expressly or implicitly assumed any of the Debtors' liabilities other than the Assumed Liabilities. Except as otherwise provided herein or in the Purchase Agreement, the transfer of the Transferred Assets to the Buyer pursuant to the Purchase Agreement shall not result in the Buyer or the Transferred Assets having any liability or responsibility for, or being required to satisfy in any manner, whether in law or in equity, whether by payment, setoff, or otherwise, directly or indirectly, any claim against the Debtors or against any insider of the Debtors or Liens (other than Permitted Post-Closing Encumbrances).

20. This Order is and shall be effective as a determination that, upon the Closing, all Liens and any other interest of any kind or nature whatsoever as to the Transferred Assets prior to the Closing (other than Permitted Post-Closing Encumbrances), shall have been unconditionally released, discharged, and terminated to the fullest extent permitted by applicable

law, and that the conveyances described herein have been effected. This Order shall be binding upon and govern the acts of all Entities, including, without limitation, all filing agents, filing officers, title agents, title companies, recorders of mortgages, recorders of deeds, registrars of deeds, administrative agencies, governmental departments, secretaries of state, federal, state, and local officials, and all other Entities who may be required by operation of law, the duties of their office, or contract, to accept, file, register or otherwise record or release any documents or instruments, or who may be required to report or insure any title or state of title in or to any lease; and each of the foregoing Entities is hereby directed to accept for filing any and all of the documents and instruments necessary and appropriate to consummate the transactions contemplated by the Purchase Agreement. A certified copy of this Order may be filed and/or recorded with the appropriate filing agents, filing officers, administrative agencies or units, governmental departments, secretaries of state, federal, state and local officials and all other Persons, institutions, agencies and Entities who may be required by operation of law, the duties of their office or contract evidencing the release, cancellation and termination provided herein of any Liens of record on the Transferred Assets prior to the date of this Order. Without limiting the generality of the foregoing, this Order shall constitute all approvals and consents, if any, required by the corporate laws of the states of formation of the Debtors and all other applicable business, corporation, trust, and other laws of the applicable governmental authorities with respect to the implementation and consummation of the Purchase Agreement, any related agreements or instruments and this Order, and the transactions contemplated thereby and hereby.

21. Upon the Closing, this Order shall be construed and shall constitute for any and all purposes a full and complete general assignment, conveyance and transfer of the

Transferred Assets to Buyer and the Debtors' interests in the Transferred Assets acquired by Buyer pursuant to the terms of the Purchase Agreement.

22. Assumption and Assignment of the Assigned Contracts. Subject to and conditioned upon the Closing and paragraphs 22 through 31 with respect to Additional Assumed Contracts, the Debtors are hereby authorized in accordance with sections 105(a) and 365 of the Bankruptcy Code to assume and assign the Assigned Contracts to Buyer free and clear of all Liens (other than Permitted Post-Closing Encumbrances) and Liabilities (other than Assumed Liabilities), and to execute and deliver to Buyer such documents or other instruments as may be necessary to assign and transfer the Assigned Contracts to Buyer as provided in the Purchase Agreement. Cure Costs shall be paid by the Debtors subject to the terms of, and in accordance with, the terms of the Purchase Agreement and Bid Procedures Order. Payment of the Cure Costs shall be in full satisfaction and cure of any and all defaults required to be cured with respect to the Assigned Contracts under section 365(b)(1) of the Bankruptcy Code. The Cure Amount solely reflects all accrued amounts as of the Petition Date which have been billed. The Debtors shall be responsible for all unpaid obligations with respect to each executory contract which were incurred in the ordinary course, but which are not billed and due in the ordinary course prior to the effective date of any assumption and assignment, and which become due in the ordinary course on or after the effective date of assumption and assignment. The Debtors shall pay, in the ordinary course, all obligations which accrue postpetition and prior to the Closing, pursuant to the terms of each executory contract. Subject to paragraphs 22 through 31 herein, Buyer has also provided adequate assurance of future performance under the Assigned Contracts in satisfaction of section 365 of the Bankruptcy Code to the extent that any such assurance is required and not waived by the Counterparties to such Assigned Contracts. In accordance with the Assumption and Assignment

Procedures and the terms of this Order and subject to paragraphs 22 through 31 herein, following the Closing, Buyer shall be fully and irrevocably vested with all of the Debtors' right, title and interest in and under the Assigned Contracts in connection with the Transferred Assets, free and clear of any Liens (other than Permitted Post-Closing Encumbrances) and Liabilities (other than Assumed Liabilities), and each Assigned Contract shall be fully enforceable by the Buyer in accordance with its respective terms and conditions, except as limited by this Order. In accordance with the Assumption and Assignment Procedures and subject to paragraphs 22 through 31, following assignment of the Assigned Contracts to Buyer, the Debtors shall be relieved from any further liability with respect to such Assigned Contracts. Buyer acknowledges and agrees that from and after the Closing, or any later applicable effective date of assumption with respect to a particular Assigned Contract, subject to and in accordance with the Purchase Agreement, it shall comply with the terms of each Assigned Contract in its entirety, unless any such provisions are not enforceable pursuant to the terms of this Order. The assumption by the Debtors and assignment to Buyer of any Assigned Contract shall not be a default under such Assigned Contract. To the extent provided in the Purchase Agreement, the Debtors shall cooperate with, and take all actions reasonably requested by, the Buyer to effectuate the foregoing. For the avoidance of doubt, nothing in this paragraph affects the Buyer's right to re-designate an Assigned Contract as an Additional Rejected Contract in accordance with, and subject to the conditions set forth in, Section 1.5(d) of the Purchase Agreement.

23. Assigned Contracts. Except as otherwise expressly provided in the Purchase Agreement or this Order, upon the Closing Date, pursuant to Bankruptcy Code sections 105(a), 363, and 365, the Debtors are authorized to (a) assume each of the Identified Contracts and assign the Identified Contracts, set forth in **Exhibit B** (the "Identified Contracts Exhibit") attached hereto,

which may be subsequently modified, pursuant to Section 1.5(c)-(e) of the Purchase Agreement, at any time prior to the date that is five (5) days prior to the Sale Hearing and upon Buyer's delivery of written notice to the Debtors, to add or remove certain contracts pursuant to the terms of the Purchase Agreement, to the Buyer free and clear of all Claims, Interests, and Encumbrances (other than any Permitted Encumbrances) and (b) execute and deliver to the Buyer such documents or other instruments as may be reasonably requested by Buyer to assign and transfer the Closing Assumed Contracts to the Buyer. The Debtors served all Counterparties to the Closing Assumed Contracts with the Notice of Potential Assignment, and the deadline to object to the Cure Costs and adequate assurance of future performance with respect to the Buyer has passed. Accordingly, unless an objection to the proposed assumption and assignment of an Assigned Contract (including whether applicable law excuses a Counterparty from accepting performance by, or rendering performance to, Buyer), the proposed Cure Costs or the adequate assurance of future performance information with respect to Buyer was filed and served before the applicable deadline, each Counterparty to an Assigned Contract is forever barred, estopped and permanently enjoined from asserting against the Debtors or Buyer, their respective affiliates, successors or assigns or the property of any of them, any objection to assignment or default existing as of the date of the Contract Objection Deadline (as defined in the Assumption and Assignment Procedures) if such objection or default was not raised or asserted prior to or at the appropriate Contract Objection Deadline.

24. Adequate Assurance of Future Performance. All of the requirements of sections 365 of the Bankruptcy Code, including without limitation, the demonstration of adequate assurance of future performance, have been satisfied for the assumption by the Debtors, and the assignment by the Debtors to Buyer, solely with respect to the Closing Assumed Contracts. Buyer

has satisfied its adequate assurance of future performance requirements with respect to the Closing Assumed Contracts and has demonstrated it is sufficiently capitalized or otherwise able to comply with the necessary obligations under the Closing Assumed Contracts. Adequate assurance of future performance with respect to Additional Assumed Contracts shall be provided in accordance with the Bid Procedures Order and this Order.

25. Nothing in this Order shall affect the rights of Buyer, to the extent such rights are provided in the Purchase Agreement, to designate or add any Additional Assumed Contracts to or from the schedule of Additional Assumed Contracts as set forth in the Purchase Agreement and in accordance with the terms thereof.

26. Cure Costs. To the extent a Counterparty to an Assigned Contract failed to timely object to a Cure Cost, such Cure Cost has been and shall be deemed to be finally determined as set forth on the relevant Notice of Potential Assignment as to each Counterparty and any such Counterparty shall be barred, and forever prohibited from challenging, objecting to or denying the validity and finality of the Cure Cost as of such date.

27. Objections to Assumption and Assignment. Any objection by a Counterparty to an Additional Assumed Contract to the assumption and assignment, Cure Cost or adequate assurance of future performance of Buyer with respect to such Additional Assumed Contract must be filed with the Court and served on the Objection Notice Parties and counsel to the Buyer by the deadline set forth in the Bid Procedures and Bid Procedures Order (the “Post-Auction Objection Deadline”); provided, however, that the Debtors served all Counterparties to the Additional Assumed Contracts that are Identified Contracts with the Notice of Potential Assignment, and the deadline to object to (a) the Cure Costs associated therewith, (b) the proposed assumption and assignment of any Identified Contract and (c) whether applicable law excuses a

counterparty from accepting performance by, or rendering performance to, Buyer (the “Contract Objections”) with respect to any Additional Assumed Contracts that are Identified Contracts has passed, and accordingly, all Counterparties to Additional Assumed Contracts that are Identified Contracts who did not object or who withdrew their Contract Objections pursuant to the Assumption and Assignment Procedures are deemed to have consented to the Cure Costs (except to the extent such Cure Costs further accrue) and Debtors’ assumption and assignment to Buyer of such Additional Assumed Contracts.

28. Impact of No Objection. If no objection by a Counterparty to an Additional Assumed Contract has been filed by the Post-Auction Objection Deadline, this Order shall serve as approval of the assumption and assignment of such Additional Assumed Contract, and the assumption and assignment of such Additional Assumed Contract shall be effective upon the applicable designation date set forth in the applicable Notice of Potential Assignment with respect to such Additional Assumed Contract. If an objection is timely filed and not withdrawn or resolved, the Debtors, Buyer and the objecting Counterparty shall have authority to compromise, settle or otherwise resolve any objections without further order of the Court. If the Debtors, Buyer and the objecting Counterparty determine that the objection cannot be resolved without judicial intervention, then the determination of the assumption and assignment of the Additional Assumed Contract will be determined as set forth in the Bid Procedures Order and the Bid Procedures.

29. Except as set forth in paragraphs 27-28, all Counterparties’ rights under section 365 with respect to the assumption and assignment of the Additional Assumed Contracts pursuant to the Bankruptcy Code are reserved pending delivery of an applicable Notice of Potential Assignment filed by the Debtors with the Court and are subject to the procedures and provisions set forth in the Assumption and Assignment Procedures and paragraphs 22 to 31 above.

30. Upon the Debtors' assumption and assignment of the Assigned Contracts to the Buyer under the provisions of this Order and any additional orders of the Court and the payment of any Cure Cost in accordance with the Purchase Agreement or any applicable order, no default or other obligations arising prior to the Closing Date shall exist under any Assigned Contract, and each Counterparty is forever barred and estopped from (a) declaring a default by the Debtors or the Buyer under such Assigned Contract, (b) raising or asserting against the Debtors or the Buyer (or any Buyer Party), or the property of either of them, any assignment fee, default, breach, or claim of pecuniary loss, or condition to assignment, arising under or related to the Assigned Contracts, or (c) taking any other action against the Buyer or any Buyer Party as a result of any Debtor's financial condition, bankruptcy, or failure to perform any of its obligations under the relevant Assigned Contract, in each case in connection with the Sale Transaction. Each Counterparty is also forever barred and estopped from raising or asserting against the Buyer or any Buyer Party any assignment fee, default, breach, Claim, pecuniary loss, or condition to assignment arising under or related to the Assigned Contracts existing as of the Closing Date or arising by reason of the closing of the Sale Transaction, except for any amounts that are Assumed Liabilities.

31. With respect to objections to any Cure Costs that remain unresolved as of the Sale Hearing, such objections shall be resolved in accordance with the procedures approved in the Assumption and Assignment Procedures. Consideration of unresolved Contract Objections relating to assignment of Assigned Contracts, unless otherwise ordered by the Court or with the consent of the Counterparty to any Assigned Contract that is subject to a Contract Objection relating to such assignment, shall be adjourned to a date to be determined; provided, however, that (a) any Assigned Contract that is the subject of a Contract Objection with respect solely to the amount of the Cure Cost may be assumed and assigned prior to resolution of such objection, and

(b) such undisputed Cure Cost shall be promptly cured on or after the Closing Date or as otherwise agreed to by the Debtors, Buyer and the applicable Counterparty by payment of the applicable Cure Cost by the Debtors.

32. Buyer's Standing; Debtors' Standing. The Buyer shall have standing to object to the allowance of claims (as such term is defined in section 101(5) of the Bankruptcy Code) asserted against the Debtors or their estates including, without limitation, any unresolved or disputed Assumed Liabilities or otherwise, that constitute obligations assumed by the Buyer pursuant to the terms of the Purchase Agreement. Nothing in this Order shall divest the Debtors of their standing or duty as debtors-in-possession under the Bankruptcy Code from reconciling claims asserted against the Debtors or their estates and objecting to any such claims that should be reduced, reclassified or otherwise disallowed.

33. Ipsa Facto Clauses Ineffective. With respect to the Assigned Contracts, in connection with the Sale Transaction: (a) the Debtors may assume each of the Assigned Contracts in accordance with section 365 of the Bankruptcy Code; (b) the Debtors may assign each Assigned Contract in accordance with sections 363 and 365 of the Bankruptcy Code, and any provisions in any Assigned Contract that directly or indirectly prohibit or condition the assignment of such Assigned Contract or allow the party to such Assigned Contract to terminate, recapture, impose any penalty, condition renewal or extension, or modify any term or condition upon the assignment of such Assigned Contract, constitute unenforceable anti-assignment provisions which are void and of no force and effect; (c) all other requirements and conditions under sections 363 and 365 of the Bankruptcy Code for the assumption by the Debtors and assignment to the Buyer of each Assigned Contract have been satisfied; and (d) effective upon the Closing Date, or any later applicable effective date of assumption with respect to a particular Assigned Contract, the

Assigned Contracts shall be transferred and assigned to, and from and following the Closing, or such later applicable effective date, and the Assigned Contracts shall remain in full force and effect for the benefit of the Buyer, notwithstanding any provision in any Assigned Contract (including those of the type described in sections 365(b)(2) and (e) of the Bankruptcy Code) that prohibits, restricts, or conditions such assignment or transfer and, pursuant to section 365(k) of the Bankruptcy Code, the Buyer shall be deemed to be substituted for the applicable Debtor as a party to the applicable Assigned Contract and the Debtors shall be relieved from any further liability with respect to the Assigned Contracts after such assumption by the Debtors and assignment to the Buyer, except as otherwise provided in the Purchase Agreement. To the extent any provision in any Assigned Contract assumed and assigned pursuant to this Order (i) prohibits, restricts, or conditions, or purports to prohibit, restrict, or condition, such assumption and assignment (including, without limitation, any “change of control” provision), or (ii) is modified, breached, or terminated, or deemed modified, breached, or terminated by any of the following: (A) the commencement of the Debtors’ chapter 11 cases, (B) the insolvency or financial condition of any of the Debtors at any time before the closing of the Debtors’ chapter 11 cases, (C) the Debtors’ assumption and assignment of such Assigned Contract, (D) a change of control or similar occurrence, or (E) the consummation of the Sale Transaction, then such provision shall be deemed modified in connection with the Sale Transaction so as not to entitle the Counterparty to prohibit, restrict, or condition such assumption and assignment, to modify, terminate, or declare a breach or default under such Assigned Contract, or to exercise any other default-related rights or remedies with respect thereto, including without limitation, any such provision that purports to allow the Counterparty to terminate or recapture such Assigned Contract, impose any penalty, additional payments, damages, or other financial accommodations in favor of the Counterparty thereunder,

condition any renewal or extension thereof, impose any rent acceleration or assignment fee, or increase or otherwise impose any other fees or other charges in connection therewith. All such provisions constitute unenforceable anti-assignment provisions that are void and of no force and effect in connection with the Sale Transaction pursuant to sections 365(b), 365(e), and 365(f) of the Bankruptcy Code.

34. Except as otherwise specifically provided for by order of the Court, all defaults or other obligations of the Debtors under the Assigned Contracts arising or accruing prior to the Closing Date or required to be paid pursuant to section 365 of the Bankruptcy Code in connection with the assumption and assignment of the Assigned Contracts (in each case, without giving effect to any acceleration clauses or any default provisions of the kind specified in section 365(b)(2) of the Bankruptcy Code), whether monetary or non-monetary, shall be promptly cured pursuant to the terms of the Purchase Agreement and this Order on or after the Closing Date or as otherwise agreed to by the Debtors, Buyer and the applicable Counterparty by the payment of the applicable Cure Cost by the Debtors, in accordance with the Purchase Agreement. The Buyer shall have no liability arising or accruing under the Assigned Contracts on or prior to the Closing, except as otherwise expressly provided in the Purchase Agreement or this Order.

35. Good Faith; Statutory Mootness. Buyer is a good faith purchaser within the meaning of section 363(m) of the Bankruptcy Code and, as such, is entitled to, and is hereby granted, the full rights, benefits, privileges, and protections of section 363(m) of the Bankruptcy Code. The Sale Transaction contemplated by the Purchase Agreement and the Ancillary Agreements is undertaken by Buyer without collusion and in good faith, as that term is defined in section 363(m) of the Bankruptcy Code, and accordingly, the reversal or modification on appeal of the authorization provided herein shall neither affect the validity of the Sale Transaction

(including the assumption and assignment of the Assigned Contracts) nor the transfer of the Transferred Assets owned by the Debtors to Buyer pursuant to the Purchase Agreement, free and clear of all Liens. The Debtors and Buyer will be acting in good faith if they proceed to consummate the Sale Transaction at any time after entry of this Order.

36. Approval of the Application of Proceeds. Subject to the “Payment in Full” of the Prepetition BAML Obligations, the Debtors are authorized and directed to distribute the consideration received by the Debtors from the sale of the Transferred Assets as follows: first, to the holders of the DIP Obligations as of the date of the initial funding under the DIP Credit Facility (or as otherwise agreed to between the Buyer and such holders of the DIP Obligations) until such time as the DIP Obligations are paid in full in cash (or as otherwise agreed by the DIP Agent as directed by the Required Lenders) and all commitments to lend under the DIP Loan Documents have been terminated, and second, to the Prepetition Term B Agent for distribution to the holders of the Prepetition Term B Obligations as of the Petition Date (or as otherwise agreed to between the Buyer and such holders of the Prepetition Term B Obligations) in accordance with the Prepetition Term B Credit Agreement until the Prepetition Term B Obligations have been paid in full in cash (or as otherwise agreed by the Prepetition Term B Agent as directed by the Required Lenders). The application of the consideration from the sale of the Transferred Assets pursuant to the immediately preceding sentence complies with the requirements of the DIP Orders and the DIP Loan Documents and is supported by good, sufficient and sound business reasons. The consideration from the sale of the Transferred Assets pursuant to section 2.1 of the Purchase Agreement is comprised of, among other things, (i) \$55,500,000 of cash plus any Additional Cash Consideration (as defined in the Purchase Agreement) (excluding, an Escrow Amount (as defined in the Purchase Agreement) in an amount equal to \$1,665,000 to be held in escrow pursuant to the

Purchase Agreement which escrowed amount shall be applied in accordance with this Order upon release to the Debtors, (ii) \$227,500,000 million in the form of debt issued by Buyer as such amount may be reduced by an amount equal to (A) any Additional Cash Consideration and (B) the Estimated Royalty Adjustment (as defined in the Purchase Agreement) and (iii) 11.3% of Series A Units of Gainline Galaxy Holdings LLC which for purposes of application to claims of the Debtors' estate shall be valued at \$50,000,000, and all such consideration shall be applied in accordance with this Order and the DIP Orders.

37. Modification of Purchase Agreement. The Purchase Agreement, the Ancillary Agreements and any related agreements, documents or other instruments may be modified, amended or supplemented through a written document signed by the parties thereto in accordance with the terms thereof and this Order without further order of the Court; provided that no such modification, amendment or supplement may be made without further order of the Court if it is materially adverse to the Debtors or the Debtors' estates.

38. Failure to Specify Provisions. The failure specifically to include any particular provisions of the Purchase Agreement in this Order shall not diminish or impair the effectiveness of such provisions, it being the intent of the Court that the Purchase Agreement be authorized and approved in its entirety.

39. Record Retention. Pursuant to the terms of and subject to the conditions contained in the Purchase Agreement, following the Closing, the Debtors, their successors and assigns and any trustee in bankruptcy will have access to the Debtors' books and records subject to the terms of, and for the specified purposes set forth in, and in accordance with, Section 6.1 of the Purchase Agreement.

40. Standing. The Purchase Agreement shall be in full force and effect, regardless of any Debtor's lack of good standing in any jurisdiction in which such Debtor is formed or authorized to transact business.

41. Bulk Sales; Taxes. No bulk sales law, bulk transfer law or any similar law of any state or other jurisdiction (including those relating to taxes other than Transfer Taxes) shall apply to the Debtors' conveyance of the Transferred Assets or this Order.

42. Reservation of Rights. Nothing in this Order shall be deemed to waive, release, extinguish or estop the Debtors or their estates from asserting or otherwise impair or diminish any right (including any right of recoupment), claim, cause of action, defense, offset or counterclaim in respect of any asset that is not a Transferred Asset.

43. Conflicts. In the event there is a conflict between this Order and the Purchase Agreement (including any Ancillary Agreements executed in connection therewith), this Order shall control and govern. Likewise, all of the provisions of this Order are non-severable and mutually dependent. To the extent that this Order is inconsistent with any prior order or pleading with respect to the Motion in these chapter 11 cases, the terms of this Order shall control.

44. Waiver of Bankruptcy Rules 6004(h) and 6006(d). Notwithstanding the provisions of Bankruptcy Rules 6004(h) and 6006(d) or any applicable provisions of the Local Rules, this Order shall not be stayed after the entry hereof, but shall be effective and enforceable immediately upon entry, and the fourteen-day stay provided in Bankruptcy Rules 6004(h) and 6006(d) is hereby expressly waived and shall not apply, and the Debtors and the Buyer are authorized and empowered to close the Sale Transaction immediately upon entry of this Order.

45. Personally Identifiable Information. After giving due consideration to the facts, circumstances, and conditions of the Purchase Agreement, the Sale Transaction is consistent

with the Debtors' privacy policies concerning personally identifiable information and no showing was made that the sale of any personally identifiable information contemplated in the Purchase Agreement, subject to the terms of this Order, would violate applicable non-bankruptcy law.

46. Binding Effect of this Order. This Order, the Purchase Agreement, and the Ancillary Agreements shall be binding in all respects upon, (a) the Debtors, (b) the Debtors' estates, (c) all creditors of, and holders of equity interests in, the Debtors, (d) all holders of Liens or other interests (whether known or unknown) in, against, or on all or any portion of the Transferred Assets, (e) all Counterparties, (f) the Buyer and the Buyer Parties, (g) the Transferred Assets, and (h) all successors and assigns of each of the foregoing, including, without limitation, any trustee subsequently appointed in the chapter 11 cases, or a chapter 7 trustee appointed upon a conversion of one or more of the chapter 11 cases to a case under chapter 7 of the Bankruptcy Code or other plan fiduciaries, plan administrators, liquidating trustees, or other estate representatives appointed or elected in the Debtors' cases. This Order, the Purchase Agreement, and the Ancillary Agreements shall inure to the benefit of the Debtors, their estates and creditors, the Buyer, and the Buyer Parties, and the respective successors and assigns of each of the foregoing, including, without limitation, any trustee subsequently appointed in the chapter 11 cases or upon conversion to chapter 7 under the Bankruptcy Code, and any Entity seeking to assert rights on behalf of any of the foregoing or that belong to the Debtors' estates. The Purchase Agreement and all other Ancillary Documents shall be binding in all respects upon the Debtors and the Buyer.

47. Subsequent Plan Provisions. Nothing contained in any chapter 11 plan confirmed in the Debtors' chapter 11 cases, any order confirming any such plan, or in any other order in these chapter 11 cases (including any order entered after any conversion of any of these chapter 11 cases to a case under chapter 7 of the Bankruptcy Code) or any related proceeding

subsequent to entry of this Order shall alter, conflict with, or derogate from, the provisions of the Purchase Agreement or this Order.

48. Further Assurances. From time to time, as and when requested by any party, each party to the Purchase Agreement shall execute and deliver, or cause to be executed and delivered, all such documents and instruments and shall take, or cause to be taken, all such further or other actions as such other party may reasonably deem necessary or desirable to consummate the transactions contemplated by the Purchase Agreement.

49. Retention of Jurisdiction. The Court shall retain jurisdiction with respect to all matters arising from or related to this Order and the Purchase Agreement (and such other related agreements, documents, or other instruments) and to interpret, implement, and enforce the terms of this Order and Purchase Agreement.

Exhibit A

Galaxy APA

ASSET PURCHASE AGREEMENT

by and among

**GAINLINE GALAXY HOLDINGS LLC,
SEQUENTIAL BRANDS GROUP, INC.**

and

THE OTHER SELLERS PARTY HERETO

Dated as of August 31, 2021

TABLE OF CONTENTS

	<u>Page</u>
ARTICLE I PURCHASE AND SALE OF THE BUSINESS	1
Section 1.1 <u>Purchase and Sale of Interests and Assets</u>	1
Section 1.2 <u>Excluded Assets</u>	3
Section 1.3 <u>Assumption of Liabilities</u>	4
Section 1.4 <u>Excluded Liabilities</u>	5
Section 1.5 <u>Assumption and Assignment of Contracts</u>	7
Section 1.6 <u>Non-Assignment of Assets</u>	10
Section 1.7 <u>Wrong Pocket</u>	10
Section 1.8 <u>Further Conveyances and Assurances</u>	11
Section 1.9 <u>Buyer Designees</u>	11
Section 1.10 <u>Swisstech</u>	11
ARTICLE II CONSIDERATION; CLOSING	12
Section 2.1 <u>Consideration</u>	12
Section 2.2 <u>Purchase Price Adjustment</u>	13
Section 2.3 <u>Closing</u>	15
Section 2.4 <u>Closing Deliveries by Buyer</u>	15
Section 2.5 <u>Closing Deliveries by Sellers</u>	16
Section 2.6 <u>Withholding</u>	17
ARTICLE III REPRESENTATIONS AND WARRANTIES OF SELLERS.....	17
Section 3.1 <u>Organization; Good Standing; Qualification and Power</u>	17
Section 3.2 <u>Authorization</u>	17
Section 3.3 <u>Non-contravention</u>	18
Section 3.4 <u>Consents and Approvals</u>	18
Section 3.5 <u>RESERVED</u>	18
Section 3.6 <u>Litigation</u>	18
Section 3.7 <u>Real Property</u>	18
Section 3.8 <u>Material Contracts</u>	19
Section 3.9 <u>Compliance with Laws; Permits</u>	20
Section 3.10 <u>Brokers and Finders</u>	22
Section 3.11 <u>Material Customers and Suppliers</u>	22
Section 3.12 <u>Title to and Sufficiency of Transferred Assets</u>	22
Section 3.13 <u>Intellectual Property</u>	22
Section 3.14 <u>Taxes</u>	24
Section 3.15 <u>Absence of Certain Developments</u>	25
Section 3.16 <u>Data Privacy and Security</u>	25
Section 3.17 <u>No Other Representations or Warranties</u>	26
ARTICLE IV REPRESENTATIONS AND WARRANTIES OF BUYER.....	26
Section 4.1 <u>Organization, Good Standing</u>	26
Section 4.2 <u>Authorization</u>	27

Section 4.3	<u>Non-contravention</u>	27
Section 4.4	<u>Financing</u>	27
Section 4.5	<u>Brokers and Finders</u>	29
Section 4.6	<u>No Other Representations or Warranties</u>	29
ARTICLE V BANKRUPTCY MATTERS		29
Section 5.1	<u>Bankruptcy Court Filings</u>	29
Section 5.2	<u>Alternative Transaction</u>	31
Section 5.3	<u>Bid Protections</u>	31
ARTICLE VI COVENANTS		31
Section 6.1	<u>Access and Information</u>	31
Section 6.2	<u>Interim Operations of the Business</u>	32
Section 6.3	<u>Cooperation; Status Updates; Regulatory Filings</u>	35
Section 6.4	<u>Tax Matters</u>	37
Section 6.5	<u>Confidentiality</u>	39
Section 6.6	<u>Publicity</u>	40
Section 6.7	<u>Use of Names and Marks</u>	40
Section 6.8	<u>Financing</u>	40
Section 6.9	<u>No Successor Liability</u>	44
Section 6.10	<u>Intercompany Arrangements</u>	44
Section 6.11	<u>Release; Termination of Buyer Consulting Agreement</u>	44
Section 6.12	<u>R&W Insurance Policy</u>	45
Section 6.13	<u>Receivables</u>	45
Section 6.14	<u>Expense Reimbursement</u>	46
Section 6.15	<u>Data Room</u>	46
Section 6.16	<u>Consulting Agreement</u>	46
ARTICLE VII CONDITIONS TO CLOSING		46
Section 7.1	<u>Conditions Precedent to Each Party’s Obligation</u>	46
Section 7.2	<u>Conditions Precedent to Obligations of Buyer</u>	46
Section 7.3	<u>Conditions Precedent to Obligations of Sellers</u>	47
Section 7.4	<u>No Frustration of Closing Conditions</u>	48
ARTICLE VIII TERMINATION		48
Section 8.1	<u>Termination of Agreement Prior to Closing</u>	48
Section 8.2	<u>Effect of Termination</u>	50
Section 8.3	<u>Fees and Expenses Following Termination</u>	50
ARTICLE IX MISCELLANEOUS		52
Section 9.1	<u>No Survival</u>	52
Section 9.2	<u>Notices</u>	52
Section 9.3	<u>Entire Agreement; Amendments and Waivers</u>	54
Section 9.4	<u>Assignment</u>	54
Section 9.5	<u>Expenses</u>	54

Section 9.6	<u>Governing Law</u>	55
Section 9.7	<u>Specific Performance</u>	55
Section 9.8	<u>Submission to Jurisdiction; Consent to Service of Process; Waiver of Jury Trial</u>	56
Section 9.9	<u>Interpretation; Construction</u>	57
Section 9.10	<u>Severability</u>	58
Section 9.11	<u>Counterparts; Signatures</u>	58
Section 9.12	<u>Bulk Transfer Laws</u>	58
Section 9.13	<u>Non-Recourse</u>	58
Section 9.14	<u>Seller Designation</u>	59
Section 9.15	<u>No Personal Liability</u>	60
Section 9.16	<u>Disclosure Schedules</u>	60

EXHIBITS & SCHEDULES

EXHIBITS

- Exhibit A - Defined Terms
- Exhibit B - Form of Assignment and Assumption Agreement
- Exhibit C - Form of IP Assignment and Assumption Agreement
- Exhibit D - Form of Bid Procedures Order
- Exhibit E - Form of Subscription Agreement
- Exhibit F - Form of Bill of Sale
- Exhibit G - Form of Escrow Agreement
- Exhibit H - Form of Sale Order
- Exhibit I - Sample Calculation

ASSET PURCHASE AGREEMENT

This ASSET PURCHASE AGREEMENT (this “Agreement”), dated as of August 31, 2021, is made by and between Gainline Galaxy Holdings LLC, a Delaware limited liability company (“Buyer”), Sequential Brands Group, Inc., a Delaware corporation (“Sequential”) and each Subsidiary of Sequential listed on the signature pages to this Agreement (collectively with Sequential, “Sellers”). Buyer and Sellers are collectively referred to as the “Parties” and individually as a “Party”. Exhibit A contains definitions of certain capitalized terms used in this Agreement.

RECITALS

WHEREAS, Sellers are currently engaged in the ownership and monetization of independent brand management platforms of the following brands that primarily provide athleticwear, footwear and yoga equipment, including licensing such brands: (a) GAIAM, (b) SPRI, (c) And1, (d) AVIA, and (e) Swisstech (the “Business”);

WHEREAS, Sellers intend to commence voluntary proceedings (the “Bankruptcy Proceeding”) under Chapter 11 of the Bankruptcy Code by filing petitions for relief in the U.S. Bankruptcy Court for the District of Delaware (the “Bankruptcy Court”), and to seek approval of the Bankruptcy Court to consummate this Agreement;

WHEREAS, Sellers desire to sell, and Buyer desires to purchase, the Transferred Assets, and Buyer is willing to assume the Assumed Liabilities (but not the Excluded Liabilities), the Closing Assumed Contracts and the Additional Assumed Contracts, in each case, upon the terms and subject to the conditions set forth herein for total consideration as set forth herein; and

WHEREAS, concurrently with the execution and delivery of this Agreement, and a condition and material inducement to the willingness of Sellers to enter into this Agreement, Buyer has delivered to Sellers the fully executed Commitment Letters.

NOW, THEREFORE, in consideration of the foregoing, and of the representations, warranties, covenants and agreements contained herein, the Parties agree as follows:

ARTICLE I

PURCHASE AND SALE OF THE BUSINESS

Section 1.1 Purchase and Sale of Interests and Assets. On the terms and subject to the conditions set forth herein (including, without limitation, entry of each of the Bid Procedures Order and the Sale Order), subject to Section 1.6, at the Closing, Sellers shall Transfer to Buyer and/or one or more Buyer Designees, and Buyer and/or such Buyer Designees shall purchase and acquire from the Sellers, the entirety of the Sellers’ right, title and interest in, to and under all of the following enumerated assets (excluding in each case any assets that would be Excluded Assets), as they exist at the time of the Closing, in each case free and clear of all Liens (other than Permitted Post-Closing Encumbrances) (collectively, the “Transferred Assets”):

(a) subject to Section 6.13(b), the Delinquent Accounts Receivable and all associated collection rights;

(b) all Transferred Intellectual Property;

(c) the furniture, furnishings, equipment, machinery, tools, fixtures, samples and other personal property of Sellers that are Related to the Business and located as of the date hereof at Sequential's office at 1407 Broadway, New York, New York, other than the items listed on Schedule 1.1(c);

(d) except as set forth in Section 1.2(a)(iii), each Seller Contract listed on Schedule 1.1(d), other than the Rejected Identified Contracts (such Contracts collectively, the "Closing Assumed Contracts"), together with all documents relating to products, services, licenses, and purchase orders related thereto;

(e) pursuant to Section 1.5(e), each Additional Assumed Contract;

(f) all Actions owned by or available to any Seller, including any Avoidance Action, (i) solely to the extent Related to the Business or related to the Transferred Assets, the Assumed Liabilities or the acquisition, ownership, management, operation, use, function or value of the Business or any Transferred Asset or (ii) against any counterparty to a Closing Assumed Contract or Additional Assumed Contract, or any Affiliate of such counterparty (such Actions, the "Assigned Actions");

(g) all transferable Permits, and all pending applications therefor, Related to the Business (the "Transferred Permits");

(h) all credits, prepaid expenses, prepayments, deferred charges, advance payments, refunds, deposits (including customer deposits and security deposits), prepaid items and duties, customer rebates, credits or other refunds, and all other forms of deposit or security placed by Sellers for the performance of a Closing Assumed Contracts or an Additional Assumed Contracts, in each case, to the extent Related to the Business or related to a Transferred Asset, but excluding any prepayments or deposits of any Asset Taxes prior to the Closing for which Sellers shall receive credit to the extent provided in Section 6.4(b);

(i) to the extent transferrable, all of Sellers' rights under confidentiality, non-disclosure, invention, Intellectual Property assignment, non-competition, non-solicitation of customers and employees, and non-disparagement agreements, solely to the extent related to the Transferred Assets;

(j) subject to Section 6.1(c), solely to the extent Related to the Business, Sellers' books and records that are not protected by attorney-client, attorney work product or other legally recognized privileges or immunity from disclosure, including, as applicable, such corporate records, executed copies of the Closing Assumed Contracts and Additional Assumed Contracts, financial and accounting records, and such other business records relating to the foregoing; provided that Sellers shall be entitled to retain a copy of such documents for recordkeeping purposes;

(k) all customer, supplier, licensor and licensee lists Related to the Business and all telephone and telephone facsimile numbers and other directory listings of the Business;

(l) all goodwill, customer and referral relationships, other intangible property and all privileges, and benefits of Sellers, in each case Related to the Business or the Transferred Assets or Assumed Liabilities;

(m) the equity interests of Gaiam PTY owned by Gaiam Americas, Inc.;

(n) all other assets of Sellers to the extent Related to the Business; and

(o) all of the assets set forth on Schedule 1.1.

Section 1.2 Excluded Assets. Notwithstanding anything to the contrary set forth in this Agreement or in any of the other Transaction Documents, the Parties expressly acknowledge and agree that nothing in this Agreement shall be construed to obligate any Seller to Transfer to Buyer (or obligate Buyer to acquire from any Seller) any of the assets, properties or rights of any Seller other than the Transferred Assets, and without limiting the generality of the foregoing, the term "Transferred Assets" shall expressly exclude the assets of Sellers listed in this Section 1.2, all of which shall be retained by the Sellers (the "Excluded Assets"). Each Seller shall retain all of its right, title and interest in and to the Excluded Assets, and neither Buyer nor the Buyer Designees shall acquire or have any rights or Liabilities with respect to the right, title and interest of each Seller in and to the following:

(a) any claim, right, award, recovery, indemnity, warranty, refund, reimbursement, audit right, duty, obligation, liability or other intangible right in favor of or owed to any Seller (i) to the extent primarily related to an Excluded Asset or to any other business of the Sellers, (ii) to the extent exclusively related to any of the Excluded Liabilities, or (iii) for indemnification under a Seller Contract that accrues prior to the Closing and without limiting Buyer's rights for indemnification under any such Seller Contract with respect to Assumed Liabilities;

(b) all accounts receivable arising before the Closing other than Delinquent Accounts Receivable;

(c) any shares or other equity interests in any Person or any securities of any Person other than as set forth in Section 1.1(m);

(d) the corporate charter, seal, minute books, stock record books and other similar documents relating to the organization, maintenance and existence of Sellers or any Affiliate of Sellers;

(e) all personnel records (including all human resources and other records) of Sellers or any of their respective Affiliates relating to employees of Sellers or any of their respective Affiliates;

(f) all Cash held by or in the name of Sellers or any of their respective Affiliates;

(g) all consideration received by Sellers and their respective Affiliates pursuant to, and all rights of Sellers and their respective Affiliates under, this Agreement or any Transaction Document, subject to the terms hereof and thereof;

(h) all of the following documents prepared or received by Sellers, their respective Affiliates or any of their respective Representatives, in each case, with respect to the Transferred Assets: (i) lists of prospective buyers; (ii) offers, bids or proposals submitted by any prospective buyer; (iii) analyses by Sellers of any offers, bids or proposals submitted by any prospective buyer; (iv) correspondence between or among Sellers, its Representatives and any prospective buyer other than Buyer; and (v) correspondence between Sellers, their respective Affiliates or any of their respective Representatives with respect to any offers, bids or prospective buyers, the Transactions or otherwise contemplated by the Bid Procedures;

(i) all Seller Contracts that are not Closing Assumed Contracts or Additional Assumed Contracts, including the Contracts set forth on the Rejected Contracts Schedule (the “Excluded Contracts”);

(j) all Intracompany Receivables;

(k) any prepayments and good faith and other bid deposits submitted by any third party under the terms of the Bid Procedures Order;

(l) any Benefit Plan and any trusts, funding vehicles, insurance policies, administrative services agreements, files and records, and other assets, related thereto;

(m) all real property leases;

(n) any refunds of Taxes that are either described in Section 1.4(h) or that Sellers bear under Section 6.4;

(o) all insurance policies;

(p) all bank accounts;

(q) the furniture, furnishings, equipment, machinery, tools, fixtures, samples and other personal property of Sellers listed on Schedule 1.1(c);

(r) all assets primarily related to any of Sellers’ past or present brands other than those included in the definition of the Business, including Jessica Simpson, Joe’s Jeans, William Rast, Ellen Tracy, and Caribbean Joe; and

(s) all of the assets set forth on Schedule 1.2(s).

Section 1.3 Assumption of Liabilities. On the terms and subject to the conditions set forth herein, at the Closing, Buyer and/or each relevant Buyer Designee will assume, without duplication, and will in a timely manner pay, perform and discharge when due and be responsible for, in accordance with their respective terms, the following Liabilities of Sellers other than Excluded Liabilities (collectively, the “Assumed Liabilities”):

(a) all Liabilities to the extent exclusively relating to, arising from or with respect to the ownership or use of the Transferred Assets, or exclusively relating in any manner to the assumption, ownership, conduct or operation of, the Business, in each case, to the extent arising solely out of any event, fact, act, omission or condition occurring after the Closing and, with respect to the ownership of the Transferred Assets, only to the extent the Transferred Assets cannot as a matter of Law be sold free and clear of Liabilities under Section 363 of the Bankruptcy Code or other applicable Law;

(b) the accounts payable set forth on Schedule 1.3(b) and any additional accounts payable arising in the Ordinary Course between the date hereof and the Closing (collectively, the “Assumed Accounts Payable”);

(c) all Liabilities for any Tax that Buyer expressly bears under Section 6.4;

(d) all Liabilities under the Closing Assumed Contracts and the Additional Assumed Contracts in each case, to the extent arising out of any event, fact, act, omission or condition occurring after the Closing;

(e) all Liabilities related to the Assigned Actions to the extent arising out of any event, fact, act, omission or condition occurring after the Closing;

(f) all Liabilities under any Transferred Permit to the extent arising solely out of any event, fact, act, omission or condition occurring after the Closing; and

(g) all Liabilities set forth on Schedule 1.3(g).

Section 1.4 Excluded Liabilities. Notwithstanding anything to the contrary set forth in this Agreement or in any of the other Transaction Documents, the Parties expressly acknowledge and agree that Buyer will not, nor will any Buyer Designee, assume, be obligated to pay, perform or otherwise discharge or in any other manner be liable or responsible for any and all Liabilities that are not specifically Assumed Liabilities (all such Liabilities that are not specifically Assumed Liabilities, the “Excluded Liabilities”) including, for the avoidance of doubt, any and all of the following:

(a) any Liability under the Prepetition Credit Agreements and any other Indebtedness of the Sellers;

(b) any Liability to the extent arising out of any Excluded Asset, including the Excluded Contracts;

(c) all Actions (excluding, for the avoidance of doubt, any Assigned Actions) to the extent against or giving rise to Liabilities of the Business or the Transferred Assets based on acts or omissions prior to the Closing Date even if instituted after the Closing Date;

(d) all Liabilities to any current or former holder or owner of capital stock or other equity interests of the Sellers or any security convertible into, exchangeable or exercisable for shares of capital stock or other equity interests of the Sellers or any current or former holder of Indebtedness of Sellers;

- (e) all drafts or checks outstanding at the Closing under which the Sellers are obligated;
- (f) indemnification or advancement of expenses for any current or former officer or director of any Seller or any of the Subsidiaries of Sellers;
- (g) all accounts payable other than the Assumed Accounts Payable;
- (h) any and all Taxes allocated to, of or imposed on Sellers, including without limitation, (i) all Asset Taxes for any period or portion thereof ending on or prior to the applicable Closing Date, (ii) Taxes imposed on or with respect to the Business or the Transferred Assets that are attributable to any period or portion thereof ending on or prior to the applicable Closing Date or that arise as a consequence of the Closing or the other Transactions, excluding any Transfer Taxes covered by Section 6.4(a), and (iii) Taxes payable to the extent arising out of or related to the Excluded Assets or with respect to the business or activities of any Seller or any of its Affiliates (including divested or discontinued business of any Seller or its Affiliates);
- (i) all Liabilities relating to (i) the collection, storage, transmission, use or disposal of any Personal Information of any third party, in each case on or before the Closing Date, and (ii) the transfer of any such Personal Information to Buyer to the extent permitted under this Agreement;
- (j) all Intracompany Payables;
- (k) any and all Excluded Employee Liabilities;
- (l) any payment obligation or liability, contingent or otherwise, for brokerage or finders' fees or similar payment in connection with this Agreement;
- (m) all Liabilities that existed, arose or were incurred (i) prior to the Petition Date unless expressly assumed in Section 1.3 or (ii) subsequent to the Petition Date and prior to the Closing Date, unless expressly assumed herein, including in each case of (i) and (ii) Liabilities that are dischargeable in the Bankruptcy Proceedings;
- (n) all Liabilities relating to, arising from or with respect to any worker's compensation claims and any other occurrence-based claim to the extent arising out of any event, fact, act, omission or condition occurring prior to the Closing Date, irrespective of when such Liabilities arise;
- (o) all Liabilities of Sellers under or arising out of the Transaction Documents and all Liabilities for which Sellers or any of their respective Affiliates are expressly made responsible pursuant to this Agreement or any other Transaction Document;
- (p) all Cure Costs;
- (q) all Liabilities for all costs and expenses incurred or owed in connection with (i) the administration of the Bankruptcy Proceedings, or (ii) the negotiation, execution and consummation of the Transactions or any other Transaction Document;

(r) all Liabilities relating to, arising from or with respect to, the conduct of the Business or to the Transferred Assets (and the use thereof) arising or accruing at any time at or prior to the Closing; and

(s) any other Liability of any kind, whether known or unknown, contingent, matured or otherwise, whether currently existing or hereinafter created, other than an Assumed Liability.

Section 1.5 Assumption and Assignment of Contracts.

(a) Sellers shall assign to Buyer or any Buyer Designee, and Buyer or any such Buyer Designee shall assume, the Closing Assumed Contracts at the Closing pursuant to the Sale Order. Buyer shall provide adequate assurance of any future performance in connection with the assignment and assumption of the Closing Assumed Contracts at Closing or the effective date of such assignment and assumption of an Additional Assumed Contract; provided, that all Cure Costs shall be the obligation, liability and responsibility of the Sellers.

(b) The Sale Order shall provide for the assumption by the applicable Seller party thereto, and the assignment to the extent legally capable of being assigned by such Seller to Buyer or any Buyer Designee, of each Closing Assumed Contract, and each Additional Assumed Contract, as applicable, pursuant to Section 365 of the Bankruptcy Code, the Bid Procedures Order, and the Sale Order.

(c) Sellers shall file with the Bankruptcy Court a notice (a "Notice of Potential Assignment") in the form and manner approved pursuant to the Bid Procedures Order that Sellers may wish to assume and assign certain Seller Contracts in connection with the Transactions (each, an "Identified Contract"). At any time prior to the date that is five (5) days prior to the date of the Bankruptcy Court hearing to consider approval of this Agreement (the "Sale Hearing"), Buyer may, subject to the terms of the Bid Procedures Order, by written notice to the Sellers, designate, in writing, any Identified Contract for rejection by the Sellers effective on or as soon as reasonably practicable after the Closing (such Identified Contracts, the "Rejected Identified Contracts"). The Rejected Identified Contracts as of the date hereof are set forth on Schedule 1.5(c), which schedule shall be (and shall be deemed) modified or supplemented to reflect additions or removals, as applicable, of Identified Contracts that are designated for rejection as set forth in this Section 1.5 (the "Rejected Contracts Schedule"). At the Closing, Sellers shall assume and assign to Buyer or any Buyer Designee the Closing Assumed Contracts and any Additional Assumed Contracts, in each case, pursuant to Section 365 of the Bankruptcy Code, the Bid Procedures Order, and the Sale Order, subject to provision by Buyer of adequate assurance of future performance as may be required under Section 365 of the Bankruptcy Code.

(d) At any time prior to the date that is five (5) days prior to the date of the Sale Hearing (the "Designation Deadline"), Buyer may, subject to the terms of the Bid Procedures Order, by written notice to the Sellers, (i) designate additional Identified Contracts or any other executory contracts that Buyer wishes the Sellers to assume and assign to Buyer or any Buyer Designee in connection with the Transactions as "Additional Assumed Contracts" by providing written notice to Sellers in the form of an updated Additional Assumed Contracts Schedule; and (ii) designate additional Identified Contracts or any other executory Contracts that Buyer wishes for Sellers to reject in connection with the Transactions as "Additional Rejected Contracts" by providing written

notice to Sellers in the form of an updated Rejected Contracts Schedule. Notwithstanding anything to the contrary contained in this Agreement, if as of the Closing Date, any Closing Assumed Contract or Additional Assumed Contract is the subject of an objection as to the amount of the Cure Costs required for the Sellers to assume and assign such contract to the Buyer or any Buyer Designee, or other objection as to the assumption and assignability of such contract, and such objection has not been resolved to the satisfaction of Buyer prior to the Closing Date, Buyer shall have the right to remove such contract from the Closing Assumed Contracts and Additional Assumed Contracts lists before the Closing Date such that such contract shall not be considered assumed and assigned to Buyer as of the Closing Date hereunder. Additional procedures for the assumption and assignment of any additional Closing Assumed Contracts and Additional Assumed Contracts, if any, shall be as set forth in the Sale Order.

(e) [Reserved].

(f) As part of the motion with respect to the Bid Procedures Order (or as necessary in one or more separate motions), Sellers shall request that, by virtue of any Seller providing prior notice pursuant to the Bid Procedures Order of its intent to assume and assign any Closing Assumed Contract or Additional Assumed Contract, the Bankruptcy Court deem any non-debtor party to such Closing Assumed Contract or Additional Assumed Contract that does not file an objection with the Bankruptcy Court during such notice period to have given any Necessary Consent to the assumption of the Closing Assumed Contract or Additional Assumed Contract by the relevant Seller and assignment to Buyer or any Buyer Designee.

(g) At Buyer's request, Sellers shall reasonably cooperate with Buyer as reasonably requested by Buyer to allow Buyer to enter into an amendment of any Closing Assumed Contract or Additional Assumed Contract upon assignment of such Closing Assumed Contract or Additional Assumed Contract to Buyer or any Buyer Designee (and Sellers shall reasonably cooperate with Buyer to the extent reasonably requested by Buyer in negotiations with the counterparties thereof); provided that (i) in no event shall any such amendments be effective prior to the Closing and (ii) Sellers shall not be required to enter into any such amendment if such amendment would result in the incurrence of any additional Liability or any other adverse effect that would not have existed but for such amendment by Sellers that is not otherwise paid by Buyer at the time of the assumption by Sellers of such Closing Assumed Contract or Additional Assumed Contract.

(h) [Reserved]

(i) Subject to Section 1.5(j) and the Bid Procedures Order, to the extent that there is (i) an objection to the assumption and assignment of any Closing Assumed Contract outstanding at the Closing Date, (ii) an objection to the assumption and assignment of any Additional Assumed Contract or (iii) any Necessary Consent that is required to assume and assign to Buyer or any Buyer Designee any Closing Assumed Contract or Additional Assumed Contract is not obtained by the Closing Date, each Seller shall, with respect to each such Seller Contract, from and after the Closing and until the earliest to occur of (A) the date on which such objection is resolved or such applicable Necessary Consent is obtained, and (B) the date on which such Seller Contract is deemed rejected under Section 365 of the Bankruptcy Code, use commercially reasonable efforts during the term of such Seller Contract (and to the extent the term of such Seller Contract ends

prior to the earlier of clauses (A) or (B) above) to (1) provide to Buyer the benefits under such Seller Contract (it being understood that Buyer shall be solely responsible for the obligations under such Seller Contract during such period), (2) cooperate in any reasonable and lawful arrangement, including holding such Seller Contract in trust for Buyer pending resolution of such objection or receipt of the Necessary Consent, designed to provide such benefits to Buyer, and (3) enforce for the account of Buyer any rights of such Seller under such Seller Contract, including the right to elect to terminate such Seller Contract in accordance with the terms thereof upon the written direction of Buyer; provided, however, that notwithstanding the foregoing, Sellers shall not be obligated to take any action that breaches, violates or results in default under the terms of any Seller Contract. Buyer shall reasonably cooperate with Sellers in order to enable Sellers to provide to Buyer the benefits contemplated by this Section 1.5(i).

(j) Notwithstanding the foregoing, a Seller Contract shall not be a Closing Assumed Contract or Additional Assumed Contract hereunder and shall not be assigned to Buyer to the extent that such Seller Contract is (i) deemed rejected under Section 365 of the Bankruptcy Code or (ii) the subject of an objection to assumption or assignment or requires, under applicable non-bankruptcy Law, Necessary Consent of any Governmental Entity or other third party (other than, and in addition to, that of the Bankruptcy Court) in order to permit the assumption and assignment by the applicable Seller to Buyer or any Buyer Designee of such Seller Contract pursuant to Section 365 of the Bankruptcy Code, and such objection has not been resolved or such Necessary Consent has not been obtained prior to the 60th day following the Closing (as such 60-day period may be extended by mutual agreement of Buyer and Sellers); provided that any Closing Assumed Contract or Additional Assumed Contract that is the subject of an objection with respect solely to the amount of the Cure Cost may be assumed and assigned prior to the resolution of such objection pursuant to the Bid Procedures Order (provided Sellers have escrowed the disputed Cure Cost pending resolution of such objection that is acceptable to Buyer).

(k) If prior to or following Closing, it is discovered that a Contract that is Related to the Business should have been listed on Schedule 1.5(c) as an Identified Contract but was not so listed and has not been rejected by Sellers (any such Contract, a “Previously Omitted Contract”), Sellers shall, promptly following the discovery thereof (but in no event later than two (2) Business Days following the discovery thereof), notify Buyer in writing of such Previously Omitted Contract and all Cure Costs (if any) for such Previously Omitted Contract. Buyer shall thereafter deliver written notice to Sellers, no later than five Business Days following notification of such Previously Omitted Contract from Sellers, designating such Previously Omitted Contract as “Assumed” or “Rejected” (a “Previously Omitted Contract Designation”). A Previously Omitted Contract designated in accordance with this Section 1.5(k) as “Rejected,” or with respect to which Buyer fails to deliver a Previously Omitted Contract Designation, shall be deemed an Excluded Contract and added to the Rejected Contracts Schedule.

(l) If Buyer designates a Previously Omitted Contract as “Assumed” in accordance with Section 1.5(k), (i) such Previously Omitted Contract shall be added to the Additional Assumed Contracts Schedule and deemed to be an “Additional Assumed Contract” for all purposes hereunder, and (ii) Sellers shall serve a notice (the “Previously Omitted Contract Notice”) on the counterparties to such Previously Omitted Contract notifying such counterparties of the Cure Costs with respect to such Previously Omitted Contract and Sellers’ intention to assume and assign such Previously Omitted Contract in accordance with this Section 1.5(l). The Previously Omitted

Contract Notice shall provide the counterparties to such Previously Omitted Contract with notice pursuant to the terms of the Bid Procedures Order. If the counterparties, Sellers and Buyer are unable to reach a consensual resolution with respect to the objection, Sellers shall seek a hearing before the Bankruptcy Court (which may be sought on an expedited basis) to determine the Cure Costs and approve the assumption. If no objection is served on Sellers and Buyer, such Previously Omitted Contract may be deemed a Closing Assumed Contract. For the avoidance of doubt, Sellers shall be responsible for all Cure Costs relating to such “Assumed” Previously Omitted Contracts and for any Liabilities relating to such “Assumed” Previously Omitted Contracts arising prior to the assignment to Buyer.

Section 1.6 Non-Assignment of Assets. Notwithstanding any other provision of this Agreement to the contrary, this Agreement will not constitute an agreement to assign or transfer and will not effect the assignment or transfer of any Transferred Asset (including any Closing Assumed Contract or Additional Assumed Contract) if (i) (A) prohibited by applicable Law, (B) an attempted assignment or transfer thereof would be reasonably likely to subject Buyer, its Affiliates or any of its or their respective Representatives to civil or criminal Liability or (C) an attempted assignment or transfer thereof, without the approval, authorization, consent or waiver of, or granting or issuance of any license or permit by, any third party thereto (each such action, a “Necessary Consent”), would constitute a breach, default or violation thereof or of any Law or Order or in any way adversely affect the rights of Buyer or any Buyer Designee (including relative to the rights of the assigning party prior to such assignment) or (ii) the Bankruptcy Court has not entered an Order approving such assignment or transfer. In the event such assignment or transfer is subject to such Necessary Consent being obtained, Sellers and Buyer will use their commercially reasonable efforts to obtain the Necessary Consents with respect to any such Transferred Asset (including any Closing Assumed Contract or Additional Assumed Contract) or any claim or right or any benefit arising thereunder for the assignment or transfer thereof to Buyer, as Buyer may reasonably request and at Buyer’s sole cost and expense; provided, however, that none of Sellers, Buyer or Buyer Designees will be obligated to pay any consideration therefor to any third party from whom approval, authorization, consent or waiver is requested. If such Necessary Consent is not obtained, or if an attempted assignment or transfer thereof would give rise to any of the circumstances described in clauses (i) or (ii) of the first sentence of this Section 1.6, be ineffective or adversely affect the rights of Buyer to such Transferred Asset following the Closing, (x) Sellers and Buyer will, and will cause their respective Subsidiaries to, at Buyer’s sole cost and expense, (1) use commercially reasonable efforts (including cooperating with one another to obtain such Necessary Consents, to the extent feasible) as may be necessary so that Buyer would obtain the benefits and assume the obligations thereunder in accordance with this Agreement, (2) complete any such assignments or transfers as soon as reasonably practicable and (3) upon receipt of any applicable Necessary Consents, transfer or assign the applicable Transferred Asset to Buyer for no additional consideration, and (y) Sellers will, and will cause their respective Subsidiaries to, cooperate with Buyer in good faith without further consideration in any arrangement reasonably mutually acceptable to Sellers and Buyer intended to provide Buyer with the benefit of any such Transferred Assets at Buyer’s sole cost and expense.

Section 1.7 Wrong Pocket. Subject to Section 1.6, if at any time after the Closing (i) Buyer or a Buyer Designee holds, directly or indirectly, any Excluded Assets or Excluded Liabilities or (ii) any Seller holds, directly or indirectly, any Transferred Assets or Assumed Liabilities, Buyer or the applicable Seller will promptly Transfer (or cause to be Transferred) such

assets or assume (or cause to be assumed) such Liabilities to or from (as the case may be) the other Party, without further consideration from the other Party. Prior to any such transfer, the Party receiving or possessing any such asset will hold it in trust for such other Party. If at any time after the Closing, any Seller or any of its Subsidiaries receives any payments in respect of the Transferred Assets, such Seller shall, or shall cause such Subsidiary to, promptly remit such payments to Buyer (or any Buyer Designee). Subject in all cases to Section 6.13, if at any time after the Closing, Buyer receives any payments in respect of the Excluded Assets, Buyer shall promptly remit such payments to the applicable Seller or its Subsidiary.

Section 1.8 Further Conveyances and Assurances. From time to time following the Closing, Sellers and Buyer will, and will cause their respective Subsidiaries to, execute, acknowledge and deliver all such further conveyances, notices, assumptions, assignments, releases and other instruments, and will take such further actions, as may be reasonably necessary or appropriate to assure to Buyer, its designees, successors or assigns, all of the properties, rights, titles, interests, estates, remedies, powers and privileges intended to be conveyed to Buyer under this Agreement and to assure fully to each Seller and its Subsidiaries and their respective successors and assigns, the assumption of the Liabilities and obligations intended to be assumed by Buyer under this Agreement, and to otherwise make effective the Transactions.

Section 1.9 Buyer Designees. Buyer shall be entitled to designate, in accordance with the terms and subject to the limitations set forth in this Section 1.9, one or more Affiliates of Buyer to (i) purchase specified Transferred Assets and/or (ii) assume specified Assumed Liabilities, in each case, as of the Closing Date (any Person that shall be properly designated by Buyer in accordance with this clause, a “Buyer Designee”); it being understood and agreed, however, that any such right of Buyer to designate a Buyer Designee is conditioned upon such Buyer Designee being able to perform the applicable covenants under this Agreement and, as applicable, any other Transaction Document to which Buyer is party and demonstrate satisfaction of the requirements of Section 365 of the Bankruptcy Code (to the extent applicable). As soon as reasonably practicable and in no event later than one (1) Business Days prior to the Closing, Buyer shall make any such designations of Buyer Designees by way of a written notice to be delivered to the Sellers. For the avoidance of doubt, and notwithstanding anything to the contrary herein, all Buyer Designees appointed in accordance with this Section 1.9 shall be included in the definition of “Buyer” *mutatis mutandis* for all purposes under this Agreement. Notwithstanding anything in this Agreement, no designation of a Buyer Designee pursuant to this Section 1.9 shall relieve Buyer of any obligation under this Agreement or the Transaction Documents, and in the event of such designation, both Buyer and such Buyer Designee shall be jointly and severally liable for each obligation of Buyer under this Agreement and the Transaction Documents.

Section 1.10 Swisstech. Notwithstanding anything herein to the contrary, in the event the Action set forth on Schedule 1.10 has not been settled in a manner acceptable to Buyer, Buyer shall have the option, in its sole discretion, by providing written notice to Sellers at least five (5) Business Days prior to the Closing (a “Swisstech Removal Notice”) to remove all assets and Liabilities primarily related to Swisstech from the Transferred Assets and Assumed Liabilities. In the event a Swisstech Removal Notice is validly and timely delivered to Buyer, the following changes to this Agreement shall automatically take effect without any further action of the Parties or any other Person:

(a) The Estimated Debt Consideration and Final Debt Consideration shall be reduced by \$4,050,000;

(b) The reference to “Swisstech” shall be removed from the definition of the “Business”;

(c) The reference to “Swisstech” shall be removed from the definition of “Royalty Adjustment” and the amount referenced in such definition shall be reduced to \$57,100,000; and

(d) For the avoidance of doubt, the Transferred Assets (including the Closing Assumed Contracts and the Additional Assumed Contracts) and Assumed Liabilities (including the Closing Assumed Accounts Payable) shall in no event include any assets or Liabilities primarily related to the Swisstech brand and any such assets or Liabilities shall instead, for all purposes of this Agreement, be considered Excluded Assets or Excluded Liabilities.

To the extent necessary following delivery of the Swisstech Removal Notice and prior to the Closing, the Parties shall negotiate in good faith such additional changes to this Agreement, if any, as may be necessary to give effect to the removal of all assets and Liabilities of the Swisstech brand from “Transferred Assets” and “Assumed Liabilities.”

ARTICLE II

CONSIDERATION; CLOSING

Section 2.1 Consideration.

(a) At the Closing, in consideration for the purchase, sale, assignment and conveyance of Sellers’ right, title and interest in, to and under the Transferred Assets:

(i) Buyer shall pay or cause to be paid an amount equal to the Estimated Cash Consideration less the Escrow Amount (the “Closing Date Payment”) to Sellers by wire transfer of immediately available funds to the account of Sellers designated in the Estimated Closing Statement, which Closing Date Payment shall be distributed in accordance with the Sale Order;

(ii) Buyer shall issue or cause to be issued a number of Series A Units of Gainline Galaxy Holdings LLC equal to 11.3% of the aggregate outstanding Series A Units and Series B Units of Gainline Galaxy Holdings at the Closing (the “Equity Consideration”), pursuant to a subscription in substantially the form attached hereto as Exhibit E, such units to be valued at \$50 million and to be distributed in accordance with the Sale Order;

(iii) Buyer shall issue or caused to be issued the Estimated Debt Consideration, with such indebtedness (i) subject to adjustment upon determination of the Final Debt Consideration and (ii) to be distributed in accordance with the Sale Order and ;

(iv) Buyer shall deliver, or cause to be delivered, to the Escrow Agent in accordance with the terms of the Escrow Agreement an amount equal to the Escrow Amount to be held in the Escrow Account; and

(v) Buyer shall assume the Assumed Liabilities, and assume and be assigned the Closing Assumed Contracts and the Additional Assumed Contracts.

(b) No later than five (5) Business Days prior to the Closing Date, Sellers shall prepare and deliver to Buyer a statement (the “Estimated Closing Statement”) setting forth (i) Sellers’ good faith determination, together with reasonable supporting documentation, of (A) the Royalty Adjustment (the “Estimated Royalty Adjustment”), (B) the Delinquent Accounts Receivable Deficiency, (C) any amounts related to the East Asia Delinquent Accounts Receivable collected by Sellers as of the Closing Date, (D) the Closing Assumed Accounts Payable and (E) the Marketing Adjustment, together with a calculation of the Cash Consideration based on the foregoing amounts (the “Estimated Cash Consideration”) and (ii) the account or accounts of the Sellers to which the Closing Date Payment shall be wired. The Estimated Closing Statement shall be prepared on a basis consistent with this Agreement and the illustrative calculation attached as Exhibit I hereto (the “Sample Calculation”). Sellers and Buyer shall consult and cooperate with respect to the preparation of the Estimated Closing Statement, and Sellers shall provide access to such working papers, financial records, information (including working papers, financial records and information of their respective independent accountants) and individuals relating to the preparation of the Estimated Closing Statement as may be reasonably requested by Buyer or any of its Affiliates and their respective Representatives. Sellers shall consider in good faith any comments provided by Buyer or its Representatives with respect to the calculation of the Estimated Cash Consideration and the elements thereof; provided, however that no Party shall be entitled to delay the Closing on the basis of the foregoing.

Section 2.2 Purchase Price Adjustment.

(a) Following the Closing, but in any event no later than 90 days thereafter, Buyer shall cause to be prepared and delivered to the Sellers a statement (the “Closing Date Statement”) setting forth its calculation of the (i) the Royalty Adjustment (the “Final Royalty Adjustment”), (ii) the Delinquent Accounts Receivable Deficiency, (iii) any amounts related to the East Asia Delinquent Accounts Receivable collected by Sellers as of the Closing Date, (iv) the Closing Assumed Accounts Payable and (v) the Marketing Adjustment, and the calculation of the Cash Consideration resulting therefrom (the “Final Cash Consideration”). The Closing Date Statement (A) shall be prepared on a basis consistent with this Agreement and the Sample Calculation. To the extent any actions following the Closing with respect to the accounting books and records of Sellers on which the Closing Date Statement and the calculation of the Final Cash Consideration is to be based are not consistent with the Sample Calculation, such changes shall not be taken into account in preparing the Closing Date Statement or calculating amounts reflected thereon.

(b) Buyer shall make such information, personnel and resources available to the Sellers and their Representatives as may be reasonably requested by the Sellers to enable the Sellers to review the Closing Date Statement.

(c) In the event that Sellers dispute the calculation of the Final Cash Consideration set forth in the Closing Date Statement, Sellers shall notify Buyer in writing (the “Dispute Notice”) of the amount, nature and basis of such dispute, within thirty (30) days after delivery of the Closing Date Statement. In the event of such a dispute, Buyer and Sellers shall first use their respective commercially reasonable efforts to resolve such dispute. If Buyer and Sellers are unable to resolve the dispute within thirty (30) calendar days after delivery of the Dispute Notice then any remaining items in dispute shall be submitted to a nationally recognized accounting firm jointly chosen by Buyer and Sellers (the “Audit Firm”). If such disagreement and the determination of the Final Cash Consideration are submitted to the Audit Firm for resolution, then (i) Sellers and Buyer shall execute any agreement(s) required by the Audit Firm to accept their engagement pursuant to this Section 2.2(c), (ii) Buyer shall promptly furnish or cause to be furnished to the Audit Firm and to Sellers such work papers and other documents and information relating to the computation of the Final Cash Consideration as the Audit Firm or Sellers may reasonably request and are available to Buyer, (iii) each Party shall be afforded the opportunity to present to such Audit Firm, with a copy to the other Party, any other written material relating to the computation of the Final Cash Consideration, (iv) the Audit Firm shall review only those items that are in dispute, (v) the Audit Firm shall not attribute a value to any single disputed amount greater than the greatest amount proposed by either Party nor an amount less than the least amount proposed by either Party, and (vi) Sellers, on the one hand, and Buyer, on the other hand, shall each bear the proportion of the fees and expenses of the Audit Firm based on the degree (as determined by the Audit Firm) to which the Audit Firm has accepted the positions of Buyer and Sellers; provided, however, that the engagement agreement(s) referred to in subpart (i) above may require the Parties to be bound jointly and severally to the Audit Firm for those fees and costs and, therefore, in the event Sellers or Buyer pays to the Audit Firm an amount in excess of its proportionate share determined in accordance with clause (vi) above of the fees and costs of the Audit Firm’s engagement, the other Party agrees to reimburse Sellers or Buyer, as the case may be, to the extent required to correct the payments made by the Sellers and Buyer with respect to the fees and costs of the Audit Firm. The written decision of the Audit Firm shall be rendered within no more than sixty (60) days from the date that the matter is referred to such firm and shall be final and binding on the Parties and, in the absence of fraud or manifest error, shall not be subject to dispute or review. Following any such dispute resolution (whether by mutual agreement of the Parties or by written decision of the Audit Firm), the Final Cash Consideration (as determined in such dispute resolution) shall be determined final.

(d) Immediately upon the expiration of the thirty (30) day period for giving the Dispute Notice, if no such notice is given, or upon notification by Sellers to Buyer that no such notice will be given, Buyer’s calculations set forth in the Closing Date Statement shall be final and binding on the Parties and shall not be subject to dispute or review.

(e) If the Final Cash Consideration (as set forth in the Closing Date Statement or as finally determined pursuant to Section 2.2(c) and Section 2.2(d), as the case may be) is less than the Estimated Cash Consideration (the absolute value of such difference between the Final Cash Consideration and the Estimated Cash Consideration the “Shortfall Amount”), Buyer and Sellers shall (i) promptly (but in any event within five (5) Business Days) deliver instructions in accordance with the Escrow Agreement to the Escrow Agent to pay to Buyer the Shortfall Amount from the Escrow Account and (ii) in the event the Shortfall Amount exceeds the amount of funds then remaining in the Escrow Account, Buyer shall be entitled to deduct such difference from (x)

the portion of any Shared Payables that otherwise are or become payable to the Sellers and (y) any East Asia A/R Payment. In the event that the funds available in the Escrow Account are in excess of the Shortfall Amount (such excess, the “Escrow Excess Amount”), Sellers and Buyer shall simultaneously with the delivery of the instructions described in the first sentence of this Section 2.2(e), deliver instructions in accordance with the Escrow Agreement to the Escrow Agent to pay to Sellers the Escrow Excess Amount.

(f) If the Final Cash Consideration (as set forth in the Closing Date Statement or as finally determined pursuant to Section 2.2(c) and Section 2.2(d), as the case may be) is greater than the Estimated Cash Consideration (such difference between the Final Cash Consideration and the Estimated Cash Consideration the “Excess Amount”), Buyer and Sellers shall promptly (but in any event within five (5) Business Days) deliver instructions in accordance with the Escrow Agreement to the Escrow Agent to pay to Seller the funds in the Escrow Account. In the event that the funds available in the Escrow Account are less than the Excess Amount, Buyer shall, within five (5) Business Days of the determination of the Final Cash Consideration, pay to Sellers such deficiency amount by wire transfer of immediately available funds to one (1) or more accounts of Sellers, and in such amounts, designated by Sellers to Buyer.

(g) The Parties agree that any payments made pursuant to Section 2.2 of this Agreement shall be treated for all federal, state and local income tax purposes as an adjustment to the Purchase Price, unless otherwise required by applicable Law.

Section 2.3 Closing. The closing (the “Closing”) of the purchase and sale of the Transferred Assets and the assumption of the Assumed Liabilities (together with the other transactions contemplated by this Agreement, the “Transactions”) shall take place remotely, via electronic exchange of documents, at 10:00 a.m., prevailing Eastern time, (a) on the third (3rd) Business Day following the date on which the last conditions set forth in Section 7.1, Section 7.2, and Section 7.3 (other than those conditions that by their nature are to be satisfied at the Closing but subject to the fulfillment or waiver of those conditions) has been satisfied or waived; or (b) at such other date, time and place as the Parties may mutually agree. The date on which the Closing occurs is called the “Closing Date.”

Section 2.4 Closing Deliveries by Buyer. At the Closing, Buyer shall deliver, or cause to be delivered, to Sellers, the following:

- (a) the payment required to be made to Sellers pursuant to Section 2.1(a)(i);
- (b) the certificate to be delivered pursuant to Section 7.3(c);
- (c) duly executed counterparts to one or more assumption and assignment agreements, substantially in the form of Exhibit B attached hereto (the “Assumption and Assignment Agreement”);
- (d) duly executed counterparts to one or more instruments of assignment substantially in the form of Exhibit C attached hereto with respect to the transfer of the issued, registered and applied-for Transferred Intellectual Property (the “IP Assignment and Assumption Agreement”);

(e) duly executed counterparts to one or more bill of sale agreements, substantially in the form of Exhibit F attached hereto (the “Bill of Sale”);

(f) with respect to the Transactions, all Transfer Tax returns required to be prepared by Sellers and Buyer pursuant to Section 6.4(a), duly executed by Buyer;

(g) a duly executed counterpart to the Second Amended and Restated Limited Liability Company Agreement of Gainline Galaxy Holdings LLC (the “Holdings Second A&R LLC Agreement”);

(h) a duly executed counterpart to the Escrow Agreement; and

(i) such other instruments of assumption and other instruments or documents, including, without limitation, bills of sale and/or assignment and assumption agreements, in form and substance reasonably acceptable to Sellers and Buyer, as may be necessary to effect Buyer’s assumption of the Assumed Liabilities and the Transfer of any Transferred Assets in accordance with the requirements of applicable Law and this Agreement, in each case duly executed by Buyer.

Section 2.5 Closing Deliveries by Sellers. At the Closing, Sellers shall deliver, or cause to be delivered, to Buyer, the following:

(a) the certificate to be delivered pursuant to Section 7.2(c);

(b) an IRS Form W-9 with respect to such Seller that is a United States person within the meaning of Section 7701 of the Code, duly completed and executed;

(c) duly executed counterparts to the Assumption and Assignment Agreements;

(d) duly executed counterparts to the Bills of Sale;

(e) duly executed counterparts to the IP Assignment and Assumption Agreements;

(f) with respect to the Transactions, all Transfer Tax returns required to be prepared by Sellers and Buyer pursuant to Section 6.4(a), duly executed by Sellers;

(g) Lien Release Letters;

(h) a duly executed counterpart to the Holdings Second A&R LLC Agreement;

(i) a duly executed counterpart to the Escrow Agreement; and

(j) such other instruments of assumption and other instruments or documents, including, without limitation, bills of sale and/or assignment and assumption agreements and other documents evidencing or otherwise necessary to give effect to the Transfer of the Transferred Assets and Buyer’s assumption of the Assumed Liabilities and the effective Transfer of the Transferred Assets in accordance with the requirements of applicable Law and this Agreement, in each case duly executed by the applicable Seller.

Section 2.6 Withholding. Buyer shall be entitled to deduct and withhold from amounts payable pursuant to this Agreement any amounts required to be deducted and withheld under the Code or any provision of any U.S. federal, state, local or foreign Tax Law. Any amounts so withheld shall be paid over to the appropriate Governmental Entity. To the extent that amounts are so deducted and withheld, such deducted and withheld amounts shall be treated for all purposes of this Agreement as having been paid to Sellers. The Parties shall cooperate and use their commercially reasonable efforts to prepare and submit all necessary filings in connection with obtaining any available exemption from such withholding requirement.

ARTICLE III

REPRESENTATIONS AND WARRANTIES OF SELLERS

Except as set forth in the corresponding numbered section or subsection of a Schedule (it being agreed that (i) for the purposes of the representations and warranties made by Sellers in this Agreement, disclosure of any item in any Schedule shall be deemed disclosure with respect to any other section or sub-section of the Agreement to which the relevance of such item is reasonably apparent on its face and (ii) the information and the dollar thresholds set forth herein shall not be used as a basis for interpreting the terms “material” or “Material Adverse Effect” or other similar terms in this Agreement), Sellers, jointly and severally, represent and warrant to Buyer as follows:

Section 3.1 Organization; Good Standing; Qualification and Power. Each Seller is duly organized, validly existing and in good standing under the Laws of the State of its organization, has all requisite power and authority to own, lease and operate its assets and to carry on its business as presently being conducted and as contemplated to be conducted, and is qualified to do business and in good standing in every jurisdiction in which the operation of the business of such Seller requires such company to be so qualified, except for any failure to be in good standing as would not, individually or in the aggregate, have a Material Adverse Effect.

Section 3.2 Authorization. Subject to the issuance of the Bid Procedures Order and the Sale Order and any other Order necessary to consummate the transactions contemplated by this Agreement and the other Transaction Documents:

- (a) each Seller has the requisite power and authority to enter into this Agreement and the other Transaction Documents to which it is a party and to consummate the Transactions;
- (b) the execution and delivery of this Agreement and the other Transaction Documents to which such Seller is a party and the consummation of the Transactions by such Seller has been, or prior to the Closing will be, duly authorized by all necessary action on the part of such Seller; and
- (c) this Agreement and the other Transaction Documents to which such Seller is a party have each been, or will be at the Closing, duly executed and delivered by such Seller and, assuming this Agreement and the other Transaction Documents to which it is a party constitute the valid and binding obligation of Buyer, will constitute the valid and binding obligation of such Seller, enforceable against such Seller in accordance with their respective terms except as limited by (a) applicable bankruptcy, insolvency, reorganization, moratorium, fraudulent conveyance or

preferential transfer and other Laws of general applicability affecting enforcement of creditors' rights generally and (b) Laws relating to the availability of specific performance, injunctive relief or other equitable remedies.

Section 3.3 Non-contravention. Except as set forth in Schedule 3.3 and except as would not, individually or in the aggregate, have a Material Adverse Effect, the execution, delivery and performance of this Agreement and the other Transaction Documents to which it is a party by each Seller, and the consummation of the Transactions, and compliance with the provisions hereof and thereof do not and will not (a) violate any Law to which such Seller or any of its assets is subject, (b) violate any provision of the Organizational Documents of such Seller, (c) violate, conflict with, result in a breach of, constitute (with due notice or lapse of time or both) a default under, result in the acceleration of, create in any Person the right to accelerate, terminate, modify or cancel, require any notice under, or otherwise give rise to any Liability under, any Contract that is a Transferred Asset, or (d) result in the creation or imposition of any Lien upon any of the Transferred Assets.

Section 3.4 Consents and Approvals. Schedule 3.4 sets forth a true, correct and complete list of each consent, waiver, authorization or approval of any Governmental Entity or regulatory authority, domestic or foreign, or any other Person, firm or corporation, and each declaration to or filing or registration with any such Governmental Entity or regulatory authority, that is required of or to be made by each Seller in connection with the execution and delivery of this Agreement or the other Transaction Documents or the performance by such Seller of its obligations hereunder and thereunder, except for such consents, waivers, authorizations or approvals, the failure of which to be received or made as would not, individually or in the aggregate, have a Material Adverse Effect.

Section 3.5 RESERVED.

Section 3.6 Litigation. Except as set forth on Schedule 3.6 or as would have a Material Adverse Effect, there is no Action pending or, to the Knowledge of Sellers, threatened by or against, or affecting the Transferred Assets, the Business or any Seller with respect to the Business or to the Knowledge of the Sellers, against any officer, director, shareholder, employee or agent of any Seller in their capacity as such or relating to their employment services or relationship with the Business, and none of the Business or any Seller with respect to the Business is bound by any Order affecting the Transferred Assets. None of the Business or any Seller with respect to the Business has any Action pending against any Governmental Entity or other Person affecting the Transferred Assets. None of the Business or any Seller with respect to the Business has been engaged in a dispute with any customer which, either individually or in the aggregate, has adversely affected or would be reasonably likely to materially adversely affect the Business. To the Knowledge of Sellers, there is no basis for any Person to assert a claim against any Seller based upon such Seller entering into this Agreement, the other Transaction Documents or the consummation of the Transactions.

Section 3.7 Real Property. The Sellers do not own, and have never owned, any real property Related to the Business.

Section 3.8 Material Contracts.

(a) Other than this Agreement and the other Transaction Documents, Schedule 3.8(a) sets forth a true and correct list of the following Contracts as of the date hereof that are Related to the Business (together, the “Material Contracts”):

(i) Contract that provides for a payment or benefit, or accelerated vesting, upon the execution of this Agreement or the Closing or in connection with any of the transactions contemplated by the Transaction Documents;

(ii) Contract relating to Indebtedness or to the mortgaging, pledging or otherwise placing a Lien on any asset or group of assets of the Business;

(iii) Contract involving the sale of the accounts receivable Related to the Business to any other Person;

(iv) guarantee of any obligation for borrowed money or otherwise that is Related to the Business;

(v) Contract (other than license agreements) under which any of the Sellers is the lessor of or permits any third Person to hold or operate any personal property that is a Transferred Asset;

(vi) Contract under which any Seller is licensed by any third Person to use Intellectual Property, with the exception of (1) shrink-wrap, click-wrap, or similar nonexclusive licenses to generally commercially available off-the-shelf software granted to Sellers and (2) open source licenses;

(vii) Contract under which any Seller licenses to any third Person the right to practice or use, or a covenant not to sue under, any material Transferred Intellectual Property;

(viii) Contract that limits or purports to limit the ability of the Business or a Seller to (1) solicit or hire any Person, (2) acquire any product or other asset or any service from any other Person, (3) develop, sell, supply, distribute, offer support to or service any product or any technology or other asset to or for any other Person, (4) charge certain prices pursuant to a “most-favored nation” or similar clause or (5) compete in any line of business, with any Person, in any geographic area or during any period of time;

(ix) Contract with any Affiliate of the Sellers;

(x) Contract or group of related Contracts with any Person which gives rise to payments in excess of \$500,000 in any 12-month period;

(xi) Contract involving (1) the Business sharing its profits, losses, costs or liabilities with any other Person or (2) a vendor’s sharing of its profits, losses, costs or liabilities with the Business;

(xii) Contract with Governmental Entities; or

(xiii) Contract related to joint ventures, partnerships, relationships for joint marketing (other than co-marketed items) or joint development with another Person.

(b) Except as set forth on Schedule 3.8(b), each Material Contract (a) is valid, binding and enforceable against Sellers and, to the Knowledge of Sellers, against each other party thereto, in accordance with its terms, except that such enforcement may be limited by bankruptcy, insolvency, reorganization, moratorium or other similar laws now or hereafter in effect relating to creditors' rights and general principles of equity, and (b) is in full force and effect and Sellers, as applicable, have performed all material obligations, including, but not limited to, the timely making of any payments, required to be performed by them under, and are not in material default or breach of in respect of, any Material Contract, and no event has occurred which, with due notice or lapse of time or both, would constitute such a material default. Except as set forth on Schedule 3.8(b), the ability of Sellers to perform all obligations required to be performed by them under the Material Contracts has not been materially limited or adversely affected by or as a result of COVID-19 or any COVID-19-related Laws, Orders, guidance or directives. Except as set forth on Schedule 3.8(b), to the Knowledge of Sellers, each other party to each Material Contract has performed all material obligations required to be performed by it under, including, but not limited to, the timely making of any payments, and is not in material default or breach of in respect of, any Material Contract, and no event has occurred which, with due notice or lapse of time or both, would constitute such a material default. There has been made available to Buyer a true, correct and complete copy of each of the Material Contracts listed on Schedule 3.8(a), together with all amendments, waivers or other changes thereto.

Section 3.9 Compliance with Laws; Permits.

(a) In each case to the extent Related to the Business, each of the Sellers and the Business has not been in, is not in, and does not have Liability in respect of any, material violation of, and no event has occurred or circumstance exists that (with or without notice or lapse of time) would constitute or result in a material violation by such Seller or the Business, as applicable, of, or failure on the part of such Seller or the Business, as applicable, to comply with, in all material respects, or any Liability suffered or incurred by such Seller or the Business, as applicable, in respect of any material violation of or noncompliance with, any Laws that are or were applicable to such Seller or the Business, as applicable, or the conduct or operation of the Business or the ownership or use of any of their respective assets, and no Action is pending, or to the Knowledge of the Sellers, threatened, alleging any such violation or noncompliance.

(b) To the Knowledge of Sellers, each Seller and the Business have all material Permits necessary for the conduct of the Business as presently conducted and as contemplated to be conducted and (i) each such Permit is in full force and effect, (ii) such Seller and the Business are in material compliance with the terms, provisions and conditions thereof, (iii) there are no material outstanding violations, notices of noncompliance, Orders or Actions adversely affecting any such Permits, and (iv) no condition (including, without limitation, the execution of this Agreement and the consummation of the Transactions) exists and no event has occurred which (whether with or without notice, lapse of time or the occurrence of any other event) would reasonably be expected to result in the suspension or revocation of such Permits other than by expiration of the term set

forth therein. Schedule 3.9(b) sets forth a list of all the material Permits necessary for the conduct of the Business, and the Sellers have furnished to Buyer true, correct and complete copies of all such Permits.

(c) To the Knowledge of Sellers, none of the Business, Sellers with respect to the Business or to the Knowledge of Sellers, any of the Representatives of Sellers with respect to the Business, has, directly or indirectly, made, offered, promised or authorized, or caused to be made offered, promised or authorized any payment, contribution, gift or favor of anything of value, including but not limited to money, property or services, whether or not in contravention of the U.S. Foreign Corrupt Practices Act, as amended from time to time (the “FCPA”), or any similar other applicable law prohibiting public or commercial bribery or corruption (collectively, including the FCPA, the “Legislation”), (i) as a kickback, gratuity, or bribe to any person, including, but not limited to, any foreign official as defined in the FCPA, or (ii) to any political organization, or the holder of or any aspirant to any elective or appointive public office except for personal political contributions not involving the direct or indirect use of funds of the Business. None of the Business, the Sellers with respect to the Business or to the Knowledge of the Sellers, any of the Representatives of the Business or the Sellers with respect to the Business, (i) is under investigation for any potential violation of the Legislation, (ii) has received any notice or other communication (in writing or otherwise) from any Governmental Entity regarding any actual, alleged, or potential violation of, or failure to comply with, any Legislation, (iii) is aware of or has any reason to believe that there has been any violation or potential violation of the Legislation by any of the Business, the Sellers with respect to the Business, any Representatives of the Business or the Sellers with respect to the Business, or any other business entity or enterprise with which the Business is or has been engaged, affiliated or associated, or (iv) has committed any act that would constitute a violation of the Legislation irrespective of whether the Legislation applies as a jurisdictional matter. None of the Business or the Sellers with respect to the Business, any of their respective officers, directors, employees, or other Representatives or any direct, indirect, or beneficial owners of the foregoing, is or has been a foreign official as defined under the FCPA (including any employee of a state-owned or state-controlled entity, business, or corporation).

(d) To the Knowledge of Sellers, none of the Sellers with respect to the Business, or any Related Person of the Sellers with respect to the Business is (i) a person listed in any Sanctions-related list of designated persons maintained by OFAC or the U.S. Department of State, (ii) a person operating, organized or resident in a country or region which is itself the subject or target of any Sanctions (“Sanctioned Country”), or (iii) any person owned or controlled by any person or persons specified in (i) or (ii) above or otherwise the target of Sanctions (together “Sanctioned Persons”). Each of the Business, the Sellers with respect to the Business and any Related Person of the Sellers is in compliance with applicable Sanctions in all material respects and are not knowingly engaged in any activity that would reasonably be expected to result in the Business, any Seller or any Related Person of Sellers being designated as a Sanctioned Person. None of the Business or Sellers with respect to the Business or any Related Person of Sellers with respect to the Business is engaged directly in any business or transactions with any Sanctioned Person or in any Sanctioned Country, or knowingly engaged in any indirect business or transactions with any Sanctioned Person or in any Sanctioned Country or any in any manner that would result in the violation of Sanctions by any Person.

(e) (i) Each of the Business and Sellers with respect to the Business is in compliance in all material respects with all anti-money laundering laws, rules, regulations and orders of jurisdictions applicable to the Business (collectively, “AML Laws”), including without limitation, the USA PATRIOT Act and (ii) no proceeding involving the Business or the Sellers with respect to the Business, with respect to AML Laws, is currently pending or, to the Knowledge of the Sellers, threatened which in each case would be reasonably expected to result in a material violation of this representation. No Seller is required to be registered with the U.S. Department of the Treasury as a money services business, as such term is defined by federal law or regulation, nor is any Seller required to be registered or licensed as a money services business, money transmitter, or equivalent enterprise under the applicable Law of any other jurisdiction.

Section 3.10 Brokers and Finders. There are no claims, and will not be any claims, against Buyer for brokerage commissions or finder’s fees or similar compensation in connection with the Transactions based on any arrangement made by or on behalf of the Sellers or any of their respective Affiliates.

Section 3.11 Material Customers and Suppliers. Except as set forth on Schedule 3.11, there are no pending or threatened disputes between the Business on the one hand, and any material customer or supplier of the Business on the other hand and no such material customer or supplier has provided notice to the Sellers that such material customer or supplier intends to terminate or adversely change its relationship with the Business, in each case that would, individually or in the aggregate, reasonably be expected to be material to the Business, taken as a whole.

Section 3.12 Title to and Sufficiency of Transferred Assets.

(a) Except as set forth on Schedule 3.12(a), and subject to Section 1.6, each Seller has good and valid title to, or in the case of leased assets, has good and valid leasehold interests in, all Transferred Assets, free and clear of all Liens (other than Permitted Encumbrances) and, at the Closing, subject to the terms of the Sale Order, Buyer will be vested with good and valid title to, or in the case of leased assets, good and valid leasehold interests in, such Transferred Assets, free and clear of all Liens (other than Permitted Post-Closing Encumbrances) and Excluded Liabilities, to the fullest extent permissible under Law, including Section 363(f) of the Bankruptcy Code.

(b) Except as set forth on Schedule 3.12(b) and except for back office and administrative support and assets provided by Sellers’ corporate office (including legal services, human resources, finance and accounting, insurance policies, and internal information technology support), the Transferred Assets constitute all of the tangible and intangible assets and properties that are used or held for use by Sellers exclusively in connection with the Business as currently conducted, and are sufficient for Buyer to conduct and operate the Business from and after the Closing Date in substantially the same manner (and without interruption as a result of the Closing) as it was conducted by Sellers since January 1, 2020.

Section 3.13 Intellectual Property.

(a) Sellers own all right, title and interest in and to the Transferred Intellectual Property (other than the Specified Intellectual Property) and the Intellectual Property owned or purported to be owned by the Business (“Seller Intellectual Property”), respectively, free and clear of all

Liens other than Permitted Encumbrances. Schedule 3.13(a) sets forth a true, complete and correct list, as of the date hereof, of all Transferred Intellectual Property that is registered or the subject of an application for registration with a Governmental Entity, including all issued patents, registered Trademarks, copyright registrations, domain names, and all applications therefor. Except as set forth in Schedule 3.13(a), all registered Transferred Intellectual Property and all registered Seller Intellectual Property is valid, subsisting and enforceable, and is not subject to any outstanding order, judgment, decree or agreement adversely affecting Sellers' use thereof or rights thereto. Each of the Sellers, as applicable, have taken commercially reasonable steps to enforce, protect and maintain each item of Transferred Intellectual Property or Seller Intellectual Property.

(b) Sellers' conduct of the Business as currently conducted does not infringe, misappropriate or otherwise violate, and in the three year period prior to the date hereof, has not infringed, misappropriated or otherwise violated the Intellectual Property of any other Person. Except as set forth on Schedule 3.13(b), Sellers have not, in the three year period prior to the date hereof, received any written notice (i) alleging any such infringement, misappropriation or violation by any of Sellers of Intellectual Property owned by any other Person or (ii) challenging or questioning any of the Sellers' right, title or interest in or to any of the Transferred Intellectual Property or Seller Intellectual Property, respectively. To the Knowledge of Sellers, none of the Transferred Intellectual Property or Seller Intellectual Property has been or is being infringed, misappropriated or otherwise violated by any Person.

(c) Except as set forth on Schedule 3.13(c), there is no Action pending before any Governmental Entity concerning the ownership, validity, registrability, enforceability, infringement, misappropriation or violation of any Transferred Intellectual Property or Seller Intellectual Property, excluding ordinary course prosecution or examination, consistent with past practice, before the United States Patent and Trademark Office or other similar applicable Governmental Entities. Except as set forth on Schedule 3.13(c), none of the Transferred Intellectual Property or Seller Intellectual Property is subject to any outstanding injunction, directive, order, decree, award, settlement or judgment restricting the use or validity thereof.

(d) To the Knowledge of Sellers, each of the Sellers (with respect to the Transferred Assets) has, during the past three (3) years, complied in all material respects with (i) all applicable Laws governing the collection, use, security, handling, and sharing of Personal Information, (ii) their respective policies governing the collection, use, security, handling, and sharing of Personal Information, and (iii) provisions of contracts related to the collection, use, security, handling, and sharing of Personal Information.

(e) Sellers have taken commercially reasonable security measures to safeguard and maintain the secrecy and confidentiality of, and their proprietary rights in and to, all material non-public Transferred Intellectual Property and Seller Intellectual Property, and to maintain the security of all Personal Information in the possession of the Sellers.

(f) No employee, officer, director, consultant or advisor of the Sellers (i) has any right, license, and claim or interest whatsoever in or with respect to any Transferred Intellectual Property or Seller Intellectual Property, or (ii) is in violation of any IP Assignment.

(g) Sellers make no representations or warranties in this Section 3.13 or otherwise regarding the Specified Intellectual Property.

Section 3.14 Taxes.

(a) Each Seller has timely filed all material Tax Returns with respect to the Transferred Assets required under applicable Law to be filed with the appropriate Governmental Entities in all jurisdictions in which such Tax Returns are required to be filed (taking into account any extension of time to file). All such Tax Returns are true, correct and complete in all respects, and such Seller has paid all Taxes owed by it with respect to the Transferred Assets (whether or not shown as due on such Tax Returns).

(b) All income and other material Tax Returns of or with respect to each Seller have been filed with the appropriate Governmental Entities in all jurisdictions in which such Tax Returns are required to be filed (taking into account any extension of time to file). All such Tax Returns are true, correct and complete in all respects, and each Seller has paid all Taxes owed by it (whether or not shown as due on such Tax Returns).

(c) No audit or other proceeding with respect to any income or other material Taxes or income or other material Tax Returns with respect to the Transferred Assets or any Seller is currently in progress, or has been proposed or threatened in writing.

(d) No Seller has received written notice of any outstanding, proposed or assessed Tax deficiency that has not been paid, accrued for or been contested in good faith and in accordance with applicable Law (with appropriate reserves taken in accordance with applicable accounting standards), nor has any Seller executed any waiver of any statute of limitations in respect of material Taxes nor agreed to any extension of time with respect to a Tax assessment, collection or deficiency.

(e) There are no liens for Taxes upon any of the Transferred Assets or any assets of a Seller.

(f) There are not any outstanding ruling requests, and no rulings have been received, by any Seller relating to Taxes with respect to the Transferred Assets.

(g) No claim has been made by a Governmental Entity in a jurisdiction where a Seller has not filed a Tax Return with respect to the Transferred Assets, that such Seller is or may be subject to Tax by such jurisdiction with respect to the Transferred Assets (as applicable), nor to Sellers' Knowledge is any such assertion threatened.

(h) Each Seller with respect to the Business and Transferred Assets has collected all sales and use Taxes required to be collected and has remitted or will remit on a timely basis such amounts to the appropriate Governmental Entity, or has been furnished properly completed exemption certificates.

(i) Each Seller has, to the extent related to the Transferred Assets or the Business, withheld and paid all Taxes required to be withheld with respect to amounts paid or owing to any employee, creditor, independent contractor or other third party.

(j) None of the Transferred Assets constitutes a United States real property interest pursuant to Section 897 of the Code (including any below-market leases) such that the withholding pursuant to Section 1445 of the Code is required in connection with this Agreement.

Section 3.15 Absence of Certain Developments. Since December 31, 2020 to and including the date of this Agreement, except as expressly contemplated by this Agreement, the Transaction Documents, or as set forth on Schedule 3.15, (a) the Business has been operated in all material respects in the Ordinary Course, (b) there has not been a Material Adverse Effect and (c) Sellers have not taken any action that, if it had been taken after the date of this Agreement, would require the consent of Buyer under Section 6.2(b)(i), (iv), (viii), or (xii).

Section 3.16 Data Privacy and Security.

(a) The Business and Sellers (to the extent Related to the Business) comply with, and have for the three (3) years prior to the date hereof complied with, in all material respects, all Data Protection Laws, internal or publicly posted policies, procedures, agreements, and notices, and in connection with the collection, access, processing, use, storage, disclosure, transmission, or transfer (including cross-border transfer) of Personal Information, the requirements of any Material Contract and/or applicable industry standards, including the Payment Card Industry Data Security Standard (collectively the “Data Protection Requirements”). None of the Sellers has used, disclosed, transferred, or otherwise processed any Personal Information that is Related to the Business in any manner that violates any Data Protection Requirement.

(b) In each case to the extent Related to the Business, none of the Sellers has received any subpoenas, demands, or other notices from any Governmental Entity investigating, inquiring into, or otherwise relating to any actual or potential violation of any Data Protection Law and, to the Knowledge of the Sellers, none of the Sellers is under investigation by any Governmental Entity for any actual or potential violation of any Data Protection Law.

(c) No notice, complaint, claim, enforcement action, or litigation of any kind that is Related to the Business has been served on, or initiated against the Sellers or the Business under any applicable Data Protection Requirement.

(d) The Sellers have established and maintain physical, technical, and administrative security measures and policies, compliant with applicable Data Protection Requirements, that (i) protect the operation, confidentiality, availability, integrity, and security of the Sellers’ and the Business’s software, systems, and websites that are involved in the collection and processing of Personal Information and/or business data for the Business, and (ii) identify internal and organizational risks to the confidentiality, integrity, security, and availability of Personal Information of the Business and/or business data and data systems of the Business.

(e) To the Knowledge of Sellers, none of the Business or the Sellers has experienced any security breaches or incidents, unauthorized access, use, modification, or disclosure, or other adverse events or incidents related to Personal Information of the Business and/or business data and data systems of the Business that would require notification of individuals, other affected parties, law enforcement, or any Governmental Entity.

(f) Each Seller with respect to the Business has made all required registrations and notifications in accordance with all applicable Data Protection Requirements, and all such registrations and notifications are current, complete, and accurate in all respects.

(g) The execution, delivery, and performance of this Agreement shall not cause, constitute, or result in a breach or violation of any Data Protection Requirement or other standard terms of service entered into by the users of the Business's service(s).

Section 3.17 No Other Representations or Warranties.

(a) Except for the representations and warranties contained in the Transaction Documents, no Seller or any other Person makes any other express or implied representation or warranty with respect to Sellers, the Business, the Transferred Assets, the Assumed Liabilities or the Transactions and Sellers disclaim any other representations or warranties, whether made by Sellers, any Affiliate of Sellers or any of Sellers' or their respective Affiliates' respective Representatives. Except for the representations and warranties contained in the Transaction Documents, Sellers (i) expressly disclaim and negate any representation or warranty, expressed or implied, at common law, by statute or otherwise, relating to the condition of the Transferred Assets (including any express or implied warranty of merchantability or fitness for a particular purpose) and (ii) disclaim all liability and responsibility for any representation, warranty, projection, forecast, statement or information made, communicated or furnished (orally or in writing) to Buyer or its Affiliates or Representatives (including any opinion, information, projection or advice that may have been or may be provided to Buyer by any Representative of Sellers or any of their respective Affiliates). Sellers make no representations or warranties to Buyer regarding the probable success or profitability of the Business or the Transferred Assets. Notwithstanding anything to the contrary herein, the foregoing shall not limit, in any way, the specific representations and warranties made by Sellers in the Transaction Documents and nothing in this Agreement shall be deemed to be a waiver of any claim for Fraud.

(b) Sellers acknowledge and agree that, except for the representations and warranties expressly set forth in this Agreement and the other Transaction Documents, neither Buyer nor any other Person has made any express or implied representation or warranty with respect to the Transactions or with respect to the accuracy or completeness of any other information provided, or made available, to Sellers in connection with the Transactions and none of the Sellers have relied on any representation or warranty other than those expressly set forth in Article IV.

ARTICLE IV

REPRESENTATIONS AND WARRANTIES OF BUYER

Buyer hereby represents and warrants to Sellers as follows:

Section 4.1 Organization, Good Standing. Buyer is duly organized, validly existing and in good standing under the Laws of the State of Delaware, has all requisite limited liability company power to own, lease and operate its assets and to carry on its business as presently being conducted and as contemplated to be conducted, and is qualified to do business and in good standing in every jurisdiction in which the operation of the business of Buyer requires it to be so qualified.

Section 4.2 Authorization. Buyer has the requisite limited liability company power and authority to enter into this Agreement and the other Transaction Documents to which it is a party and to consummate the Transactions. The execution and delivery of this Agreement and the other Transaction Documents to which it is a party and the consummation of the Transactions by Buyer have been duly authorized by all necessary limited liability company action on the part of Buyer. This Agreement and the other Transaction Documents to which it is a party have been duly executed and delivered by Buyer and, assuming this Agreement and the other Transaction Documents constitute the valid and binding obligation of each of the other parties hereto and thereto, constitute the valid and binding obligation of Buyer, enforceable against Buyer in accordance with its terms except as limited by (a) applicable bankruptcy, insolvency, reorganization, moratorium and other Laws of general applicability affecting enforcement of creditors' rights generally and (b) Laws relating to the availability of specific performance, injunctive relief or other equitable remedies.

Section 4.3 Non-contravention. The execution, delivery and performance of this Agreement and the other Transaction Documents to which it is a party by Buyer and the consummation of the Transactions do not and will not (a) violate any Law to which Buyer or any of its Affiliates or any of Buyer's assets are subject, (b) violate any provision of the Organizational Documents of Buyer or any Affiliate of Buyer, or (c) violate, conflict with, result in a breach of, constitute (with due notice or lapse of time or both) a default under, result in the acceleration of, create in any Person the right to accelerate, terminate, modify or cancel, require any notice under, or otherwise give rise to any Liability under, any material Contract, lease, loan agreement, mortgage, security agreement, trust indenture or other material agreement or instrument to which Buyer or any of its Affiliates is a party or by which any of them is bound or to which any of the respective properties or assets of Buyer is subject; except as would not, individually or in the aggregate, reasonably be expected to have a Buyer Material Adverse Effect.

Section 4.4 Financing.

(a) Buyer has delivered true, correct and complete copies of (i) the executed debt commitment letter, dated as of the date hereof, together with true, correct and complete copies of any related executed fee letters (provided that, solely with respect to any such fee letters, the fee amounts and other economic terms (none of which would affect the availability or amount of, impose additional or new conditions on (or expand or modify any existing conditions), affect the enforceability or termination of, impair the validity of, or prevent or delay the consummation of the Debt Financing at the Closing) may be redacted in a customary manner from such true, correct and complete copies) (collectively, including all exhibits, schedules, amendments, supplements, modifications and annexes thereto, the "Debt Commitment Letter"), pursuant to which the Persons (other than Buyer) party to the Debt Commitment Letter (such parties, the "Debt Financing Sources") have agreed, subject to (and only to) the terms and conditions expressly set forth therein and assuming the accuracy of the representations and warranties herein, to provide debt financing and (ii) the executed subscription agreements for equity investments in Buyer, dated as of the date hereof, from the Equity Financing Sources party thereto (the "Equity Commitment Letters" and, together with the Debt Commitment Letter, the "Commitment Letters"), pursuant to which the Persons (other than Buyer) party to the Equity Commitment Letters (such parties, the "Equity Financing Sources" and, together with the Debt Financing Sources, the "Financing Sources") have agreed, subject to (and only to) the terms and conditions expressly set forth therein and assuming the accuracy of the representations and warranties herein, to provide equity financing in an amount

equal to \$146,027,243 in the aggregate, in each case in the amounts set forth therein for, among other things, the purposes of financing the Transactions on the date on which the Closing should occur (such debt financing, the “Debt Financing” and together with the equity financing, the “Financing”).

(b) Each Commitment Letter is in full force and effect and has not been withdrawn, terminated, rescinded, amended, supplemented or otherwise modified in a manner which, when taken as a whole, is materially adverse to Sellers, and the respective commitments contained in each Commitment Letter have not been withdrawn, terminated or rescinded, in each case, in any respect, and no such withdrawal, termination or rescission is contemplated by Buyer or, to Buyer’s Knowledge, any other party thereto. Buyer has fully paid or caused to be fully paid any and all commitment fees or other fees in connection with and required by the Commitment Letters that are due and payable by it or its Affiliates on or prior to the date hereof. The Commitment Letters have been duly executed by Buyer and, to Buyer’s Knowledge, the Financing Sources, and each Commitment Letter is a valid, binding and enforceable obligation of Buyer and, to Buyer’s Knowledge, the Financing Sources, to provide the Financing subject only to the satisfaction or waiver of the conditions specified in such Commitment Letter except that (i) such enforcement may be subject to applicable bankruptcy, insolvency, reorganization, moratorium or other similar Laws, now or hereafter in effect, affecting creditors’ rights and remedies generally and (ii) the remedies of specific performance and injunctive and other forms of equitable relief may be subject to equitable defenses and to the discretion of the court before which any proceeding therefor may be brought.

(c) Assuming the accuracy of Sellers’ representations and warranties set forth in Article III, as of the date of this Agreement, no event has occurred that (with or without notice or lapse of time, or both) would constitute a material breach or material default under the Commitment Letters on the part of Buyer, or to Buyer’s Knowledge, any other parties thereto. As of the date hereof, Buyer is not aware of any fact or occurrence that makes any of the representations or warranties of Buyer in either Commitment Letter inaccurate in any material respect. As of the date hereof, Buyer has not incurred, and is not contemplating or aware of, any obligation, commitment, restriction or other liability of any kind, in each case, that would impair or adversely affect the Financing, other than those set forth in the Commitment Letters. As of the date hereof, there are no conditions precedent related to the initial funding of the Commitment Letters at the Closing, other than as set forth in the Commitment Letters. As of the date of this Agreement, assuming (i) the accuracy of Sellers’ representations and warranties set forth in Article III and (ii) the performance by Sellers of their obligations hereunder in all material respects, Buyer has no reason to believe that it will be unable to satisfy on a timely basis any term or condition to be satisfied by it and contained in the Commitment Letters.

(d) At the Closing, assuming satisfaction or waiver of the conditions to Buyer’s obligation to consummate the Closing as set forth in Section 7.1 and Section 7.2, the net proceeds from the Debt Financing, together with the available cash of Buyer, will be sufficient for Buyer to pay the Cash Consideration and to pay all related fees and expenses of Buyer required to be paid at the Closing.

Section 4.5 Brokers and Finders. There are no claims, and will not be any claims, against Sellers for brokerage commissions or finder's fees or similar compensation in connection with the Transactions based on any arrangement made by or on behalf of Buyer.

Section 4.6 No Other Representations or Warranties.

(a) Except for the representations and warranties contained in the Transaction Documents, neither Buyer nor any other Person makes any other express or implied representation or warranty with respect to the Transactions, and Buyer disclaims any other representations or warranties, whether made by Buyer, any Affiliate of Buyer or any of Buyer's or its Affiliates' respective Representatives.

(b) Buyer acknowledges and agrees that, except for the representations and warranties expressly set forth in this Agreement and the other Transaction Documents, no Seller nor any other Person has made any express or implied representation or warranty with respect to the Transactions or with respect to the accuracy or completeness of any other information provided, or made available, to Buyer in connection with the Transactions.

(c) BUYER HAS CONDUCTED ITS OWN INDEPENDENT REVIEW AND ANALYSIS OF SELLERS AND THE BUSINESS, INCLUDING THE OPERATIONS, ASSETS, LIABILITIES, RESULTS OF OPERATIONS, FINANCIAL CONDITION, SOFTWARE, TECHNOLOGY AND PROSPECTS OF SELLERS AND THE BUSINESS, AND ACKNOWLEDGES THAT IT HAS BEEN PROVIDED ACCESS TO THE PERSONNEL, PROPERTIES, PREMISES AND RECORDS OF SELLERS FOR SUCH PURPOSE. IN ENTERING INTO THIS AGREEMENT, BUYER HAS RELIED SOLELY UPON ITS OWN INVESTIGATION AND ANALYSIS, AND SELLERS' REPRESENTATIONS AND WARRANTIES SET FORTH IN ARTICLE III. BUYER ACKNOWLEDGES THAT, SHOULD THE CLOSING OCCUR, BUYER SHALL ACQUIRE THE TRANSFERRED ASSETS, THE ASSUMED LIABILITIES AND THE BUSINESS WITHOUT ANY WARRANTY AS TO MERCHANTABILITY OR FITNESS THEREOF FOR ANY PARTICULAR PURPOSE, IN AN "AS IS" CONDITION AND ON A "WHERE IS" BASIS.

ARTICLE V

BANKRUPTCY MATTERS

Section 5.1 Bankruptcy Court Filings.

(a) Within one Business Day of the Petition Date, Sellers shall file with the Bankruptcy Court a motion (the "Bid Procedures Motion") in form and substance reasonably satisfactory to Buyer and Sellers seeking:

(i) entry of the Bid Procedures Order, *inter alia*, (A) establishing the Bid Procedures, (B) approving the payment of the Bid Protections, and (C) providing that the Bid Protections shall (1) constitute superpriority administrative expenses of the Debtors and (2) be part of the Carve-Out; and

(ii) entry of the Sale Order, authorizing and approving, *inter alia*, the sale of the Transferred Assets to Buyer on the terms and conditions set forth herein, free and clear of all Liens (other than Permitted Post-Closing Encumbrances) and Liabilities (other than Assumed Liabilities), and the assumption and assignment of the Closing Assumed Contracts and Additional Assumed Contracts to Buyer.

(b) Sellers shall use their respective commercially reasonable efforts to have (i) the Bankruptcy Court enter the Bid Procedures Order as promptly as practicable after the filing of the Bid Procedures Motion and (ii) the Bankruptcy Court enter the Sale Order as promptly as practicable after the completion of the Auction, in each case, prior to the deadlines set forth in Section 8.1(d)(ii), and become Final Orders. Sellers and Buyer shall cooperate in good faith to obtain the Bankruptcy Court's entry of the Bid Procedures Order, the Sale Order, and any other Order reasonably necessary in connection with the transactions contemplated by this Agreement, including furnishing affidavits, nonconfidential financial information, or other documents or information for filing with the Bankruptcy Court and making such advisors of Sellers and Buyer and their respective Affiliates available to testify before the Bankruptcy Court for the purposes of obtaining entry of such orders, including, among other things, providing adequate assurances of performance by Buyer as required under Section 365 of the Bankruptcy Code, and demonstrating that Buyer is a "good faith" purchaser under Section 363(m) of the Bankruptcy Code. Sellers and Buyer agree that they will each promptly take such actions as are reasonably requested by the other Party to assist in obtaining entry of the Bid Procedures Order, the Sale Order, and any other Order reasonably necessary, consistent with the above.

(c) Sellers shall consult with Buyer regarding any pleadings or other submissions that they intend to file with the Bankruptcy Court in connection with, or which might reasonably affect the Bankruptcy Court's approval of, the Bid Procedures Order or Sale Order, including sharing in advance any drafts thereof in sufficient time for Buyer's and its Representatives reasonable review and comment, which Sellers shall consider in good faith. No Seller shall seek any modification to the Bid Procedures Order or the Sale Order by the Bankruptcy Court or any other Governmental Entity of competent jurisdiction to which a decision relating to the Bankruptcy Proceeding has been appealed, in each case, without the prior written consent of Buyer in its sole discretion; provided, however, that the forgoing shall only apply to modifications that are adverse as to the Buyer or may result in the delay of Bankruptcy Court approval, or consummation, of this Agreement.

(d) If the Bid Procedures Order, Sale Order, or any other orders of the Bankruptcy Court relating to this Agreement or the Transactions are appealed by any Person (or if any petition for certiorari or motion for reconsideration, amendment, clarification, modification, vacation, stay, rehearing or reargument shall be filed with respect to the Bid Procedures Order and the Sale Order, or other such order), subject to rights otherwise arising from this Agreement, Sellers shall use their commercially reasonable efforts to prosecute such appeal, petition or motion and obtain an expedited resolution of any such appeal, petition or motion in favor of the Sellers.

(e) The Debtors and Buyer acknowledge that this Agreement, their obligations hereunder and the Transactions are subject to (i) entry of, as applicable, the Bid Procedures Order and the Sale Order and (ii) as permitted by this Agreement and the Bid Procedures Order, the consideration by Sellers of higher or otherwise better competing bids (whether through any and all

types of consideration, including, without limitation, cash and assumed liabilities or credit bid) in respect of a sale, reorganization, or other disposition of the Sellers, the Business or the Transferred Assets. In the event of any discrepancy between this Agreement and the Bid Procedures Order and the Sale Order, the Bid Procedures Order and the Sale Order (as applicable) shall govern.

Section 5.2 Alternative Transaction.

(a) During the period from the date of this Agreement through entry of the Bid Procedures Order, Sellers shall not pursue an Alternative Transaction; provided, however, that Sellers may, in response to any third party that has made (and not withdrawn) an unsolicited Proposal in writing after the date of this Agreement that Sequential's board of directors determines in good faith after consultation with outside legal counsel and Sequential's financial advisor constitutes or is reasonably likely to result in a Superior Proposal: (i) participate in discussions or negotiations with such third party with respect to an Alternative Transaction and (ii) furnish to such third party non-public information relating to the Business pursuant to an executed confidentiality agreement that constitutes an Acceptable Confidentiality Agreement; provided further, however, for the avoidance of doubt, in no event shall the Sellers enter into a definitive agreement with respect to, or consummate, an Alternative Transaction prior to the entry of the Bid Procedures Order. Upon entry of the Bid Procedures Order, Sellers shall only pursue an Alternative Transaction in accordance with the terms of the Bid Procedures. If Buyer is chosen as the Successful Bidder at the Auction, Sellers shall not take any steps in furtherance of an Alternative Transaction at any time after the Auction other than with respect to any Backup Bid, pursuant to the terms of the Bid Procedures.

(b) If, upon completion of the Auction, Sellers have agreed to sell their assets under an Alternative Transaction, Buyer shall have no obligation to serve as a Backup Bidder unless Buyer shall have participated in the Auction and submitted an overbid in respect of any qualified competing bid (such overbid, a "Buyer Backup Bid").

Section 5.3 Bid Protections. Subject to entry of the Bid Procedures Order, Sellers shall make payment of the Seller Termination Fee in accordance with Section 8.3 hereof.

ARTICLE VI

COVENANTS

Section 6.1 Access and Information.

(a) From the date hereof through the Closing Date, subject to Section 6.1(b), Buyer will be entitled, through its Representatives, to have reasonable access to the offices, employees and properties of each of the Sellers Related to the Business for any reasonable purpose related to this Agreement and the transactions contemplated hereby. Any such access will be conducted upon reasonable advance notice and under reasonable circumstances and will be subject to restrictions under COVID-19 Measures and applicable Law. Sellers will direct and use their commercially reasonable efforts to cause their Representatives to cooperate with Buyer and Buyer's Representatives in connection with such access, and Buyer and its Representatives will cooperate with Sellers and its Representatives; provided that (i) any such access shall be conducted, at

Buyer's expense, in accordance with binding Contracts, applicable Law (including applicable privacy and competition laws), during normal business hours, under the supervision of Sellers' personnel, and in such a manner as to not unreasonably interfere with the normal operations of the Business or of Sellers and their respective Affiliates and (ii) the foregoing shall not require Sellers to disclose information or materials (1) protected by attorney-client, attorney work product or other legally recognized privileges or immunity from disclosure, (2) the disclosure of which would violate any binding Contracts, applicable Laws or fiduciary duties, or (3) pertinent to any litigation in which Sellers or any of their Affiliates, on the one hand, and Buyer or any of its Affiliates, on the other hand, are engaged (provided that, at Buyer's reasonable request, the Parties shall take commercially reasonable efforts to implement appropriate and mutually agreeable measures to permit the disclosure of such information in a manner to remove the basis for the non-disclosure to the greatest extent reasonably possible, including by arrangement of appropriate clean room procedures, redaction of text from documents or entry into a customary joint defense agreement with respect to any information to be so provided).

(b) All information received pursuant to this Section 6.1 shall be governed by the terms of the Confidentiality Agreement.

(c) For a period not to exceed five (5) years following the Closing, Buyer shall provide to Sellers and their Affiliates and Representatives (at Sellers' expense) reasonable access to, including the right to make copies of, all books and records included in the Transferred Assets and Assumed Liabilities relating to periods prior to the Closing to the extent necessary to permit Sellers to prepare financial reports, Tax returns, any Tax audits, or the defense or prosecution of any Action; provided that (i) any such access shall be conducted in accordance with binding Contracts and applicable Law (including applicable privacy and competition laws), during normal business hours, under the supervision of Sellers' personnel, and in such a manner as to not unreasonably interfere with the normal operations of the Business or of Buyer and its Affiliates and (ii) the foregoing shall not require Buyer to disclose information or materials (1) protected by attorney-client, attorney work product or other legally recognized privileges or immunity from disclosure, (2) the disclosure of which would violate any binding Contracts, applicable Laws or fiduciary duties, or (3) pertinent to any litigation in which Sellers or any of their Affiliates, on the one hand, and Buyer or any of its Affiliates, on the other hand, are engaged. Any such access will also be conducted upon reasonable advance notice and under reasonable circumstances and will be subject to restrictions under COVID-19 Measures and applicable Law. Notwithstanding anything herein to the contrary, Buyer may destroy any such books and records, provided that Buyer shall notify Sellers in writing at least 30 days in advance of destroying any such books and records prior to the five-year anniversary of the Closing Date in order to provide Sellers the opportunity to copy such books and records in accordance with this Section 6.1(c). Notwithstanding anything herein to the contrary, Buyer acknowledges that Sellers have the right to retain originals or copies of all books and records and other materials included in or related to the Transferred Assets or Assumed Liabilities.

Section 6.2 Interim Operations of the Business.

(a) Except (i) as required by applicable Law (including COVID-19 Measures and as may be ordered by the Bankruptcy Court), which order is not inconsistent with this Agreement, (ii) as otherwise expressly required by this Agreement or another Transaction Document, (iii) with

the prior written consent of Buyer, not to be unreasonably withheld, conditioned, or delayed or as taken or caused by Buyer on behalf of Sellers under the Buyer Consulting Agreement, (iv) as set forth on Schedule 6.2 or (v) to the extent primarily related to any Excluded Assets or Excluded Liabilities (so long as any such action would not reasonably be expected to (1) prevent, materially impair or materially delay the consummation of the Transactions or (2) adversely affect the Business or the Transferred Assets), during the period from the date hereof to and through the Closing Date, Sellers shall (A) subject to the DIP Order, timely approve and pay all marketing expenditures that are reasonably requested by Buyer in accordance with the Budget, (B) use commercially reasonable efforts to conduct the Business in the Ordinary Course and maintain, preserve, and protect in all material respects the Transferred Assets in their current condition, ordinary wear and tear excepted, (C) use commercially reasonable efforts to preserve in all material respects the present business operations, organization and goodwill of the Business, and the present relationships with material customers and material suppliers of the Business, (D) use commercially reasonable efforts to maintain in all material respects their books, accounts and records in the Ordinary Course; and (E) use commercially reasonable efforts to (x) comply in all material respects with all applicable Laws respecting the Business or any Transferred Asset, (y) comply in all material respects with contractual obligations applicable to or binding upon them pursuant to any Closing Assumed Contract or Additional Assumed Contract and (z) maintain in full force and effect all Permits necessary for the conduct of the Business and comply with the terms of each such Permit.

(b) In furtherance of and not in limitation of Section 6.2(a), except (i) as required by applicable Law (including COVID-19 Measures and as may be ordered by the Bankruptcy Court, which order is not inconsistent with this Agreement), (ii) as otherwise expressly contemplated by this Agreement or another Transaction Document, (iii) with the prior written consent of Buyer, not to be unreasonably withheld, conditioned, or delayed or as taken or caused by Buyer on behalf of Sellers under the Buyer Consulting Agreement, (iv) as set forth on Schedule 6.2 or (v) to the extent solely related to any Excluded Assets or Excluded Liabilities (so long as any such action would not reasonably be expected to (1) prevent, materially impair or materially delay the consummation of the Transactions or (2) adversely affect the Business or the Transferred Assets), during the period from the date hereof to and through the Closing Date, Sellers shall not take any of the following actions, in each case only to the extent such action relates to the Business, an Assumed Liability or a Transferred Asset:

(i) sell, lease, Transfer, mortgage, pledge, assign, exclusively license or otherwise dispose of or encumber any of the Transferred Assets (or permit any of such Transferred Assets to become subject to any additional Lien, other than in respect of Permitted Encumbrances), other than dispositions in the Ordinary Course;

(ii) (x) other than in the Ordinary Course, enter into any new Contract that would constitute a Material Contract if entered into prior to the date of this Agreement, or (y) terminate, amend or modify any Material Contract (other than any Excluded Contract or pursuant to Section 1.5(b));

(iii) make or authorize any payment of, or accrual or commitment for, capital expenditures Related to the Business, other than capital expenditures less than \$100,000

individually or \$250,000 in the aggregate, other than expenditures contemplated by the Budget;

(iv) waive, release, assign, settle or compromise any material Action relating to the Business or the Transferred Assets, to the extent that such waiver, release, assignment, settlement or compromise (A) imposes any binding obligation or restriction, whether contingent or realized, on the Business, the Transferred Assets and/or Buyer, or (B) waives or releases any material rights or claims that would constitute Transferred Assets;

(v) with respect to the Business or the Transferred Assets, make or change any Tax election, file any amended Tax Return, enter into any closing agreement, settle any Tax claim or assessment, consent to any extension or waiver of the limitation period applicable to any Tax claim or assessment, or take any other similar action relating to the filing of any Tax Return or the payment of any Tax, in each case solely to the extent binding on Buyer after the Closing;

(vi) assume, reject or assign any Closing Assumed Contract or Additional Assumed Contract other than pursuant to Section 1.5;

(vii) with respect to the Business, change accounting policies or procedures, other than as required by GAAP or applicable Law;

(viii) (A) amend or modify pricing policies or delay or postpone payment of any accounts payable or commissions or any other Liability that is an Assumed Liability, or enter into any agreement or negotiation with any Person to extend the payment date of any accounts payable or commissions or any other Liability that is an Assumed Liability, or (B) accelerate the collection of, or cancel or discount, any accounts receivable Related to the Business;

(ix) grant any refunds, credits, rebates or other allowances to any end user, customer, reseller or distributor to the extent that they are Related to the Business;

(x) acquire (by merger, consolidation, acquisition of stock or assets or otherwise) any corporation, partnership or other business organization or division;

(xi) incur, assume or guarantee any Indebtedness, other than Indebtedness of Sellers that will not constitute an Assumed Liability;

(xii) cancel, surrender, allow to expire or fail to renew any Transferred Permit;

(xiii) propose or adopt a plan of complete or partial liquidation or dissolution, merger, consolidation, restructuring, recapitalization or other reorganization in respect of the Transferred Assets or that would adversely affect their ability to consummate this Agreement;

(xiv) enter into a joint venture, partnership, joint development program or similar transaction;

(xv) abandon, cancel, permit to lapse or enter the public domain any Transferred Intellectual Property; or

(xvi) authorize, or commit or agree to take, any of the foregoing actions.

Section 6.3 Cooperation; Status Updates; Regulatory Filings.

(a) Cooperation. Subject to the terms and conditions set forth in this Agreement, the Parties shall cooperate with each other and use their respective commercially reasonable efforts to: (i) take or cause to be taken all actions reasonably necessary, proper or advisable on their part under this Agreement or applicable Law to Transactions contemplated hereby as promptly as reasonably practicable in accordance with the Bid Procedures; (ii) execute, acknowledge and deliver in proper form any further documents, certificates, agreements and other writings, and take such other action as such other Party may reasonably require, in order to effectively carry out the intent of the Transaction Documents; (iii) make or cause to be made all registrations, filings, notifications, submissions and applications with, to give all notices to and to obtain any consents, governmental transfers, approvals, orders, qualifications and waivers from any Governmental Entity necessary for the consummation of the Transactions; (iv) not to take any action prior to the Closing that would reasonably be expected to prevent, materially impair or materially delay the consummation of the Transactions, except to the extent such action is otherwise expressly required by this Agreement, any other Transaction Document or the Bid Procedures; (v) provide each other Party with cooperation and take such actions as such other Party may reasonably request in connection with the consummation of the Transactions and by the Transaction Documents; and (vi) cause the fulfillment at the earliest practicable date of all of the conditions to their respective obligations to consummate the Transactions.

(b) Status Updates. Each of Sellers and Buyer shall promptly notify the other Party of the occurrence, to such Party's knowledge, of any event or condition, or the existence of any fact or circumstance, that would reasonably be expected to result in any of the conditions set forth in Article VII not being satisfied as of a reasonably foreseeable Closing Date.

(c) Regulatory Filings.

(i) Sellers and Buyer shall prepare and file as promptly as practicable all documentation to effect all necessary notices, reports and other filings and to obtain as promptly as practicable all consents, clearances, registrations, approvals, permits and authorizations necessary or advisable to be obtained from any Governmental Entity in order to consummate the Transactions, including, (A) all filings pursuant to the HSR Act within ten (10) Business Days after the date of this Agreement and (B) all other filings for required competition or other governmental approvals as promptly as practicable after the date of this Agreement, in each case subject to Sellers supplying as promptly as practicable (and in any event no later than five (5) Business Days following the later of the date hereof or the date requested, if available) any information and documentary material Buyer reasonably requests in connection with such filings.

(ii) Subject to applicable Law, Sellers and Buyer shall cooperate with each other and shall furnish to the other Party all information necessary or desirable in

connection with making any filing under the HSR Act and for any application or other filing to be made pursuant to any competition or foreign investment review Law, and in connection with resolving any investigation or other inquiry by any Governmental Entity under any competition or foreign investment review Laws with respect to the Transactions. Each of the Parties shall promptly inform the other Party of any substantive communication with any Governmental Entity regarding any such filings relating to the HSR Act or other competition Laws. To the extent practicable, neither Sellers nor Buyer shall participate in any substantive pre-scheduled meeting with any Governmental Entity in respect of any such filings, investigation or other inquiry without giving the other Party prior notice of the meeting. Such other Party shall be permitted to participate in any substantive pre-scheduled meeting with any Governmental Entity in respect of any such filings, investigation or other inquiry relating to the HSR Act or other competition Laws, to the extent permitted by such Governmental Entity. The Parties will 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 in connection with all meetings, actions and proceedings under or relating to the HSR Act or other competition Laws (including, with respect to making a particular filing, by providing copies of all such documents to the non-filing Party and their advisors prior to filing and, if requested, giving due consideration to all reasonable additions, deletions or changes suggested in connection therewith); provided that the Parties shall not be required to provide to each other any confidential information or business secrets, which information shall be provided on an outside counsel-only basis; provided, further, that Buyer shall control and direct the processes relating to all consents, clearances, registrations, approvals, permits and authorizations necessary or advisable to be obtained from any Governmental Entity in order to consummate the Transactions.

(d) Efforts.

(i) During the period from the date hereof and continuing until the earlier of the valid termination of this Agreement and the Closing Date, Buyer and its Affiliates shall not take any action, including entering into any transaction, that would reasonably be expected to prevent or delay any filings or approvals required under the HSR Act or any applicable competition Laws.

(ii) Notwithstanding anything in this Agreement to the contrary, Buyer and its Subsidiaries shall take, or cause to be taken, any and all actions and do, or cause to be done, any and all things necessary, proper or advisable to avoid, eliminate and resolve each and every impediment and obtain all consents required to permit the satisfaction of the conditions in Article VII, as promptly as reasonably practicable, including by offering to:

(A) proffer and agree to sell, divest, lease, license, transfer, dispose of or otherwise encumber, or hold separate pending such disposition, and effectuate such actions with respect to such assets of Buyer or its Subsidiaries (and the entry into agreements with, and submission to Orders giving effect thereto) if such action is necessary to avoid, prevent, eliminate or remove the issuance of any Order that would reasonably be expected to materially delay, restrain, prevent, enjoin or otherwise prohibit consummation of the Transactions by any Governmental Entity;

(B) terminate any existing relationships and contractual rights and obligations of Buyer including, after the Closing, with respect to the Business or any of the Transferred Assets;

(C) amend or terminate existing licenses or other intellectual property agreements and to enter into such new licenses or other intellectual property agreements;

(D) take any and all actions and make any and all behavioral commitments, whether or not they limit or modify Buyer's rights of ownership in, or ability to conduct the business of, the Business or any of the Transferred Assets; and

(E) enter into agreements, including with the relevant Governmental Entity, giving effect to the foregoing clauses (A) through (D) (such actions in clauses (A) through (E), "Required Actions"); provided that (1) such Required Actions are conditioned upon and become effective only from and after the Closing and (2) for the avoidance of doubt, no Affiliate of Buyer (other than any Subsidiary) shall be required to take any of the Required Actions.

Section 6.4 Tax Matters.

(a) Transfer Taxes. All documentary, stamp, transfer, motor vehicle registration, sales, use, value added, excise and other similar non-income Taxes and all filing and recording fees (and any penalties and interest associated with such Taxes and fees) arising from or relating to the consummation of the Transactions (collectively, "Transfer Taxes") will be borne 50% by Buyer and 50% by Sellers, regardless of the Party on whom liability is imposed under the provisions of the Laws relating to such Transfer Taxes. Sellers and Buyer will consult and cooperate in timely preparing and making all filings, Tax Returns, reports and forms as may be required to comply with the provisions of the Laws relating to such Transfer Taxes, and will cooperate and otherwise take commercially reasonable efforts to obtain any available refunds for or exemptions from such Transfer Taxes, including preparing exemption certificates and other instruments as are applicable to claim available exemptions from the payment of Transfer Taxes under applicable Law and executing and delivering such affidavits and forms as are reasonably requested by the other Party.

(b) Asset Taxes. Sellers shall be allocated and bear all Asset Taxes for any period or portion thereof ending on or prior to the Closing Date and Buyer shall be allocated and bear all Asset Taxes for any period or portion thereof that begins after the Closing Date. For purposes of this Section 6.4(b), (i) Asset Taxes that are based upon or related to income or receipts or imposed on a transactional basis (other than such Asset Taxes described in clause (ii)), shall be allocated to the period in which the transaction giving rise to such Asset Taxes occurred, and (ii) Asset Taxes that are ad valorem, property or other Asset Taxes imposed on a periodic basis pertaining to a Straddle Period shall be allocated between the portion of such Straddle Period ending on the Closing Date and the portion of such Straddle Period beginning after the Closing Date by prorating each such Asset Tax based on the number of days in the applicable Straddle Period ending on and including the Closing Date, on the one hand, and the number of days in such Straddle Period that occur after the Closing Date, on the other hand. To the extent the actual amount of an Asset Tax is not known at the time an adjustment is to be made with respect to such Asset Tax pursuant to Article II, no later than two Business Days prior to the Closing Date, the Parties shall utilize the

most recent information available in estimating in good faith the amount of such Asset Tax for purposes of such adjustment. For the avoidance of doubt, to the extent any Seller has prepaid or deposited any amounts of any Asset Taxes prior to the Closing Date, such Seller shall receive credit for such amounts in determining payments of Asset Taxes. Buyer shall be responsible for the preparation and timely filing of any Tax Returns and the payment to the applicable Governmental Entity of all Asset Taxes that become due and payable after the Closing Date. Sellers shall be responsible for the preparation and timely filing of any Tax Returns and payment to the applicable Governmental Entities of all Asset Taxes that become due and payable on or prior to the Closing Date.

(c) Cooperation and Audits. Buyer and Sellers will cooperate fully with each other regarding Tax matters and will make available to the other as reasonably requested all information, records and documents relating to Taxes with regard to the Transferred Assets until the expiration of the applicable statute of limitations or extension thereof or the conclusion of all audits, appeals or litigation with respect to such Taxes. Notwithstanding anything in this Section 6.4(c) to the contrary, Sellers, Buyer and their respective Affiliates shall not be required to provide to Sellers and their respective Affiliates or Buyer and its Affiliates, as the case may be, any records, Tax Returns or any other information, in each case, to the extent such records, Tax Returns, or any other information do not relate to the Transferred Assets.

(d) Purchase Price Allocation.

(i) As promptly as practicable after the Closing Date, but no later than 30 days thereafter, and subject to Section 6.4(d)(iii), Buyer will prepare and deliver to Sellers, an allocation schedule setting forth the amounts to be allocated among Sellers and the Transferred Assets, pursuant to (and to the extent necessary to comply with) Section 1060 of the Code and the applicable regulations promulgated thereunder (or, if applicable, any similar provision under state, local or foreign Law or regulation) (the “Proposed Allocation Statement”). Sellers will have 20 Business Days following delivery of the Proposed Allocation Statement during which to notify Buyer in writing (an “Allocation Notice of Objection”) of any objections to the Proposed Allocation Statement, setting forth in reasonable detail the basis of their objections. If Sellers fail to deliver an Allocation Notice of Objection in accordance with this Section 6.4(d)(i), the Proposed Allocation Statement will be conclusive and binding on all Parties and will become the “Final Allocation Statement.” If Sellers submit an Allocation Notice of Objection, then for 20 Business Days after the date Buyer receives the Allocation Notice of Objection, Buyer and Sellers will use their commercially reasonable efforts to agree on the allocations. If Buyer and Sellers agree on the allocations, such revised allocations will become the Final Allocation Statement. Failing such agreement within 20 Business Days of such notice, the unresolved allocations will be submitted to an independent, nationally recognized accounting firm mutually agreeable to Buyer and Sellers, which firm will be instructed to determine its best estimate of the allocation schedule based on its determination of the unresolved allocations and provide a written description of the basis for its determination within 45 Business Days after submission, such written determination to be final, binding and conclusive. The allocations determined by such accounting firm (or those on the Proposed Allocation Statement to the extent Sellers did not object) will be conclusive and binding on all Parties and will become the “Final Allocation Statement.” The fees and

expenses of such accounting firm will be apportioned 50% to Sellers and 50% to Buyer. For the avoidance of doubt, in administering any Action, the Bankruptcy Court shall not be required to apply the Final Allocation Statement in determining the manner in which the Purchase Price should be allocated.

(ii) Subject to Section 6.4(d)(iii), except to the extent otherwise required by a “determination” within the meaning of Section 1313(a) of the Code or by applicable Law, Sellers and Buyer and their respective Affiliates will report, act and file Tax Returns (including, but not limited to IRS Form 8594) in all respects and for all purposes consistent with the Final Allocation Statement and neither Sellers nor Buyer will take any position (whether in audits, Tax Returns, or otherwise) that is inconsistent with the Final Allocation Statement.

(iii) Notwithstanding anything to the contrary contained herein, including, without limitation, this Section 6.4(d), (x) Buyer shall have the unilateral right to allocate the Purchase Price solely for the purpose of calculating the Transfer Taxes described in Section 6.4(a) with respect to the Transferred Assets and (y) Buyer shall provide written notice to Sellers no later than three Business Days prior to the Closing Date of Buyer’s Purchase Price allocation to such Transferred Assets for Transfer Tax purposes; provided, however, (A) no such Purchase Price allocation shall result in a change to the Purchase Price and (B) any Purchase Price allocation shall be reasonable and proposed for a valid business purpose. To the extent required by Law, each Seller of its respective Transferred Assets shall execute any applicable Transfer Tax return containing such allocation in accordance with this Section 6.4(d).

(e) Buyer and Sellers agree to treat the equity issuance described in Section 2.1(a)(ii) as a tax deferred transaction to the maximum extent permitted by applicable Law.

Section 6.5 Confidentiality. Each Party acknowledges that the information being provided to it in connection with the Transactions is subject to the terms of the Confidentiality Agreement. If, for any reason, the Closing does not occur, the Confidentiality Agreement shall continue in full force and effect in accordance with its terms. Buyer acknowledges and understands that this Agreement, before it becomes otherwise publicly available, may be publicly filed in the Bankruptcy Court and further made available by Sellers to prospective bidders and that, except as prohibited herein, such disclosure will not be deemed to violate any confidentiality obligations owing to Buyer, whether pursuant to this Agreement, the Confidentiality Agreement or otherwise. Sellers acknowledge and agree that from and after the Closing, all non-public information relating to the Business, the Transferred Assets and the Assumed Liabilities (other than any such information that is now or subsequently becomes generally available to the public other than as a direct or indirect disclosure by Sellers or any of their Representatives in violation of this Agreement, will be valuable and proprietary to Buyer and its Affiliates, including, but not limited to, any and all confidential and proprietary information that relates to the actual or anticipated business and/or products, research, or development of the Business, or to any technical data, trade secrets, or know-how, including, but not limited to, research, product plans, or other information regarding the Business’s products or services and markets, customer lists, and customers, software, developments, inventions, processes, formulas, technology, designs, drawings, engineering, hardware configuration information, marketing, finances, and other confidential and proprietary

information about the Business. Sellers agree that, from and after the Closing, Sellers and their respective Representatives will hold in confidence, will not disclose to any Person and will not use any information relating to Buyer and its Affiliates, the Business, the Transferred Assets or the Assumed Liabilities, except as required by Law or Order or Bankruptcy Court requirement, or as otherwise becomes available in the public domain other than through any action by Sellers in violation of its obligations under this Section 6.5.

Section 6.6 Publicity. Except as required by the Bankruptcy Court in connection with the Bankruptcy Proceeding, with the exception of the initial press releases issued by Sequential and Buyer in connection with signing on the date hereof and the Closing Date in forms mutually agreeable to Sequential and Buyer, any disclosure statement that the Debtors may file in connection with the Bankruptcy Proceeding and any public disclosure issued by Sequential pursuant to its contractual obligations under any confidentiality agreement or as required by Law (including any SEC reporting obligation), Buyer and Sellers will not issue any press release or public announcement concerning this Agreement or the Transactions without obtaining the prior written approval of the other Party, which approval may not be unreasonably withheld, except that such consent shall not be required in connection with ordinary or required pleadings made by any Debtor in the Bankruptcy Court or if disclosure is otherwise required by applicable Law or by the Bankruptcy Court; provided, however, that Buyer or Sellers, as applicable, will consult with the other Party with respect to the text of any such required disclosure; provided further, that nothing in this Section 6.6 shall restrict any Party and its Affiliates' disclosure of information regarding the Transactions, including information related to such Party's determination to enter into this Agreement, to advisors, lenders, investors or prospective investors in such Party or its Affiliates.

Section 6.7 Use of Names and Marks. As soon as reasonably practicable, but in no event more than 60 Business Days after the Closing, Sellers shall cause an amendment to the certificate or articles of incorporation or formation (or any equivalent organizational documents) of each Seller to be filed with the appropriate Governmental Entity and shall take all other action necessary to change each Seller's legal, registered, assumed, trade and "doing business as" name, as applicable, to a name or names not containing any Transferred Intellectual Property, including "Galaxy" or any name confusingly similar to the foregoing, and will cause to be filed as soon as practicable after the Closing, in all jurisdictions in which each Seller is qualified to do business, any documents necessary to reflect such change in its legal, registered, assumed, trade and "doing business as" name, as applicable, or to terminate its qualification therein. Sellers further agree that from and after the Closing, each Seller and its Subsidiaries will cease to make any use of any Transferred Intellectual Property, in whole or in part.

Section 6.8 Financing.

(a) Notwithstanding anything to the contrary contained in this Agreement, prior to the Closing, Sellers shall use commercially reasonable efforts to, and shall use commercially reasonable efforts to cause its senior management, agents and representatives to, provide cooperation and assistance reasonably requested by Buyer in connection with obtaining the Debt Financing, including: (i) participating in meetings, presentations and due diligence sessions with Buyer, the Debt Financing Sources and their respective Representatives and promptly furnishing such reasonably available information (including financial information) as may be reasonably requested by Buyer; (ii) executing and delivering any definitive financing documents and

certificates as may be reasonably requested by Buyer (the “Financing Cooperation Request”) and otherwise facilitating the pledging of collateral and the providing of guarantees (provided that the effectiveness thereof shall be conditioned upon, or become operative after, the Closing); (iii) permitting Buyer, the Debt Financing Sources and their respective Representatives to evaluate, examine or audit the Transferred Assets and the Business, including the current assets, cash management and accounting systems and policies and procedures relating thereto, and cooperating with any reasonable requests in connection with such efforts, including due diligence requests relating thereto, (iv) furnishing Buyer, the Debt Financing Sources and their respective Representatives as promptly as practicable with available financial, borrowing base and other pertinent available information regarding the Business as may be reasonably requested by Buyer, (v) facilitating the granting of a security interest (and perfection thereof) in collateral, guarantees, mortgages, other definitive financing documents or other certificates or documents as may reasonably be requested by Buyer, including obtaining releases of existing liens, (vi) cooperating in satisfying the conditions precedent set forth in any definitive document relating to the Debt Financing, (vii) identifying any portion of the information provided in rating agency presentations, lender and investor presentations, offering documents, bank information memoranda, business projections and similar documents that constitutes material, non-public information and (viii) providing (A) documentation and other information about Sellers, the Transferred Assets and the Business as is reasonably required under applicable “know your customer” and anti-money laundering rules and regulations, including the USA PATRIOT Act, and (B) to the extent required by applicable Law, beneficial ownership certifications required pursuant to 31 C.F.R. § 1010.230 (provided, in the case of this clause (B), that Sellers shall not be responsible for including in any such certification information relating to the ownership of the Transferred Assets or the Business, in each case, following the Closing), in each case of this clause (v), at least five Business Days prior to the Closing Date to the extent requested by or on behalf of Buyer in writing at least ten (10) Business Days prior to the Closing Date. Sellers hereby consent to the use of any logos related to the Transferred Assets and the Business in connection with the Debt Financing; provided that such logos shall not be used in a manner that is intended to or reasonably likely to harm or disparage the Business, Sellers, any of their Subsidiaries or any of their Affiliates or the reputation or goodwill of the Business, Sellers, any of their Subsidiaries or any of their Affiliates. Sellers hereby expressly authorize the use of the financial statements and other information provided hereunder for purposes of the Debt Financing and are not aware of any limitation on the use of such financial statements required by any independent accountant.

(b) Notwithstanding anything to the contrary contained herein, if Buyer makes a Financing Cooperation Request, nothing in this Section 6.8 shall require any such cooperation or assistance to the extent that it would (i) require any Seller to waive or amend any terms of this Agreement or agree to pay any commitment or other fees or reimburse any expenses prior to the Closing (other than expenses reimbursed by Buyer at or prior to Closing in accordance with the terms of Section 6.8(c)), or incur any liability or give any indemnities to any third party or otherwise commit to take any similar action, except in the case of normal costs incurred by such Seller in the ordinary course of business, for which it is not reimbursed or indemnified by Buyer, (ii) unreasonably interfere with the ongoing business or operations of Sellers and their Subsidiaries or the Business, taken as a whole, (iii) require Sellers, any of their Subsidiaries or any of their Affiliates to commit to take any action that is not contingent upon the Closing, (iv) require Sellers, any of their Subsidiaries or any of their Affiliates to take any action that would (A) subject any director, manager, officer or employee of any Seller, any of their Subsidiaries or any of their

Affiliates to any actual or reasonably likely personal liability relating to the Debt Financing, (B) conflict with, violate or result in any breach of or default under any Organizational Documents of any Seller, any of its Subsidiaries or of any of their Affiliates, any Contract or any Law, (C) require providing access to or disclose information that Sellers reasonably determine would jeopardize any attorney client privilege of, or conflict with any confidentiality requirements applicable to, any Seller, any of its Subsidiaries or any of their Affiliates (provided that in such instances any Seller, any of its Subsidiaries or any of their Affiliates shall inform Buyer and its Debt Financing Sources of the general nature of the information being withheld and reasonably cooperate with Buyer and its Debt Financing Sources to provide such information, in whole or in part, in the manner that would not result in the loss of such privilege or the conflict with such applicable confidentiality requirements) or (D) require any such entity to change any fiscal period, (v) require any director or manager or equivalent of a Seller or any of its Subsidiaries to pass resolutions or covenants to approve the Debt Financing or authorize the creation of any agreements, documents or actions in connection therewith, unless, in each case, such documents shall not become effective until the Closing or thereafter, (vi) cause or result in any representation or warranty in Article III of this Agreement to be inaccurate or breached, (vii) cause or result in any closing condition set forth in Article VII to fail to be satisfied or (viii) otherwise cause the breach of this Agreement.

(c) If a Financing Cooperation Request is made by Buyer to Sellers, Buyer shall (i) promptly upon request by any Seller, reimburse Sellers for all reasonable and documented out of pocket fees, costs and expenses (including, to the extent incurred at the request or consent of Buyer, reasonable and documented out-of-pocket legal fees) incurred by Sellers and their Affiliates in connection with the cooperation or assistance contemplated by this Section 6.8; provided, that Buyer shall not be required to reimburse Sellers for costs and expenses related to any items that Sellers would have prepared in the ordinary course of its business and (ii) indemnify and hold harmless Sellers, their Subsidiaries and their Affiliates and representatives from and against any and all losses suffered or incurred by them in connection with the arrangement of the Debt Financing, any action taken by them at the request of Buyer pursuant to this Section 6.8 and any information used in connection therewith, other than to the extent such losses are a result of Sellers' fraud, gross negligence or willful misconduct or Sellers acting in bad faith through the knowing, intentional or the material breach of Sellers' obligations under this Section 6.8. Without limiting the foregoing and if a Financing Cooperation Request is made by Buyer to Sellers, neither any Seller nor any of its Subsidiaries shall be required, under the provisions of this Section 6.8 or otherwise in connection with the Debt Financing to pay any commitment or other similar fee prior to the Closing that is not advanced to such Seller or its applicable Subsidiary.

(d) Buyer shall use best efforts to arrange and obtain the Debt Financing on the terms and conditions described in the Debt Commitment Letter on or prior to Closing. Without limiting the foregoing, Buyer shall use commercially reasonable efforts to (i) maintain in effect the Debt Commitment Letter until the earlier of (x) the funding of the Debt Financing at or prior to the Closing or (y) the termination of this Agreement, (ii) comply with all of Buyer's obligations thereunder, (iii) satisfy (and if unable to so satisfy, use commercially reasonable efforts to obtain the waiver of) on a timely basis all conditions within Buyer's control applicable to Buyer obtaining the Debt Financing and (iv) to enter into definitive agreements with respect to the Debt Financing reflecting terms and conditions no less favorable, taken as a whole, to Buyer with respect to conditionality than those contained in the Debt Commitment Letter, so that such agreements are in effect no later than the Closing. In the event that all of the conditions set forth in Section 7.1

and Section 7.2 have been satisfied or waived, Buyer shall use commercially reasonable efforts to cause the funding on the Closing Date of the full amount of the Debt Financing (or such lesser amount as may be required to consummate the transactions contemplated by this Agreement), and shall enforce all of its rights under the Debt Commitment Letter, including, if necessary, to comply with Section 9.7 hereof, commencing and diligently pursuing proceedings against the Debt Financing Sources in good faith. Without limiting the generality of the preceding two sentences, Buyer shall give Sellers prompt notice: (A) if Buyer or any of its Affiliates materially breaches or materially defaults under or materially deviates from the terms of, or obtains Knowledge of any other party's material breach or material default under or material deviation from the terms of, the Debt Commitment Letter or any definitive documents related thereto; or (B) of the receipt by it of any written notice or other written communication from any Person with respect to any actual or alleged breach, default, termination or repudiation by any party of the Debt Commitment Letter or any definitive document related to the Debt Financing.

(e) Prior to the Closing, Buyer shall not amend, modify or agree to any waiver under any Equity Commitment Letter without the prior written consent of Sellers if such amendment, modification or waiver would (i) reduce the aggregate amount committed pursuant to the Equity Commitment Letters below an amount sufficient to satisfy the payment obligations of Buyer in cash at the Closing under this Agreement or (ii) impose new or additional conditions to the funding of such amounts. Prior to the Closing, neither Buyer nor any of its Affiliates shall amend, modify, supplement, replace or agree to any waiver or consent under the Debt Commitment Letter without the prior written consent of Sellers if such amendment, modification, supplement, replacement or waiver would (i) reduce the aggregate amount of the Debt Financing below an amount sufficient to satisfy the payment obligations of Buyer in cash at the Closing under this Agreement, including by changing the amount of fees to be paid or original issue discount of the Debt Financing, or (ii) impose new or additional conditions to the Debt Financing, otherwise materially directly or indirectly expand, amend or modify any of the conditions to the Debt Financing in a manner that would reasonably be expected to (A) delay, prevent, or impair the funding or availability of all or any portion of the Debt Financing (or satisfaction of the conditions to the Debt Financing) on the Closing Date, (B) adversely affect the ability of Buyer to enforce its material rights against the Debt Financing Sources or any other parties to the Debt Commitment Letter or any definitive documents related thereto or (C) adversely affect the ability of Buyer to timely consummate the transactions contemplated hereby; provided that Buyer may modify, amend or supplement the Debt Commitment Letter to (A) correct typographical errors or mistakes, (B) add lenders, arrangers, bookrunners, agents or similar entities or titles that have not executed the Debt Commitment Letter as of the date hereof or amend titles, allocations and fee sharing arrangements in connection therewith or (C) increase the amount of the Debt Financing. Notwithstanding any of the foregoing, Buyer may reduce the commitment under the Debt Commitment Letter on a dollar-for-dollar basis with the net proceeds of consummated offerings or other incurrences of any debt for borrowed money incurred after the date of this Agreement for the purpose of financing payment of the Cash Consideration and other amounts payable by Buyer or its Subsidiaries pursuant to this Agreement and the other Transaction Documents to which Buyer is a party. In the event that new commitment letters are entered into in accordance with any amendment, replacement, supplement or other modification of the Debt Commitment Letter permitted pursuant to this Section 6.8(e), Buyer shall promptly deliver to Sellers a true, complete and accurate copy thereof.

(f) In the event any portion of the Debt Financing becomes unavailable on the terms and conditions (including the flex provisions) contemplated in the Debt Commitment Letter, Buyer shall (i) promptly notify Sellers in writing thereof and the reasons therefor and (ii) use its commercially reasonable efforts to arrange to obtain alternative financing from alternative sources on terms not materially less favorable, in the aggregate, to Buyer (as determined in the reasonable judgment of Buyer, taking into account the flex provisions set forth in the Debt Commitment Letter), in an amount sufficient to consummate the transactions contemplated by this Agreement.

Section 6.9 No Successor Liability. The Parties intend that, to the fullest extent permitted by Law (including under Section 363(f) of the Bankruptcy Code), upon the Closing, Buyer shall not be deemed to: (a) be the successor or successor employer any Seller, including with respect to Environmental Liabilities; (b) have, de facto or otherwise, merged with or into any Seller; (c) have any common law successor liability in relation to any Multiemployer Plan, including with respect to withdrawal liability or contribution obligations, (d) be a mere continuation or substantial continuation of any Seller; or (e) be liable for any acts or omissions of any Seller in the conduct of the Business or arising under, or related to, the Transferred Assets, other than as expressly set forth in this Agreement. Without limiting the generality of the foregoing, and except as otherwise provided in this Agreement, the Parties intend that Buyer shall not be liable for any Liability or Lien (other than Assumed Liabilities) against the Debtors or any of the Debtors' predecessors or Affiliates, and Buyer shall have no successor or vicarious Liability of any kind or character whether known or unknown as of the Closing Date, whether now existing or hereafter arising, or whether fixed or contingent, with respect to the Business, the Transferred Assets or any Liabilities of Sellers arising prior to the Closing Date. The Parties agree that the provisions substantially in the form of this Section 6.9 shall be reflected in the Sale Order.

Section 6.10 Intercompany Arrangements. All intercompany and intracompany accounts or contracts between the Business, on the one hand, and any Seller or its Affiliates, on the other hand, shall be cancelled without any consideration or further liability to any Party and without the need for any further documentation, immediately prior to the Closing.

Section 6.11 Release; Termination of Buyer Consulting Agreement. Upon the Closing, (a) Sellers shall pay all amounts due and owing by them under the Buyer Consulting Agreement solely through the Closing Date which, for the avoidance of doubt, shall include the proration of any amounts purported to be paid on a weekly, monthly, quarterly, semi-annual or annual basis, so that the Sellers shall only be obligated to pay amounts due and owing through the Closing Date, and (b) thereafter, without any further action on the part of Buyer or Seller, the Buyer Consulting Agreement shall terminate and be of no further effect. Effective as of the Closing, (i) Buyer, on its own behalf and on behalf of its direct and indirect Affiliates, hereby absolutely, irrevocably and unconditionally releases and forever discharges Sequential and its direct and indirect Affiliates from, and agrees not to assert any cause of action or proceeding with respect to, any losses or Liabilities whatsoever, of any kind or nature, whether at law or in equity, which have been or could have been asserted against Seller or its Affiliates, which Buyer or its Affiliates has or ever had, which arises out of or in any way relates to events, circumstances or actions occurring, existing or taken prior to or as of the Closing Date in respect of the Buyer Consulting Agreement and (ii) Sequential, on its own behalf and on behalf of its direct and indirect Affiliates, hereby absolutely, irrevocably and unconditionally releases and forever discharges Buyer and its direct and indirect Affiliates from, and agrees not to assert any cause of action or proceeding with respect to, any losses

or Liabilities whatsoever, of any kind or nature, whether at law or in equity, which have been or could have been asserted against Buyer or its Affiliates, which Sequential or its Affiliates has or ever had, which arises out of or in any way relates to events, circumstances or actions occurring, existing or taken prior to or as of the Closing Date in respect of the Buyer Consulting Agreement.

Section 6.12 R&W Insurance Policy.

(a) Buyer shall cause any R&W Insurance Policy purchased by Buyer with respect to the Transactions to include terms to the effect that the insurer waives its rights to bring any claim against Sellers by way of subrogation, claim for contribution or otherwise, other than claims by way of subrogation against Sellers to the extent that the relevant losses arose out of Fraud by Sellers, and will ensure that such terms are held by Buyer in trust for Sellers.

(b) Sellers shall, and shall cause each of their Subsidiaries and their respective directors, officers, managers, employees, members and Representatives to, provide reasonable access upon reasonable advance notice and during business hours to the books, records and personnel and other Representatives of the Sellers and each of their Subsidiaries, as may be reasonably requested by Buyer or any insurance broker or insurance carrier in connection with working with Buyer in connection with Buyer's considering or obtaining the R&W Insurance Policy prior to the Closing.

Section 6.13 Receivables.

(a) Subject to reduction pursuant to Section 2.2, within ten (10) Business Days following receipt of any amounts relating to Shared Receivables, Buyer shall pay or cause to be paid to Sellers the Seller Portion of any such amounts actually received, net of any taxes with respect thereto and shall, concurrently with such payment, deliver to Sellers a statement setting forth a calculation of such payment in sufficient detail to identify the accounts with respect to which such payments relate.

(b) Subject to reduction pursuant to Section 2.2, within ten (10) Business Days following receipt of any amount of the East Asia Delinquent Accounts Receivables, Buyer shall pay or cause to be paid to the Term B Lenders 50% of such collected amount (each such payment, an "East Asia A/R Payment") and shall, concurrently with such payment, deliver to Sellers a statement setting forth a calculation of such payment in sufficient detail to identify the accounts with respect to which such payments relate. The Term B Lenders shall be third party beneficiaries of this Section 6.13.

(c) Notwithstanding the foregoing or anything herein to the contrary, in no event shall Buyer be required to make any payments under Section 6.13(a) or Section 6.13(b) prior to Buyer's submission of the Closing Date Statement in accordance with Section 2.2(a). Upon Buyer's submission of the Closing Date Statement, in the event the Final Cash Consideration (as set forth in the Closing Date Statement) is less than the Estimated Cash Consideration, Buyer shall promptly pay to Sellers all amounts payable pursuant to Section 6.13(a) and Section 6.13(b) in excess of the amount by which the Shortfall Amount included in the Closing Date Statement exceeds the Escrow Amount and may continue to withhold payments under Section 6.13(a) and Section 6.13(b) up to the amount by which the Shortfall Amount included in the Closing Date Statement exceeds the

Escrow Amount, until the Final Cash Consideration is finally determined pursuant to Section 2.2(c) and Section 2.2(d) and any resulting Shortfall Amount is fully paid.

(d) The dispute procedures set forth in Section 2.2 shall govern in the event of a dispute with respect to any of the payments contemplated by this Section 6.13.

(e) Buyer shall, subject to applicable Law, use commercially reasonable efforts to collect the East Asia Delinquent Accounts Receivable and the Shared Receivables to the same extent as Buyer would in the ordinary course of its business if the East Asia A/R Payments and the Seller Portion of the Shared Receivables were not payable to Sellers, and shall not offset any East Asia Delinquent Accounts Receivable or Shared Receivables against amounts otherwise owed by Buyer or any of its Subsidiaries or Affiliates.

Section 6.14 Expense Reimbursement. Immediately following the execution of this Agreement, Sellers shall deliver to Buyer an amount equal to the Expense Reimbursement Amount by wire transfer of immediately available funds, which amount Buyer shall be entitled to utilize to satisfy its reasonable and documented expenses whether incurred prior to or following the Petition Date and whether or not the Bankruptcy Court enters the Bid Procedures Order.

Section 6.15 Data Room. As promptly as practicable following the date hereof, and in any event prior to the Closing, Sellers shall deliver to Buyer an electronic copy of the Data Room as of 11:59 p.m. eastern time on the date that was two (2) Business Days prior to the date hereof.

Section 6.16 Consulting Agreement. From the date hereof through the Closing Date, Sellers shall pay to Buyer amounts due and owing pursuant to the terms of the Buyer Consulting Agreement.

ARTICLE VII

CONDITIONS TO CLOSING

Section 7.1 Conditions Precedent to Each Party's Obligation. The Parties' obligations to consummate the Transactions are subject to the fulfillment, on or prior to the Closing Date, of each of the following conditions (any or all of which may be waived by the Parties in whole or in part to the extent permitted by applicable Law):

(a) the waiting period (and any extension thereof) applicable to the consummation of the Transactions under the HSR Act shall have expired or been earlier terminated;

(b) there shall not be in effect any Order of a Governmental Entity of competent jurisdiction or any Law preventing, restraining, enjoining, making illegal or otherwise prohibiting the consummation of the Transactions; and

(c) the Bankruptcy Court shall have entered each of the Bid Procedures Order and the Sale Order, and the Sale Order shall have become a Final Order and shall be in full force and effect.

Section 7.2 Conditions Precedent to Obligations of Buyer. The obligation of Buyer to consummate the Transactions is subject to the fulfillment, on or prior to the Closing Date, of each

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

(a) (i) the Fundamental Representations shall be true and correct in all respects on and as of the Closing, except to the extent expressly made as of an earlier date, in which case such representations and warranties shall be true and correct in all respects as of such earlier date (in each case except for any failure to be so true and correct that is *de minimis* in nature); and (ii) all other representations of Sellers contained in this Agreement (without giving effect to any materiality limitations, such as “material,” “in all material respects” and “Material Adverse Effect” set forth therein) shall be true and correct on and as of the Closing, except to the extent expressly made as of an earlier date, in which case such representations and warranties shall be true and correct as of such earlier date, except in either case for any failure of any such representation and warranty to be so true and correct that has not had, individually or in the aggregate, a Material Adverse Effect;

(b) Sellers shall have performed and complied in all material respects with all obligations and agreements required in this Agreement to be performed or complied with by them prior to or on the Closing Date;

(c) Buyer shall have received from Sellers a certificate signed by an authorized officer of Sellers on behalf of Sellers certifying that the conditions set forth in Section 7.2(a), Section 7.2(b) and Section 7.2(d) have been satisfied;

(d) since the date of this Agreement, there shall not have been any Material Adverse Effect;

(e) Sellers shall have assumed and assigned to Buyer the Closing Assumed Contracts and the Additional Assumed Contracts, in each case pursuant to Section 365 of the Bankruptcy Code, the Sale Order, the Bid Procedures Order and Section 1.5 subject to Buyer’s provision of adequate assurance of future performance in respect of the Closing Assumed Contracts and the Additional Assumed Contracts as may be required under Section 365 of the Bankruptcy Code; and

(f) Sellers shall have delivered (or caused to be delivered) each of the documents and instruments to be delivered by Sellers at the Closing pursuant to Section 2.5.

Section 7.3 Conditions Precedent to Obligations of Sellers. The obligations of Sellers to consummate the Transactions are subject to the fulfillment, prior to or on the Closing Date, of each of the following conditions (any or all of which may be waived by Sellers in whole or in part to the extent permitted by applicable Law):

(a) the representations and warranties of Buyer contained in this Agreement shall be true and correct (without giving effect to any materiality limitations, such as “material,” “in all material respects” or “Buyer Material Adverse Effect”, set forth therein) on and as of the Closing, except to the extent expressly made as of an earlier date, in which case such representations and warranties shall be true and correct as of such earlier date, except for any failure of any such representation and warranty to be so true and correct that has not had, individually or in the aggregate, a Buyer Material Adverse Effect;

(b) Buyer shall have performed and complied in all material respects with all obligations and agreements required in this Agreement to be performed or complied with by Buyer prior to or on the Closing Date;

(c) Sellers shall have received from Buyer a certificate signed by an authorized officer of Buyer on behalf of Buyer certifying that the conditions set forth in Section 7.3(a) and Section 7.3(b) have been satisfied; and

(d) Buyer shall have delivered (or caused to be delivered) each of the documents and instruments to be delivered by Buyer at the Closing pursuant to Section 2.4.

Section 7.4 No Frustration of Closing Conditions. Neither Buyer nor Sellers may rely on the failure of any condition to their respective obligations to consummate the Transactions set forth in Section 7.1, Section 7.2 or Section 7.3 as the case may be, to be satisfied if such failure was caused by such Party's or its Affiliates' failure to use its commercially reasonable efforts (or such other applicable efforts standard expressly contemplated hereby) to satisfy the conditions to the consummation of the Transactions or by any other breach of a representation, warranty, or covenant hereunder.

ARTICLE VIII

TERMINATION

Section 8.1 Termination of Agreement Prior to Closing. This Agreement may be terminated prior to the Closing as follows:

(a) by mutual written consent of Buyer and Sellers;

(b) automatically, if the Bankruptcy Court enters an order approving an Alternative Transaction (unless Buyer has submitted a Buyer Backup Bid);

(c) by either Party, upon written notice to the other Party:

(i) if the Closing has not occurred by 5:00 p.m., prevailing Eastern time, on the date that is 75 days after the Petition Date (the "Termination Date"), which date (x) shall be extended (by the same number of days) to the extent the Milestone set forth in Section 8.1(d)(ii)(E) is extended pursuant to the Bid Procedures Order, and (y) be extended by mutual agreement of the Parties; provided that if the Closing has not occurred on or before the Termination Date due to a material breach of any covenants or agreements contained in this Agreement by Buyer or Sellers so as to cause any of the conditions of the other Party set forth in Section 7.1, Section 7.2 or Section 7.3, to not be satisfied, as applicable, then such breaching Party may not terminate this Agreement pursuant to this Section 8.1(c)(i);

(ii) if there is in effect a final non-appealable Order of a Governmental Entity of competent jurisdiction restraining, enjoining or otherwise prohibiting the consummation of the Transactions; provided, that the party so requesting termination shall have complied with Section 6.3;

(iii) if, other than as a result of a request by any Seller, the Bankruptcy Proceeding of any Seller is dismissed or converted to a case under Chapter 7 of the Bankruptcy Code or an order is entered by the Bankruptcy Court appointing a trustee or other Person for operation or administration of any of the Sellers or their Business or assets, or a responsible officer for any of the Sellers, or an examiner with enlarged power relating to the operation or administration of Sellers or its Business or assets; or

(iv) if Buyer is not selected as a Successful Bidder or the Backup Bidder (but only if Buyer has submitted a Buyer Backup Bid) at the conclusion of the Auction;

(d) by Buyer, upon written notice to Sellers:

(i) in the event of (x) a willful breach of Sections 5.1(a), Section 5.1(b) or Section 5.2(a) by Sellers or (y) a material breach by Sellers of any representation or warranty or any other covenant or agreement contained in this Agreement that in the case of this clause (y) (A) would result in any of the conditions set forth in Section 7.1 or Section 7.2 not being satisfied if such breach remained uncured as of the Closing, and (B) such breach is incapable of being cured prior to the Termination Date or, if capable of being cured, such breach has not been cured within 30 days after the giving of written notice by Buyer to Sellers of such breach; provided that Buyer is not then in material breach of any representation, warranty, covenant or agreement contained in this Agreement;

(ii) in the event Sellers have not (A) commenced the Bankruptcy Proceeding within one day of execution of this Agreement, (B) filed the Bid Procedures Motion within one day of the Petition Date, (C) obtained entry of the Bid Procedures Order within 23 days following the Petition Date, (D) conducted and concluded the Auction within 60 days following the Petition Date, or (E) obtained entry of the Sale Order within 65 days of the Petition Date (each of the foregoing (A)-(E), a "Milestone"); provided that, in each case, if Sellers have failed to meet a Milestone on or prior to the date set forth herein, Sellers shall have five Business Days to meet such Milestone after the giving of written notice by Buyer to Sellers that such Milestone was not met; provided further that, to the extent any such Milestone is extended pursuant to the Bid Procedures Order, such Milestone shall be deemed to be extended hereunder;

(iii) if, following entry of the Bid Procedures Order or the Sale Order, any provision of either the Bid Procedures Order or Sale Order is amended, modified or supplemented without Buyer's prior written consent or is voided, reversed or vacated; provided, that should the Bid Procedures Order or Sale Order be reversed, termination of this Agreement is subject to the Seller's rights to appeal to a higher court; provided, further, the immediately preceding proviso is subject to Buyer's other rights of termination set forth herein; provided, further, that if the Bid Procedures Order is voided post-Closing, the Transactions will remain consummated; or

(iv) if (A) any Seller seeks to have the Bankruptcy Court enter an Order (I) dismissing, or converting into cases under Chapter 7 of the Bankruptcy Code, any of the cases commenced by Sellers under Chapter 11 of the Bankruptcy Code and comprising part of the Bankruptcy Proceeding, or (II) appointing a trustee in the Bankruptcy

Proceeding or appointing a responsible officer or an examiner with enlarged powers (other than a fee examiner) relating to the operation of any Seller's business pursuant to Section 1104 of the Bankruptcy Code, or (B) such an order of dismissal, conversion or appointment is entered for any reason and is not reversed or vacated within 14 days after the entry thereof; or

(e) by Sellers, upon written notice to Buyer:

(i) in the event of a breach by Buyer of any representation or warranty or any covenant or agreement contained in this Agreement, if (A) such breach would result in a failure of a condition set forth in Section 7.1 or Section 7.3 to be satisfied if such breach remained uncured as of the Closing, and (B) such breach is incapable of being cured prior to the Termination Date or, if capable of being cured, such breach has not been cured within 30 days after the giving of written notice by Sellers to Buyer of such breach; provided that Sellers are not then in material breach of any representation, warranty, covenant or agreement contained in this Agreement;

(ii) if (A) all of the conditions set forth in Section 7.1 and Section 7.2 have been satisfied or waived (other than those that, by their nature, are to be satisfied at the Closing, all of which are capable of being satisfied at the Closing), (B) Sellers have irrevocably confirmed by written notice to Buyer that (1) all conditions set forth in Section 7.3 have been satisfied (other than those that, by their nature, are to be satisfied at the Closing, each of which is capable of being satisfied at the Closing) or that they would be willing to waive any unsatisfied conditions in Section 7.3 at the Closing, and (2) they are ready, willing and able to consummate the Closing and (C) Buyer fails to consummate the Closing within three (3) Business Days following the date the Closing should have occurred pursuant to Section 2.3; or

(iii) if Sequential's board of directors, based on the advice of outside legal counsel, 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 applicable law.

Section 8.2 Effect of Termination. In the event of termination of this Agreement pursuant to Section 8.1, this Agreement shall become void and of no effect; provided, however, that the provisions set forth in Section 5.3, this Section 8.2, Section 8.3, Article IX and in the Confidentiality Agreement shall survive the termination of this Agreement; provided, further, that nothing in this Section 8.2 shall be deemed to release any Party from liability for (i) any willful or material breach of the covenants in this Agreement prior to termination or (ii) any willful and material breach of the representations in this Agreement prior to termination.

Section 8.3 Fees and Expenses Following Termination.

(a) If this Agreement is terminated by (i) operation of Section 8.1(b), (ii) either Party pursuant to Section 8.1(c)(iv), (iii) Buyer pursuant to Section 8.1(d)(ii) or Section 8.1(d)(iv)(A), or (iv) Seller pursuant to Section 8.1(e)(iii), then Sellers shall pay to Buyer (by wire transfer of immediately available funds), an amount equal to the Seller Termination Fee no later than the date

that is the earlier of (x) 45 days of the date of such termination and (y) the date of consummation of an Alternative Transaction. If this Agreement is terminated by Buyer pursuant to Section 8.1(d)(i), then Sellers shall pay to Buyer (by wire transfer of immediately available funds), within ten (10) Business Days after such termination, an amount equal to the Seller Termination Fee. If this Agreement is (x) terminated by Buyer pursuant to Section 8.1(d)(iii) or Section 8.1(d)(iv)(B) or by either Party pursuant to Section 8.1(c)(iii) and (y) within one year of such termination the Sellers enters into or consummate an Alternative Transaction, then Sellers shall pay to Buyer (by wire transfer of immediately available funds), an amount equal to the Seller Termination Fee no later than the date of the consummation of such Alternative Transaction.

(b) If this Agreement is terminated by Sellers pursuant to Section 8.1(e)(i) or Section 8.1(e)(ii), then Buyer shall pay to Sellers (by wire transfer of immediately available funds), within ten (10) Business Days after such termination, an amount equal to the Buyer Termination Fee; provided, that if the Debt Financing Sources' failure to consummate the Debt Financing when required to so pursuant to the terms of the Debt Commitment Letter (a "Debt Financing Failure") is the sole cause of Buyer's breach in the event of a termination pursuant to Section 8.1(e)(i) or failure to close in the event of a termination pursuant to Section 8.1(e)(ii), Buyer shall not be required to pay the Buyer Termination Fee to Seller.

(c) The Parties acknowledge and hereby agree that the provisions of this Section 8.3 and Section 5.3 are an integral part of the Transactions, in light of the difficulty of accurately determining actual damages with respect to the foregoing, the amount of such payment constitutes a reasonable estimate of the losses that will be suffered by reason of any such termination of this Agreement and constitutes liquidated damages (and not a penalty) and that, without such provisions, the Parties would not have entered into this Agreement. If a Party shall fail to pay in a timely manner the amounts due pursuant to this Section 8.3 or Section 6.14, and, in order to obtain such payment, Sellers or Buyer makes a claim against the other Party pursuant to this Section 8.3 or Section 5.3 that results in a judgment, Sellers or Buyer, as applicable, shall pay to the claimant the reasonable costs and expenses of such Party (including its reasonable attorneys' fees and expenses) incurred or accrued in connection with such suit, together with interest on the amounts set forth in this Section 8.3 or Section 5.3, as applicable, at the prime rate as published in *The Wall Street Journal* in effect on the date such payment was required to be made through the date such payment was actually received, or a lesser rate that is the maximum permitted by applicable Law. The Parties acknowledge and agree that in no event shall Sellers or Buyer be obligated to pay the Seller Termination Fee or Buyer Termination Fee, as applicable, on more than one occasion.

(d) Notwithstanding anything to the contrary in this Agreement, the Parties hereby acknowledge and agree that (i) in the event that the Seller Termination Fee is payable and paid by Sellers to Buyer, or the Buyer Termination Fee is payable and paid by Buyer to Sellers, the Seller Termination Fee or the Buyer Termination Fee, as applicable, shall be the sole and exclusive remedy under any Theory of Liability under this Agreement of such Party and their respective Subsidiaries and any of their respective Related Persons, for any loss suffered as a result of the failure of the Closing or the other Transactions to be consummated or for a breach or failure to perform hereunder or otherwise (whether intentional, willful, negligent or otherwise), and, upon payment of such amount, none of any Party's Related Persons shall have any further liability or obligation relating to or arising out of this Agreement, the Closing or the other Transactions and no Party or its Related Persons shall be entitled to assert, bring or maintain, and each Party on

behalf of itself and its Related Persons, hereby waives any right to assert, bring or maintain, any claim, suit, action or proceeding against such other Party or its Related Persons arising out of or in connection with this Agreement or the Transactions (and the abandonment or termination thereof) or any matter forming the basis for such termination, whether by or through any Theory of Liability, (ii) if a Debt Financing Failure was the sole cause of any breach by Buyer under this Agreement (including a failure to consummate the Transactions) giving rise to the termination of this Agreement, Buyer shall not have any liability to Sellers or any other Person for such breach, (iii) under no circumstances will Sellers or any of their respective Related Persons be entitled to monetary damages in excess of the amount of the Buyer Termination Fee and (iv) under no circumstances will Buyer or any of its Related Persons be entitled to monetary damages in excess of the amount of the Seller Termination Fee. Notwithstanding anything to the contrary contained in this Agreement, under no circumstances will Sellers be entitled to, and in no event shall Sellers seek to recover, monetary damages from any Related Persons of Buyer. Each Party's Related Persons shall be third party beneficiaries of this Section 8.3. For purposes hereof, "Theory of Liability" shall mean any claim, obligation, liability, cause of action, or proceeding (in each case, whether in contract or in tort, at law or in equity, or pursuant to law or equity) that may be based upon, in respect of, arise under, out or by reason of, be connected with, or relate in any manner to, this Agreement or any document referenced herein, or the negotiation, execution, performance, termination or breach (whether intentional, willful, negligent or otherwise) of this Agreement or any other document referenced herein, including any representation or warranty made in, in connection with, or as an inducement to enter into, this Agreement and including theories of equity, agency, control, instrumentality, alter ego, domination, sham, single-business enterprise, piercing the veil, unfairness, undercapitalization or otherwise. Upon payment of the Buyer Termination Fee, none of Buyer or any Related Person of Buyer will have any further liability or obligation to Sellers relating to or arising out of this Agreement or the Transactions other than for collection costs or expenses that Buyer requested the Sellers incur, and that Sellers actually incurred, in accordance with the terms of this Agreement. Upon payment of the Seller Termination Fee, none of Sellers nor any Related Person of Sellers will have any further liability or obligation to Buyer relating to or arising out of this Agreement or the Transactions other than for collection costs or expenses that Buyer requested the Sellers incur, and that Sellers actually incurred, in accordance with the terms of this Agreement. No Financing Source shall be subject to any special, consequential, punitive or indirect damages or damages of a tortious nature.

ARTICLE IX

MISCELLANEOUS

Section 9.1 No Survival. Between the Parties (and not, for the avoidance of doubt, for purposes of the R&W Insurance Policy), none of the representations, warranties or covenants (other than covenants that expressly survive the Closing) contained in this Agreement or in any instrument delivered under this Agreement will survive the Closing.

Section 9.2 Notices. Unless otherwise set forth herein, all notices and other communications, including consents and waivers, to be given or made hereunder shall be in writing and shall be deemed to have been duly given or made on the date of delivery to the recipient thereof if received prior to 5:00 p.m. in the place of delivery and such day is a Business Day (or otherwise on the next succeeding Business Day) if (a) delivered by registered or certified mail, return receipt

requested with notice by email of such delivery or (b) sent by email to the email addresses set forth below.

To Buyer:

c/o Gainline Capital Partners LP
700 Canal Street, 5th Floor
Stamford, CT 06902
Attn: Allan Weinstein
Email: allan@gainlinecapital.com

With a copy to:

Willkie Farr & Gallagher LLP
787 Seventh Avenue
New York, NY 10019
Attn: Gregory B. Astrachan
Paul V. Shalhoub
Jonathan S. Kubek
Email: gastrachan@willkie.com
pshalhoub@willkie.com
jkubek@willkie.com

To Sellers or Debtors:

Sequential Brands Group, Inc.
1407 Broadway
38th Floor
New York, NY 10018
Attn: Eric Gul
Email: EGul@sbg-ny.com

With a copy to:

Gibson, Dunn & Crutcher LLP
200 Park Avenue
New York, New York 10166
Attn: Joshua Brody
William Sorabella
Jason Zachary Goldstein
Email: jbrody@gibsondunn.com
wsorabella@gibsondunn.com
jgoldstein@gibsondunn.com

or to such other Person or addressees as may be designated in writing by the Party to receive such notice as provided above; provided, however, that copies to outside counsel are for convenience only and the provision of a copy to outside counsel does not constitute notice or alter the effectiveness of any notice, request, instruction or other communication otherwise made or given in accordance with this Section 9.2.

Section 9.3 Entire Agreement; Amendments and Waivers. This Agreement (including any exhibits and schedules hereto), the Confidentiality Agreement and the other Transaction Documents represent the entire understanding and agreement between the Parties with respect to the subject matter hereof and thereof and supersede all prior discussions and agreements between the Parties with respect to the subject matter hereof and thereof. This Agreement can be amended, supplemented or changed, and any provision hereof can be waived, only by written instrument making specific reference to this Agreement signed, in the case of an amendment, supplement or change, by Buyer and Sequential, or in the case of a waiver, by the Party against whom enforcement of such waiver is sought. The waiver by any Party of a breach of any provision of this Agreement will not operate or be construed as a further or continuing waiver of such breach or as a waiver of any other or subsequent breach. No failure on the part of any Party to exercise, and no delay in exercising, any right, power or remedy hereunder will operate as a waiver thereof, nor will 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. All remedies hereunder are cumulative and are not exclusive of any other remedies provided by Law.

Section 9.4 Assignment. This Agreement will be binding upon and inure to the benefit of the Parties and their respective successors and permitted assigns. Except as expressly set forth herein, nothing in this Agreement or any other Transaction Document (including any exhibit or schedule hereto or thereto) will create or be deemed to create any third party beneficiary rights in any Person or entity not a party to this Agreement. No assignment of this Agreement or of any rights or obligations hereunder may be made by either Sellers or Buyer (by operation of law or otherwise) without the prior written consent of the other Party and any attempted assignment without the required consents will be void; provided, however, that (a) Buyer may assign some or all of its rights or delegate some or all of its obligations hereunder to one or more Affiliates (including to a Buyer Designee), (b) Buyer may collaterally assign its rights and benefits hereunder, in whole or in part, to any of the Debt Financing Sources in connection with the Debt Financing and (c) each Seller may assign some or all of its rights or delegate some or all of its obligations hereunder to successor entities (including any liquidating trust) pursuant to a Chapter 11 plan confirmed by the Bankruptcy Court, in the case of each of clauses (a), (b) and (c) above, without any other Party's consent. No assignment or delegation of any obligations hereunder will relieve the Parties of any such obligations. Upon any such permitted assignment, the references in this Agreement to Sellers or Buyer will also apply to any such assignee unless the context otherwise requires.

Section 9.5 Expenses. Except with regard to the Expense Reimbursement Amount or as otherwise expressly provided in this Agreement, whether or not the Transactions are consummated, each of Sellers, on the one hand, and Buyer, on the other hand, will bear its own expenses incurred in connection with the negotiation and execution of this Agreement and each other agreement, document and instrument contemplated by this Agreement and the consummation of the Transactions and all proceedings incident thereto. For the avoidance of doubt, the cost of the R&W

Insurance Policy, and the fees and expenses incurred in connection with obtaining R&W insurance, will be the sole cost and expense of Buyer, and Seller will not have any liability with respect thereto.

Section 9.6 Governing Law. This Agreement will be governed by and construed in accordance with the internal Laws of the State of New York, without giving effect to any choice or conflict of law provision or rule (whether of the State of New York or any other jurisdiction) that would cause the application of the Laws of any jurisdiction other than the State of New York, and the obligations, rights and remedies of the Parties shall be determined in accordance with such Laws.

Section 9.7 Specific Performance.

(a) The Parties agree that irreparable damages would occur in the event that any of the provisions of this Agreement were not performed in accordance with their specific terms or were otherwise breached, and that damages at law may be an inadequate remedy for the breach of any of the covenants, promises and agreements contained in this Agreement. Accordingly, prior to a valid termination of this Agreement in accordance with its terms, any Party will be entitled to injunctive relief to prevent any such breach, and to specifically enforce the terms and provisions of this Agreement without the necessity of posting bond or other security against it or proving damages. The rights set forth in this Section 9.7 will be in addition to any other rights which a Party may have at law or in equity pursuant to this Agreement. For the avoidance of doubt, notwithstanding anything else in this Agreement, in no event shall specific performance of Buyer's obligation to consummate the Closing survive if this Agreement is terminated in accordance with its terms.

(b) The Parties hereby agree not to raise any objections to the availability of the equitable remedy of specific performance to prevent or restrain breaches of this Agreement by Buyer or Sellers, as applicable, and to specifically enforce the terms and provisions of this Agreement to prevent breaches or threatened breaches of, or to enforce compliance with, the respective covenants and obligations of Buyer or Sellers, as applicable, under this Agreement all in accordance with the terms of this Section 9.7.

(c) Notwithstanding anything in this Agreement to the contrary, the Parties hereby acknowledge and agree that Sellers shall be entitled to specific performance to cause Buyer (i) to consummate and obtain the Debt Financing (which may include bringing claims or actions against the Debt Financing Sources) on the terms and conditions of the Debt Commitment Letter, solely if (A) all conditions in Section 7.1 and Section 7.2 have been satisfied or waived (other than those to be satisfied at the Closing itself, each of which is capable of being, and is, satisfied or waived upon the Closing) at the time when the Closing would have occurred pursuant to the terms hereof, (B) all conditions to the consummation of the Debt Financing provided for by the Debt Commitment Letter have been satisfied (or, with respect to certificates to be delivered at the consummation of the Debt Financing, are capable of being satisfied upon consummation) at the time when the Closing would have occurred pursuant to the terms thereof and (C) Sellers have irrevocably confirmed in a written notice delivered to Buyer that (1) all conditions set forth in Section 7.1 and Section 7.3 have been satisfied (other than those to be satisfied at the Closing itself, each of which is capable of being, and is, satisfied upon the Closing) or that it is willing to waive any unsatisfied conditions in Section 7.3 at the Closing, and (2) if the Debt Financing were

consummated, it would take such actions that are within its control to cause the Closing to occur in accordance with this Agreement and (ii) to effect the Closing solely if (A) the Debt Financing has been consummated in accordance with the terms thereof or the Debt Financing Sources have confirmed in writing that the Debt Financing shall be consummated at the Closing and (B) Sellers have irrevocably confirmed to Buyer in writing that (1) all conditions set forth in Section 7.1 and Section 7.3 have been satisfied (other than those to be satisfied at the Closing itself, each of which is capable of being, and is, satisfied upon the Closing) or that it is willing to waive any unsatisfied conditions in Section 7.3 at the Closing, and (2) Sellers stand ready, willing and able to proceed with the Closing if specific performance is granted and the Debt Financing is consummated.

(d) Notwithstanding the foregoing, the Parties hereby acknowledge and agree that in no event shall Sellers or any of their Related Persons or Affiliates, or any of their respective Related Persons or Affiliates be entitled to seek (or force, or seek the remedy of specific performance to make, Buyer or any of its Related Persons or Affiliates to seek) the remedy of specific performance of this Agreement, the Debt Commitment Letter, the Debt Financing or any other financing, in each case, against any Debt Financing Source.

Section 9.8 Submission to Jurisdiction; Consent to Service of Process; Waiver of Jury Trial.

(a) Without limiting any Party's right to appeal any order of the Bankruptcy Court, (i) the Bankruptcy Court will retain exclusive jurisdiction to enforce the terms of this Agreement and to decide any claims or disputes which may arise or result from, or be connected with, this Agreement, any breach or default hereunder, or the Transactions, and (ii) any and all proceedings related to the foregoing will 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 for such purposes and will receive notices at such locations as indicated in Section 9.2; provided, however, that if the Bankruptcy Proceeding has been closed pursuant to Section 350 of the Bankruptcy Code, the Parties agree to unconditionally and irrevocably submit to the exclusive jurisdiction of the United States District Court for the Southern District of New York, or in the event (but only in the event) that such court does not have subject matter jurisdiction over such Action, in the Supreme Court of the State of New York, New York County, for the resolution of any such claim or dispute. The Parties hereby irrevocably waive, to the fullest extent permitted by applicable Law, any objection which they may now or hereafter have to the laying of venue of any such Action brought in such court or any defense of inconvenient forum for the maintenance of such dispute. Each of the Parties agrees that a judgment in any such dispute may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by Law.

(b) Each of the Parties hereby consents to process being served by any other Party in any Action by delivery of a copy thereof in accordance with the provisions of Section 9.2; provided, however, that such service will not be effective until the actual receipt thereof by the Party being served.

(c) Each Party to this Agreement waives any right to trial by jury in any Action regarding this Agreement or any provision hereof.

Section 9.9 Interpretation; Construction.

(a) The Table of Contents, Article and Section headings contained in this Agreement are solely for the purpose of reference, are not part of the agreement of the Parties and shall not in any way affect the meaning or interpretation of this Agreement.

(b) Unless otherwise specified in this Agreement or the context otherwise requires: (i) 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; (ii) any reference to the masculine, feminine or neuter gender shall include all genders, the plural shall include the singular and the singular shall include the plural; (iii) all Preamble, Recital, Article, Section, clause, Schedule and Exhibit references used in this Agreement are to the preamble, recitals, articles, sections, clauses, schedules and exhibits to this Agreement; (iv) wherever the word “include,” “includes” or “including” is used in this Agreement, it shall be deemed to be followed by the words “without limitation;” (v) the terms “date hereof” and “date of this Agreement” mean the date first written above; (vi) with respect to the determination of any period of time, the word “from” means “from and including” and the words “to” and “until” each means “to but excluding;” (vii) (A) any reference to “days” means calendar days unless Business Days are expressly specified and (B) any reference to “months” or “years” shall mean calendar months or calendar years, respectively, in each case unless otherwise expressly specified; (viii) the word “extent” in the phrase “to the extent” shall mean the degree to which a subject or other thing extends and such phrase shall not mean simply “if;” (ix) each accounting term not otherwise defined in this Agreement has the meaning commonly applied to it in accordance with GAAP; (x) the term “made available” means made available in the Data Room and accessible by Buyer and its Representatives at least two Business Days prior to the date hereof; (xi) a reference herein to \$ or dollars is to U.S. dollars; and (xii) references herein to an agreement, instrument, or other document means such agreement, instrument, or other document as amended, supplemented, and modified from time to time to the extent permitted by the provisions thereof.

(c) Unless otherwise specified in this Agreement, any deadline or time period set forth in this Agreement that by its terms ends on a day that is not a Business Day shall be automatically extended to the next succeeding Business Day.

(d) Unless otherwise specified in this Agreement or the context otherwise requires, all references to any (i) statute in this Agreement include the rules and regulations promulgated thereunder and all applicable guidance, guidelines, bulletins or policies issued or made in connection therewith by a Governmental Entity, and (ii) Law in this Agreement shall be a reference to such Law as amended, re-enacted, consolidated or replaced as of the applicable date or during the applicable period of time.

(e) Unless otherwise specified in this Agreement all references in this Agreement to this Agreement mean this Agreement (taking into account the provisions of Section 9.3) as amended, supplemented or otherwise modified from time to time in accordance with Section 9.3.

(f) With regard to each and every term and condition of this Agreement, the Parties understand and agree that the same have or has been mutually negotiated, prepared and drafted, and that if at any time the Parties desire or are required to interpret or construe any such term or

condition or any agreement or instrument subject thereto, no consideration shall be given to the issue of which Party actually prepared, drafted or requested any term or condition of this Agreement.

(g) All capitalized terms in this Agreement (including the Exhibits and Schedules hereto) shall have the meaning set forth in Exhibit A, except as otherwise specifically provided herein. Each of the other capitalized terms used in this Agreement has the meaning set forth where such term is first used or, if no meaning is set forth, the meaning required by the context in which such term is used. The definitions of terms herein shall apply equally to the singular and plural forms of the terms defined.

Section 9.10 Severability. The provisions of this Agreement shall be deemed severable and the invalidity or unenforceability of any provision shall not affect the validity or enforceability of the other provisions hereof. If any provision, covenant or restriction of this Agreement is held by a court of competent jurisdiction or other authority of competent jurisdiction to be invalid, void or unenforceable, or the application of such provision, covenant or restriction to any Person or any circumstance, is held by a court of competent jurisdiction or other authority to be invalid, void or unenforceable, (a) a suitable and equitable provision shall be negotiated in good faith by the Parties so as to carry out, so far as may be valid and enforceable, the intent and purpose of such invalid or unenforceable provision and (b) the remainder of this Agreement and the application of such provision, covenant or restriction to other Persons or circumstances shall not be affected by such invalidity or unenforceability, nor shall such invalidity or unenforceability affect the validity or enforceability of such provision, or the application of such provision, in any other jurisdiction and the remainder of the terms, provisions, covenants and restrictions of this Agreement shall remain in full force and effect and shall in no way be affected, impaired or invalidated.

Section 9.11 Counterparts; Signatures. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, and all of which shall constitute one and the same Agreement. This Agreement may be executed by .pdf signature and a .pdf signature shall constitute an original for all purposes.

Section 9.12 Bulk Transfer Laws. The Parties intend that, under section 363(f) of the Bankruptcy Code, the transfer of the Transferred Assets shall be free and clear of any encumbrances arising out of bulk transfer Laws, and the Parties shall take such steps as may be necessary or appropriate to so provide in the Sale Order. In furtherance of the foregoing, each Party hereby waives compliance by the Parties with “bulk sales,” “bulk transfers” or similar Laws in respect of the Transactions.

Section 9.13 Non-Recourse. All Actions (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 related in any manner to this Agreement or the Transactions may be made only against (and are expressly limited to) the Persons that are expressly identified as Parties (the “Contracting Parties”). No Person who is not a Contracting Party, including any director, officer, employee, incorporator, member, partner, manager, equityholder, Affiliate, agent, attorney or Representative of, or any financial advisor or lender to, a Contracting Party (“Non-Party Affiliates”), shall have any Liability (whether in contract or in tort, in Law or in equity, or granted by statute or based upon any theory that seeks to impose Liability of an entity party against its

owners or Affiliates) for any Actions, obligations or Liabilities arising under, out of, in connection with or related in any manner to this Agreement or the Transactions or based on, in respect of, or by reason of this Agreement (or the negotiation, execution, performance or breach thereof) or the Transactions; and, to the maximum extent permitted by Law, each Contracting Party waives and releases all such Liabilities, claims and obligations against any such Non-Party Affiliates. Without limiting the foregoing, to the maximum extent permitted by Law, (a) each Contracting Party hereby waives and releases any and all rights, claims, demands, or causes of action that may otherwise be available at Law or in equity, or granted by statute, to avoid or disregard the entity form of a Contracting Party or otherwise impose Liability of a Contracting Party on any Non-Party Affiliate, whether granted by statute or based on theories of equity, agency, control, instrumentality, alter ego, domination, sham, single business enterprise, piercing the veil, unfairness, undercapitalization, or otherwise, and (b) each Contracting Party disclaims any reliance upon any Non-Party Affiliates with respect to the performance of this Agreement or the Transactions or any representation or warranty made in, in connection with, or as an inducement to this Agreement. The Parties acknowledge and agree that the Non-Party Affiliates are intended third party beneficiaries of this Section 9.13.

Section 9.14 Seller Designation. Each Seller hereby designates Sequential to execute any and all instruments, certificates or other documents on behalf of such Seller, and to do any and all other acts or things on behalf of such Seller, which Sequential may deem necessary or advisable, or which may be required pursuant to this Agreement, any other Transaction Document or otherwise, in connection with the consummation of the transactions contemplated hereby or thereby and the performance of all obligations hereunder or thereunder, including the exercise of the power to: (a) execute any other Transaction Document on behalf of such Seller, (b) act for such Seller with respect to any determination of the Estimated Cash Consideration and the Final Cash Consideration under this Agreement, (c) give and receive notices and communications to or from Buyer relating to this Agreement, any other Transaction Document or any of the transactions and other matters contemplated hereby or thereby, (d) agree to, object to, negotiate, resolve, enter into settlements and compromises of, demand arbitration or litigation of, and comply with orders of arbitrators or courts with respect to, any dispute between Buyer, on the one hand, and Sellers, on the other hand, in each case relating to this Agreement, any other Transaction Document or any of the transactions and other matters contemplated hereby or thereby, (e) grant any waiver, consent or approval, or election, and making any filings with any Governmental Entity, on behalf of such Seller under this Agreement or any other Transaction Document, and (f) take all actions necessary or appropriate in the judgment of Sequential for the accomplishment of the foregoing. Sequential shall have authority and power to act on behalf of each other Seller with respect to the disposition, settlement or other handling of all claims under this Agreement and any other Transaction Document and all rights or obligations arising hereunder or thereunder. Each Seller shall be bound by all actions taken and documents executed by Sequential in connection with this Agreement and any other Transaction Document, and Buyer shall be entitled to rely on any action or decision of Sequential. The appointment of Sequential as each other Seller's attorney-in-fact revokes any power of attorney heretofore granted that authorized any other Person or Persons to represent any such Seller with regard to this Agreement or any other Transaction Document. The appointment of Sequential as attorney-in-fact pursuant hereto is coupled with an interest and is irrevocable.

Section 9.15 No Personal Liability. This Agreement shall not create or be deemed to create or permit any personal liability or obligation on the part of any direct or indirect stockholder of Sellers or Buyer or any officer, director, employee, Representative or investor of any Party.

Section 9.16 Disclosure Schedules. The representations and warranties of Sellers set forth in this Agreement are made and given subject to the disclosures in the Disclosure Schedules. Where a reference is made only to a particular disclosed document, the full contents of the document are deemed to be disclosed. Inclusion of information in the Disclosure Schedules will not be construed (i) as an admission that such information is material to the Business, (ii) as an admission of Liability or obligation of any Seller to any third Person, or (iii) to mean that such information is required to be disclosed by this Agreement. The specific disclosures set forth in the Disclosure Schedules have been organized to correspond to section references in this Agreement to which the disclosure is most likely to relate, together with appropriate cross-references when disclosure is applicable to other sections of this Agreement; provided, however, that any disclosure in any section of the Disclosure Schedules will apply to and will be deemed to be disclosed in any other section of the Disclosure Schedules, so long as the applicability of such disclosure is reasonably apparent on its face. It is understood and agreed that the specification of any dollar amount in the representations and warranties or covenants contained in this Agreement or the inclusion of any specific item in the Disclosure Schedules is not intended to imply that such amounts or higher or lower amounts, or the items so included or other items, are or are not material, and no Party or other Person shall use the fact of the setting of such amounts or the fact of the inclusion of any such item in the Disclosure Schedules in any dispute or controversy as to whether any obligation, item or matter not described in this Agreement or included in the Disclosure Schedules is or is not material for purposes of this Agreement. Nothing in this Agreement (including the Disclosure Schedules) shall be deemed an admission by either Party or any of its Affiliates, in any Action, that such Party or any such Affiliate, or any third party, is or is not in breach or violation of, or in default in, the performance or observance of any term or provisions of any Contract or Law.

[Signature Page Follows]

IN WITNESS WHEREOF, the Parties have executed or caused this Agreement to be executed as of the date first written above.

GAINLINE GALAXY HOLDINGS LLC

By:  _____

Name: Allan Weinstein

Title: President

SEQUENTIAL BRANDS GROUP, INC.

By: Lorraine DiSanto

Name: Lorraine DiSanto

Title: Chief Financial Officer

GALAXY BRANDS LLC

By: Lorraine DiSanto

Name: Lorraine DiSanto

Title: Chief Financial Officer & Treasurer

**THE BASKETBALL MARKETING
COMPANY, INC.**

By: Lorraine DiSanto

Name: Lorraine DiSanto

Title: Chief Financial Officer & Treasurer

AMERICAN SPORTING GOODS CORP

By: Lorraine DiSanto

Name: Lorraine DiSanto

Title: Chief Financial Officer & Treasurer

GAIAM AMERICAS, INC.

By: Lorraine DiSanto

Name: Lorraine DiSanto

Title: Chief Financial Officer & Treasurer

EXHIBIT A
Definitions

Unless otherwise defined in this Agreement, the following terms have the meaning specified in this Exhibit A.

“Action” means any action, suit, petition, plea, charge, claim, counterclaim, demand, hearing, inquiry, right, cause of action, complaint, grievance, summons, litigation, investigation, prosecution, contest, inquest, audit, examination, proceeding (including any civil, criminal, administrative, investigative or appellate proceeding), mediation, arbitration or other similar matter.

“Actual Spend” means the amount actually paid by Sellers or their Affiliates in the current calendar year with respect to marketing expenses for the Business as of the Closing Date.

“Additional Assumed Contracts” means the executory Seller Contracts listed on Schedule 1.1(f) as modified by Buyer from time to time pursuant to Section 1.5(d) between the date hereof and two Business Days prior to the Closing Date (the “Additional Assumed Contracts Schedule”).

“Additional Assumed Contracts Schedule” has the meaning set forth in the definition of “Additional Assumed Contracts”.

“Additional Cash Consideration” means such additional amount of cash, if any, that Buyer may determine in its sole discretion to fund at Closing.

“Additional Rejected Contracts” means all Contracts other than the Closing Assumed Contracts and Additional Assumed Contracts that Buyer designates to reject from time to time as set forth on the Rejected Contracts Schedule pursuant to Section 1.5(d)(ii) prior to the Designation Deadline.

“Affiliate” means, with respect to any Person, any other Person directly or indirectly controlling, controlled by or under common control with such Person as of the date on which, or at any time during the period for which, the determination of affiliation is being made (for purposes of this definition, the term “control” (including the correlative meanings of the terms “controlled by” and “under common control with”), as used with respect to any Person, means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of such Person, whether through the ownership of voting securities, by contract or otherwise).

“Agreement” has the meaning set forth in the Preamble.

“Allocation Notice of Objection” has the meaning set forth in Section 6.4(d)(i).

“Alternative Transaction” means any reorganization, merger, transaction, consolidation, business combination, joint venture, partnership, sale of assets, financing (debt or equity), or restructuring or similar transaction of or by any Seller involving any of

the Transferred Assets other than to Buyer pursuant to this Agreement; provided, however, that an Alternative Transaction shall not include pursuit of confirmation of a Chapter 11 plan of liquidation if it does not and will not delay, and is not inconsistent with, the transactions contemplated by this Agreement, confirmation of which plan shall take place solely following the Bankruptcy Court's entry of the Sale Order, with the occurrence of any "effective date" or similar concept under such plan subject to the occurrence of the Closing Date.

"AML Laws" has the meaning set forth in Section 3.9(e).

"Asset Taxes" means ad valorem, property, excise, severance, production, sales, use or similar Taxes (excluding, for the avoidance of doubt, any Income Taxes and Transfer Taxes) based upon or measured by the ownership or operation of the Business.

"Assigned Actions" has the meaning set forth in Section 1.1(f).

"Assumed Accounts Payable" has the meaning set forth in Section 1.3(b).

"Assumed Liabilities" has the meaning set forth in Section 1.3.

"Assumption and Assignment Agreements" has the meaning set forth in Section 2.4(c).

"Auction" has the meaning set forth in the Bid Procedures Order.

"Audit Firm" has the meaning set forth in Section 2.2(c).

"Avoidance Action" means any avoidance claims, right, recovery, subordination or cause of action or remedies under Chapter 5 of the Bankruptcy Code, including any proceeds thereof, and any analogous state law claims and proceeds thereof, in each case, that relates to the Transferred Assets or the Business.

"Backup Bid" has the meaning set forth in the Bid Procedures.

"Backup Bidder" has the meaning set forth in the Bid Procedures.

"Bankruptcy Code" means Title 11 of the United States Code, 11 U.S.C. § 101 *et seq.*

"Bankruptcy Court" has the meaning set forth in the Recitals.

"Bankruptcy Proceeding" has the meaning set forth in the Recitals.

"Benefit Plan" means each "employee benefit plan" within the meaning of Section 3(3) of ERISA (whether or not subject to ERISA) and all other compensation and benefits plans, policies, trust funds, programs, arrangements or payroll practices, including Multiemployer Plans, and each other stock purchase, stock option, restricted stock, profit sharing, pension, savings, severance, retention, employment, consulting, commission,

change-of-control, collective bargaining, bonus, incentive, deferred compensation, employee loan, fringe benefit, insurance, welfare, post-retirement health or welfare, health, life, tuition refund, service award, company car, scholarship, relocation, disability, accident, sick pay, sick leave, accrued leave, vacation, holiday, termination, unemployment, restrictive covenant, and other benefit plan, policy, trust fund, program, arrangement or payroll practice, whether or not subject to ERISA (including any related funding mechanism now in effect or required in the future), whether formal or informal, oral or written, funded, unfunded, insured or self-insured, in each case, that is sponsored, established, maintained, contributed to or required to be contributed to by the Sellers or any of their respective Affiliates, or under which the Sellers or any of their respective Affiliates has any current or potential Liability.

“Bid Procedures” has the meaning set forth in the Bid Procedures Order.

“Bid Procedures Motion” has the meaning set forth in Section 5.1.

“Bid Procedures Order” means an order entered by the Bankruptcy Court in the form of Exhibit D, with only such material changes as acceptable to Sellers and Buyer in their respective sole discretion.

“Bid Protections” means the Seller Termination Fee.

“Bill of Sale” has the meaning set forth in Section 2.4(d).

“Budget” means the 2021 annual budget for the Business approved and adopted by Sequential as set forth on Schedule 6.2.

“Business” has the meaning set forth in the Recitals.

“Business Day” means any day ending at 11:59 p.m., prevailing Eastern time, other than a Saturday, a Sunday, a day on which banks in New York, New York are authorized or required by Law, executive order or other governmental action to close.

“Buyer” has the meaning set forth in the Preamble.

“Buyer Consulting Agreement” means the Consulting Agreement between Galaxy Universal LLC and Seller effective as of January 1, 2021, as amended.

“Buyer Designee” has the meaning set forth in Section 1.9.

“Buyer Material Adverse Effect” means effect, event, change, occurrence, condition or state of facts that, individually or in the aggregate, is or would reasonably be expected to materially and adversely hinder or delay Buyer’s ability to consummate the Transactions and to fulfill and perform its covenants and obligations under this Agreement and the other Transaction Documents.

“Buyer Termination Fee” means an amount equal to \$16,650,000.

“Carve-Out” has the meaning given to it in the DIP Order.

“Cash” means all cash, cash equivalents and liquid investments, including marketable securities, bank deposits, investment accounts and similar items, excluding any security deposits or similar restricted cash and cash equivalents.

“Cash Consideration” means an amount equal to (a) \$55,500,000, less (b) the Delinquent Accounts Receivable Deficiency, less (c) 50% of any amounts related to the East Asia Delinquent Accounts Receivable collected by Sellers between the date hereof and the Closing, less (d) the Closing Assumed Accounts Payable, less (e) the Marketing Adjustment, plus (f) the Additional Cash Consideration; provided, that there shall be no duplication that results in the Cash Consideration being reduced twice by the same liability.

“Closing” has the meaning set forth in Section 2.3.

“Closing Assumed Accounts Payable” means the Assumed Accounts Payable as of the Closing.

“Closing Assumed Contracts” has the meaning set forth in Section 1.1(d), except to the extent included in Excluded Assets.

“Closing Date” has the meaning set forth in Section 2.3.

“Closing Date Statement” has the meaning set forth in Section 2.2(a).

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

“Commitment Letters” has the meaning set forth in Section 4.4(a).

“Confidentiality Agreement” means the Confidentiality and Nondisclosure Agreement, dated as of January 25, 2021 by and between Sequential and Buyer.

“Contract” means any contract, agreement, lease, sublease, license, sublicense, settlement, use agreement, occupancy agreement, permit, concession, franchise, note, bond, loan or credit agreement, mortgage, indenture, obligation, instrument, promise, undertaking, trust document, insurance policy, purchase order, commitment or other arrangement or understanding (in each case whether written or oral), and any amendments, modifications or supplements thereto.

“Contracting Parties” has the meaning set forth in Section 9.13.

“COVID-19 Measures” means (i) any quarantine, “shelter in place,” “stay at home,” workforce reduction, social distancing, shut down, closure, sequester or any other Law or Order, decree, judgment, injunction or other legal requirement, directive, guideline or recommendation by any Governmental Entity in connection with or in response to COVID-19, (ii) any measures, changes in business operations or other practices, affirmative or negative, adopted in good faith by Sellers directly or indirectly (A) for the

protection of the health or safety of Sellers' employees, customers, vendors, service providers or any other persons, (B) to preserve the assets utilized in connection with the business of Sellers, or (C) that are otherwise substantially consistent with actions taken by other companies in the industries or geographic regions in which Sellers operate, in each case, in connection with or in response to COVID-19 or (iii) any change, event, occurrence or effect of any of the matters contemplated by clause (i) or (ii) of this definition.

“Cure Costs” means the monetary amounts that must be paid under Sections 365(b)(1)(A) and (B) of the Bankruptcy Code in connection with the assumption and/or assignment of any Closing Assumed Contract or Additional Assumed Contract, or as otherwise agreed upon by the Parties, or determined by the Bankruptcy Court pursuant to the procedures in the Bid Procedures Order and set forth on Schedule 1.5(c).

“Data Protection Laws” means all applicable Laws pertaining to data protection, data privacy, data security, cybersecurity, cross-border data transfer, and general consumer protection laws as applied in the context of data privacy, data breach notification, electronic communication, telephone and text message communications, marketing by email or other channels, and other similar laws.

“Data Protection Requirements” has the meaning set forth in Section 3.16(a).

“Data Room” means that certain virtual data room hosted by Intralinks with the project name “Project Sea Breeze” and made accessible to Buyer and its Representatives.

“Debt Commitment Letter” has the meaning set forth in Section 4.4(a).

“Debt Financing” has the meaning set forth in Section 4.4(a).

“Debt Financing Failure” has the meaning set forth in Section 8.3(b).

“Debt Financing Sources” has the meaning set forth in Section 4.4(a).

“Debtors” means Sequential Brands Group, Inc., SQBG, Inc., Sequential Licensing, Inc., William Rast Licensing, LLC, Heeling Sports Limited, Brand Matter, LLC, SBG FM, LLC, Galaxy Brands LLC, The Basketball Marketing Company, Inc., American Sporting Goods Corporation, LNT Brands LLC, Joe's Holdings LLC, Gaiam Brand Holdco, LLC, Gaiam Americas, Inc., SBG-Gaiam Holdings, LLC, SBG Universe Brands, LLC, and GBT Promotions LLC.

“Delinquent Accounts Receivable” means the accounts receivable from the licenses set forth on Schedule 1.1(a)(i) and the East Asia Delinquent Accounts Receivable.

“Delinquent Accounts Receivable Deficiency” means the amount by which the Delinquent Accounts Receivable (including Delinquent Accounts Receivable converted to guaranteed minimum royalties, but excluding the East Asia Delinquent Accounts Receivable), is lower than \$26,675,000 at the Closing.

“Designation Deadline” has the meaning set forth in Section 1.5(d).

“DIP Order” means any interim or final order entered by the Bankruptcy Court approving debtor in possession financing and/or use of cash collateral in the Bankruptcy Proceedings, which shall be in form and substance satisfactory to Buyer in its sole discretion.

“Disclosure Schedules” means the Disclosure Schedules attached hereto.

“Dispute Notice” has the meaning set forth in Section 2.2(c).

“East Asia A/R Payment” has the meaning set forth in Section 6.13(b).

“East Asia Delinquent Accounts Receivable” means the accounts receivable set forth on Schedule 1.1(a)(ii) or sale proceeds from the sale of such accounts receivable.

“Environmental Law” means all Laws, contractual obligations and all common law concerning public health and safety, worker health and safety, and pollution or protection of the environment, including, without limitation, all those relating to the presence, use, production, generation, handling, transportation, treatment, storage, disposal, distribution, labeling, testing, processing, discharge, release, threatened release, control or cleanup of any hazardous materials, substances or wastes, chemical substances or mixtures, pesticides, pollutants, contaminants, toxic chemicals, petroleum products or byproducts, asbestos, polychlorinated biphenyls, noise or radiation.

“Environmental Liability” means any Liability arising under Environmental Law, including (a) any Liability relating to, arising from or with respect to (i) any actual or alleged violation of any Environmental Law, (ii) any actual or alleged generation, use, handling, transportation, storage, treatment, disposal, Release, or threatened Release of, or exposure to, any Hazardous Substances at any facility or location, and (iii) any Liability arising under Environmental Law relating to, arising from or with respect to any formerly owned, leased, or operated properties or any former, closed, divested, or discontinued business operations, and (b) any Liabilities arising under Environmental Law assumed or retained by contract, operation of law, or otherwise.

“Equity Commitment Letter” has the meaning set forth in Section 4.4(a).

“Equity Financing Sources” has the meaning set forth in Section 4.4(a).

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

“Escrow Account” means the account into which the Escrow Amount is deposited.

“Escrow Agent” means Kurtzman Carson Consultants, LLC.

“Escrow Agreement” means that certain Fund Services Agreement to be entered into as of the Closing Date, among Sequential, Buyer and the Escrow Agent, based upon the form attached as Exhibit G with such customary changes as are mutually agreed by the Parties prior to the Closing.

“Escrow Amount” means \$1,665,000.

“Escrow Excess Amount” has the meaning set forth in Section 2.2(e).

“Estimated Cash Consideration” has the meaning set forth in Section 2.1(b).

“Estimated Closing Statement” has the meaning set forth in Section 2.1(b).

“Estimated Debt Consideration” means indebtedness of Buyer or its Subsidiaries in an amount equal to \$227,500,000, less the Additional Cash Consideration, less the Estimated Royalty Adjustment.

“Excluded Assets” has the meaning set forth in Section 1.2.

“Excluded Contracts” has the meaning set forth in Section 1.2(i).

“Excluded Employee Liabilities” means (i) any and all Liabilities, including any Actions, obligations, payments, costs, expenses or disbursements that Sellers or any of their respective Affiliates owes or is obligated to provide, whether currently, prospectively or on a contingent basis, whether prior to, on, or following the Closing, in each case, with respect to any current or former employee of, or other service provider to, any of Sellers or any of their respective Affiliates (or any of their respective covered dependents, beneficiaries and estates), in connection with any such individual’s employment with and/or engagement by Sellers or any of their respective Affiliates, or the termination thereof, and (ii) any and all Liabilities and obligations, payments, costs, expenses or disbursements which arise under or relate to any Benefit Plan or any other employee benefit plan or arrangement.

“Excluded Liabilities” has the meaning set forth in Section 1.4.

“Expense Reimbursement Amount” means an amount equal to \$1,500,000.

“FCPA” has the meaning set forth in Section 3.9(c).

“Final Allocation Statement” has the meaning set forth in Section 6.4(d)(i).

“Final Cash Consideration” has the meaning set forth in Section 2.2(a).

“Final Debt Consideration” means indebtedness of Buyer or its Subsidiaries in an amount equal to \$227,500,000, less the Additional Cash Consideration, less the Final Royalty Adjustment.

“Final Order” means an Order (a) as to which no appeal, leave to appeal, notice of appeal, motion to amend or make additional findings of fact, motion to alter or amend judgment, motion for rehearing or motion for new trial has been timely filed (in cases in which there is a date by which such filing is required to occur, or, if any of the foregoing has been timely filed, it has been disposed of in a manner that upholds and affirms the subject order in all respects without the possibility for further appeal thereon), (b) in respect

of which the time period for instituting or filing an appeal, leave to appeal, motion for rehearing or motion for new trial shall have expired (in cases in which such time period is capable of expiring), and (c) as to which no stay is in effect; provided, however, that if no person, entity or governmental unit has specifically questioned, challenged or objected to the good faith (as such term is used within the meaning of section 363 of the Bankruptcy Code) of Buyer at or before the time of entry of the Sale Order (any such question, challenge or objection, a “Good Faith Objection”), and the Sale Order is not subject to a pending appeal, vacatur, reversal or motion for reconsideration based on a Good Faith Objection or the Bankruptcy Court’s determination that Buyer is a good faith purchaser within the meaning of section 363 of the Bankruptcy Code, and is not subject to a stay, as of the Closing, then the Sale Order need only have been entered by the Bankruptcy Court and be in full force and effect and not subject to a stay as of the Closing in order to be considered a Final Order for purposes of Section 5.1(b) and Section 7.1(c) hereof.

“Financing” has the meaning set forth in Section 4.4(a).

“Financing Cooperation Request” has the meaning set forth in Section 6.8(a).

“Financing Sources” has the meaning set forth in Section 4.4(a).

“Fraud” means actual and intentional fraud with respect to Articles III and IV hereof that involves a knowing and intentional misrepresentation therein with the intent that the other Party rely thereon, and for the avoidance of doubt, does not include constructive fraud or other claims based on constructive knowledge, negligent misrepresentation, recklessness or similar theories.

“Fundamental Representations” means the representations and warranties of Sellers set forth in Section 3.1 (Organization; Good Standing; Qualification and Power), Section 3.2 (Authorization), Section 3.10 (Brokers and Finders) and Section 3.12(a) (Title to Transferred Assets).

“GAAP” means United States generally accepted accounting principles.

“Governmental Entity” means any domestic or foreign governmental or regulatory authority, agency, commission, body, court or other legislative, executive or judicial governmental entity.

“Hazardous Substance” means any chemical, pollutant, contaminant, or material, waste or substance, whether hazardous, toxic, deleterious, radioactive, noxious, harmful, or otherwise, petroleum and petroleum products, by-products, derivatives or wastes, greenhouse gases, asbestos or asbestos-containing materials or products, per- and polyfluoroalkyl substances, polychlorinated biphenyls (PCBs) or materials containing same, lead or lead-based paints or materials, pesticides, radon, fungus, mold in quantities or concentrations that may adversely affect human health or materially affect the value or utility of the building(s) in which it is present, or other substances that may have an adverse effect on human health or the environment.

“Holdings Second A&R LLC Agreement” has the meaning set forth in Section 2.4(g).

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

“Identified Contract” has the meaning set forth in Section 1.5(c).

“Income Taxes” means any income, franchise or similar Taxes.

“Indebtedness” means, with respect to any Person, without duplication, the outstanding principal amount of, accrued and unpaid interest on, and other payment obligations (including any prepayment premiums or penalties payable as a result of the repayment thereof) arising under, any obligations consisting of (i) indebtedness for borrowed money or indebtedness issued in substitution or exchange for borrowed money for the deferred purchase price of property or services, (ii) indebtedness evidenced by any note, bond, debenture or other debt security, (iii) all obligations under financing or capital leases, including obligations created or arising under any conditional sale or other title retention agreement, or incurred as financing, (iv) all deferred obligations to reimburse any bank or other Person in respect of amounts paid or advance under a letter of credit, surety bond, performance bond or other instrument and (v) all Indebtedness of others guaranteed, directly or indirectly by such Person or as to which such person has an obligation (contingent or otherwise that is substantially the economic equivalent of a guarantee or that is otherwise recognized in the financial statements of such Person).

“Intellectual Property” means all intellectual property rights arising in any jurisdiction of the world, including with respect to any of the following: (a) trademarks, service marks, trade dress, trade names, and other indicia of origin, applications and registrations for the foregoing, and all goodwill associated therewith and symbolized thereby (collectively, “Trademarks”); (b) inventions (whether or not patentable), discoveries, improvements, ideas, know-how, formulas, methodology, models, algorithms, systems, processes, technology, patents and patent applications, including divisionals, continuations, continuations-in-part and renewal applications, and including renewals, re-examinations, extensions and reissues; (c) trade secrets and rights in confidential information or information, in each case that derive independent economic value from not generally being known to the public; (d) copyrightable works, works of authorship, software (including interpretive code or source code, object code, development documentation, programming tools, drawings, specifications and data), copyrights, applications and registrations therefor, and renewals, extensions, restorations and reversions thereof and all moral rights thereof; (e) Internet domain names; (f) social media accounts, identifiers and designations; and (g) all other proprietary rights or similar rights recognized in any jurisdiction around the world.

“Intracompany Payables” means all account, note or loan payables recorded on the books of Sellers or any of their respective Affiliates (the “Seller Payor”) for goods or services purchased by or provided to the Seller Payor, or advances (cash or otherwise) or any other extensions of credit to the Seller Payor, in each case, from any such other Seller or any of its Affiliates (other than the Seller Payor), whether current or non-current.

“Intracompany Receivables” means all account, note or loan receivables recorded on the books of Sellers or any of their respective Affiliates (the “Seller Payee”) for goods or services sold or provided by the Seller Payee or advances (cash or otherwise) or any other extensions of credit made by the Seller Payee, in each case, to any such other Seller or any of its Affiliates (other than the Seller Payee), whether current or non-current.

“IP Assignment” has the meaning set forth in Section 3.13(e).

“Knowledge” means, with respect to Sellers, the actual knowledge (after reasonable inquiry) of the Persons set forth on Schedule 1.1(e)(i), and, with respect to Buyer, the actual knowledge (after reasonable inquiry) of the Persons set forth on Schedule 1.1(e)(ii).

“Law” means any federal, state, provincial, local, or municipal law, statute or ordinance, common law, or any rule, regulation, standard, judgment, order, writ, injunction, subpoena, discovery request, including interrogatory, decree, arbitration award, or agency requirement of any Governmental Entity.

“Legislation” has the meaning set forth in Section 3.9(c).

“Liabilities” means any and all claims (as defined in the Bankruptcy Code), debts, liabilities, commitments and obligations of any kind, whether fixed, contingent or absolute, matured or unmatured, liquidated or unliquidated, accrued or not accrued, asserted or not asserted, known or unknown, express or implied, primary or secondary, direct or indirect, determined, determinable or otherwise, due or to become due, whenever or however arising (including, whether arising out of any contract or tort based on negligence or strict liability).

“Lien” means, with respect to any property or asset, all pledges, liens, mortgages, charges, encumbrances, hypothecations, claims, options, rights of first refusal, rights of first offer, easements, servitudes, licenses to use, occupancy agreements, encroachments, transfer restrictions or other similar rights and security interests of any kind or nature whatsoever.

“Lien Release Letters” means one or more release letters or termination statements or customary release documentation in the applicable jurisdiction with respect to obligations under the Prepetition Credit Agreements with respect to which a Lien is granted on the Transferred Assets or the Business, in form and substance reasonably satisfactory to Buyer, which letters and other instruments provide that all obligations of the Business in respect of such obligations (including any guaranty thereof), and all Liens on the Transferred Assets or any asset of the Business securing such obligations, in each case, shall be released and terminated effective concurrently with the Closing with no Liability to Buyer or any of its Affiliates, unless, in each case above, such release has been included in the Sale Order.

“Marketing Adjustment” means an amount, which may be positive or negative, equal to the Targeted Spend minus the Actual Spend.

“Material Adverse Effect” means any effect, event, change, occurrence, condition or state of facts which (A) is or would reasonably be expected to be, individually or when considered together with any other effects, events, changes, occurrences, conditions or states of facts, materially adverse to the financial condition, assets, liabilities, business or results of operations of the Business, taken as a whole; provided, however, that in no event shall an effect, event, change, occurrence, condition or state of fact occurring after the date hereof and resulting from the following, either alone or in combination, be deemed to constitute or be taken into account in determining whether there has occurred a Material Adverse Effect: (i) any change in interest or exchange rates or in the United States or foreign economies or financial, banking, capital, credit, or securities markets in general; (ii) any economic conditions that generally affect the industries or markets in which Sellers conduct the Business; (iii) any change arising in connection with acts of God, natural or manmade disasters, crises, calamities, emergencies, hurricanes, floods, tornados, tsunamis, earthquakes, epidemics, plagues, pandemics, disease outbreaks or public health events (including, for the avoidance of doubt, COVID-19), the declaration of a national emergency, hostilities, acts of war, armed hostilities, sabotage or terrorism (including cyber-terrorism) or military actions or any escalation or material worsening of any of the foregoing; (iv) any change in applicable Laws or accounting rules or the interpretation thereof; (v) any actions required to be taken by Sellers pursuant to this Agreement; (vi) the public announcement of this Agreement, including (1) the initiation of litigation by any Person with respect to this Agreement and (2) the impact of such announcement on relationships, contractual or otherwise, with customers, suppliers, licensors, distributors, partners, providers and employees; (vii) actions required under this Agreement to obtain any approval or authorization under applicable antitrust or competition Laws for the consummation of the Transactions; (viii) COVID-19 Measures; (ix) any failure to meet any projections (although the underlying facts and circumstances resulting in such failure may be taken into account to the extent not otherwise excluded from this definition); or (x) any actions taken (or omitted to be taken) at the request of or with the consent of Buyer; provided, however, that with respect to clauses (i), (ii), (iii) and (iv), such effects, events, changes, occurrences, conditions or states of facts will not be excluded to the extent the same disproportionately adversely affects the Business, taken as a whole, as compared to other similarly situated businesses or (B) would reasonably be expected to prevent or materially delay Sellers from consummating the Transactions.

“Material Contracts” has the meaning set forth in Section 3.8(a).

“Milestone” has the meaning set forth in Section 8.1(d)(ii).

“Multiemployer Plan” means each Benefit Plan that is a “multiemployer plan” as defined in Section 3(37) or 4001(a)(3) of ERISA or Section 414(f) of the Code.

“Necessary Consent” has the meaning set forth in Section 1.6.

“Non-Party Affiliates” has the meaning set forth in Section 9.13.

“Notice of Potential Assignment” has the meaning set forth in Section 1.5(c).

“OFAC” has the meaning set forth in the definition of “Sanction”.

“Order” means any administrative decision or award, decree, injunction, judgment, order, quasi-judicial decision or award, ruling or writ of any arbitrator, mediator or Governmental Entity.

“Ordinary Course” means the ordinary and usual course of day-to-day operations of the Business, consistent with past practices, other than as a result of COVID-19 Measures.

“Organizational Documents” means, with respect to any Person that is not an individual, such Person’s charter, certificate or articles of incorporation or formation, bylaws, memorandum or articles of association, operating agreement, limited liability company agreement, partnership agreement, limited partnership agreement, limited liability partnership agreement or other similar constituent or organizational documents of such Person.

“Party” and “Parties” have the meaning set forth in the Preamble.

“Permit” means any consent, license, permit, certificate, clearance, qualification, franchise, waiver, approval, authorization, certificate, registration, certificate of occupancy or filing issued by, obtained from or made with a Governmental Entity, other than any Intellectual Property.

“Permitted Encumbrance” means (a) any Liens that are expressly permitted by the Sale Order to remain attached to the Transferred Assets following the Closing, (b) any Lien on the Transferred Assets that will be expunged, released or discharged at the Closing by operation of the Sale Order, and (c) licenses, covenants not to sue and similar rights granted with respect to Intellectual Property, in each case, entered into in the Ordinary Course.

“Permitted Post-Closing Encumbrance” means those non-monetary encumbrances, if any, identified on Schedule 1.1(b) hereto.

“Person” means any natural person, corporation, company, partnership (general or limited), limited liability company, trust or other entity.

“Personal Information” means information that identifies, relates to, describes, is reasonably capable of being associated with, or could reasonably be linked, directly or indirectly, with a particular individual or household, and when referring to a Data Protection Requirement, has the same meaning as the similar or equivalent term defined thereunder.

“Petition Date” means the date that Sellers and their affiliated debtors and debtors in possession commenced the Bankruptcy Proceeding.

“Prepetition Credit Agreements” means, collectively, (i) that certain the Third Amended and Restated First Lien Credit Agreement, dated as of July 1, 2016 (as amended, restated, supplemented or modified and in effect as of the date hereof), among Sequential,

as the borrower, certain Subsidiaries of Sequential, as guarantors, Bank of America, N.A., as administrative agent and collateral agent, and the lenders party thereto and (ii) that certain Third Amended and Restated Credit Agreement, dated as of July 1, 2016 (as amended, restated, supplemented or modified and in effect as of the date hereof), among Sequential, as the borrower, certain Subsidiaries of Sequential, as guarantors, Wilmington Trust, National Association, as administrative agent and collateral agent, and the lenders party thereto.

“Previously Omitted Contract” has the meaning set forth in Section 1.5(k).

“Previously Omitted Contract Designation” has the meaning set forth in Section 1.5(k).

“Previously Omitted Contract Notice” has the meaning set forth in Section 1.5(l).

“Proposal” means an inquiry, proposal, or offer from, or indication of interest in making a proposal or offer by, any Person or group (other than Buyer and its Affiliates), relating to any transaction or series of related transactions (other than the transactions contemplated by this Agreement), involving the acquisition of a material portion of the Transferred Assets or all or substantially all of the Sellers’ assets related to the Business.

“Proposed Allocation Statement” has the meaning set forth in Section 6.4(d)(i).

“Purchase Price” means an aggregate of \$333,000,000, comprised of (i) the Cash Consideration, (ii) the Final Debt Consideration and (iii) the Equity Consideration.

“R&W Insurance Policy” means a representation and warranty insurance policy to be issued in the name of Buyer or any of its Affiliates.

“Rejected Contracts Schedule” has the meaning set forth in Section 1.5(c).

“Rejected Identified Contracts” has the meaning set forth in Section 1.5(c).

“Related Person” means, (i) with respect to an individual (A) the family members of such individual, including (1) any individual related by lineal consanguinity to such Person or such Person’s spouse, (2) such Person’s spouse and the spouse of any individual described in clause (1) preceding and (3) all individuals related by lineal consanguinity to any of the individuals described in clause (1) or clause (2) preceding, (B) any Affiliate of such individual or of a member of his family or of a combination of the foregoing and (C) any Person with respect to which he or one or more members of his family serves as a director, officer, partner, executor, or trustee (or in a similar capacity) and (ii) with respect to a Person (other than an individual), (A) an Affiliate of such Person, (B) each Person that serves as a director, officer, partner, executor, or trustee of such Person (or in a similar capacity) and (C) any Person with respect to which such Person serves as a general partner or a trustee (or in a similar capacity).

“Related to the Business” means primarily related to, owned, leased, licensed, used, held for use or in consignment primarily in connection with the Business as conducted by

Sellers prior to the Closing; provided, however, for the avoidance of doubt, that corporate assets of Sellers not dedicated to any particular brand of Sellers, including the GAIAM, SPRI, And1, AVIA, and Swisstech brands, shall be deemed not to be “Related to the Business”.

“Release” means any release, spill, emission, discharge, leaking, pumping, injection, deposit, placing, disposal, dispersal, leaching or migration into or through the environment (including, without limitation, ambient air, vapor, surface water, groundwater and surface or subsurface strata) or into or out of any property, including the movement of Hazardous Substances through or in the ambient air, vapor, soil, surface water, groundwater or property, and including the abandonment or discarding of barrels, containers and other receptacles containing any Hazardous Substances.

“Representatives” means with respect to a Person, such Person’s officers, directors, employees, stockholders, partners, members, managers, agents, attorneys, accountants, consultants, advisors and other representatives.

“Royalty Adjustment” means the amount by which the remaining cash payments in respect of royalties under the AVIA and Swisstech agreements with Walmart at the Closing is less than \$63,500,000. For the avoidance of doubt, in no event shall the Royalty Adjustment be a negative amount.

“Sale Order” means an order entered by the Bankruptcy Court or other court of competent jurisdiction approving and authorizing this Agreement and the Transactions (including, without limitation, approving and authorizing Sellers’ assumption of the Closing Assumed Contracts and Additional Assumed Contracts pursuant to Section 365 of the Bankruptcy Code), which Sale Order shall be in the form attached hereto as Exhibit H to this Agreement, with such changes that are acceptable to Sellers and Buyer in their respective sole discretion (provided that changes to the Sale Order that do not adversely affect the Sellers or Buyer need only be reasonably acceptable to Sellers or Buyer, as applicable).

“Sanction” means any sanction administered or enforced by the United States Government, including without limitation the Department of the Treasury’s Office of Foreign Assets Control (“OFAC”), the Department of State, and the United Nations Security Council, the European Union, Her Majesty’s Treasury or other relevant sanctions authority.

“Sanctioned Country” has the meaning set forth in Section 3.9(d).

“Sanctioned Persons” has the meaning set forth in Section 3.9(d).

“Securities Act” means the Securities Act of 1933.

“Seller Contracts” means any Contracts to which any Seller is a party.

“Seller Intellectual Property” has the meaning set forth in Section 3.13(a).

“Seller Payee” has the meaning set forth in the definition of “Intracompany Receivables.”

“Seller Payor” has the meaning set forth in the definition of “Intracompany Payables.”

“Seller Portion” means a fraction, the numerator of which is equal to the number of days elapsed in the calendar month in which the Closing occurs on the Closing Date (but not, for the avoidance of doubt, including the Closing Date) and the denominator of which is equal to the total number of days in such calendar month.

“Seller Termination Fee” means an amount equal to \$12,987,000 in cash.

“Sellers” has the meaning set forth in the Preamble.

“Sequential” has the meaning set forth in the Preamble.

“Shared Receivables” means any receivables of the Business derived from the calendar month in which the Closing occurs.

“Shortfall Amount” has the meaning set forth in Section 2.2(e).

“Specified Intellectual Property” means the Intellectual Property identified on Schedule 3.13(a) as potentially not being owned by Sellers or potentially not Related to the Business.

“Straddle Period” means any Tax period beginning before and ending on or after the Closing Date.

“Subsidiary” means, with respect to any Person, any other Person of which at least a majority of the securities or ownership interests having by their terms ordinary voting power to elect a majority of the board of directors or other Persons performing similar functions is directly or indirectly owned or controlled by such Person and/or by one or more of its Subsidiaries.

“Successful Bidder” has the meaning set forth in the Bid Procedures Order.

“Superior Proposal” means a written Proposal that Sequential’s board of directors determines in good faith, after consultation with outside counsel and its financial advisor, (i) is more favorable to the Sellers than the Transactions, taking into account all factors that Sequential’s board of directors deems relevant and (ii) is reasonably likely to be completed on the terms proposed, taking into account all legal, financial, regulatory and other aspects of such proposal.

“Targeted Spend” means an amount equal to (x) \$1,665,000 multiplied by (y) a fraction, the numerator of which is equal to the total number of days elapsed in the calendar year in which the Closing occurs on the Closing Date (but not, for the avoidance of doubt, including the Closing Date) and the denominator of which is equal to 365.

“Tax Returns” means any return, report, declaration, claim for refund or information return or statement relating to Taxes, including any schedule or attachment thereto and any amendment thereof.

“Taxes” means (a) any and all taxes of any kind, including, without limitation, any charges or other assessments, all income, profits, environmental, capital stock, stamp, gross receipts, windfall profits, premium, value added, severance, property, production, sales, harmonized sales, goods and services, use, occupancy, duty, license, excise, franchise, payroll, unemployment, employment, disability, escheat and unclaimed property, transfer, registration, mortgage, withholding or similar taxes and other taxes, duties or assessments in the nature of a tax, together with any interest, additions or penalties with respect thereto and any interest in respect of such additions or penalties and (b) any liability for any items described in cause (a) payable by reason of contract, transferee liability or operation of Law (including Treasury Regulation Section 1.1502-6) or otherwise.

“Term B Credit Agreement” means that certain Third Amended and Restated Credit Agreement, dated as of July 1, 2016 (as amended, restated, supplemented or modified and in effect as of the date hereof), among Sequential, as the borrower, certain Subsidiaries of Sequential, as guarantors, Wilmington Trust, National Association, as administrative agent and collateral agent, and the lenders party thereto.

“Term B Lenders” means the lenders party to the Term B Credit Agreement.

“Termination Date” has the meaning set forth in Section 8.1(c)(i).

“Theory of Liability” has the meaning set forth in Section 8.3(d).

“Trademarks” has the meaning set forth in the definition of “Intellectual Property.”

“Transaction Documents” means this Agreement and all other ancillary agreements to be entered into by, or documentation delivered by, any Party pursuant to this Agreement.

“Transactions” has the meaning set forth in Section 2.3.

“Transfer” means to sell, assign, transfer, convey and deliver.

“Transfer Taxes” has the meaning set forth in Section 6.4.

“Transferred Assets” has the meaning set forth in Section 1.1.

“Transferred Intellectual Property” means the Intellectual Property owned by Sellers that is Related to the Business, including the Intellectual Property listed on Schedule 3.13(a).

“Transferred Permits” has the meaning set forth in Section 1.1(g).

Exhibit B

Assumed Contracts Exhibit

ASSUMED CONTRACTS AND CURE COSTS

GAIAM and SPRI

License Agreements

1. Consumer and Media Products License among Sequential Brands Group, Inc. and Fit for Life, LLC, dated as of May 10, 2016, as amended as of May 10, 2016, February 1, 2017, February 15, 2018, March 29, 2020, and January 18, 2021 and by the Renewal Notice dated June 20, 2020 and the Letter Agreements dated January 11, 2018 and February 15, 2018.

Cure Costs: \$1,443.25¹

2. GAIAM E-Commerce License Agreement between Sequential Brands Group, Inc. and Fitness E-Commerce Platform LLC, successor-in-interest to FFL.com LLC, dated as of May 10, 2016 and Consent to Assignment of License among Sequential Brands Group, Inc., FFL.Com LLC, and Fitness E-Commerce Platform, dated as of May 1, 2017 and Indemnification Agreement among Sequential Brands Goup, Inc., Fitness E-Commerce Platform LLC, and Fit for Life, LLC, dated as of May 1, 2017.

Cure Costs: \$0

3. Consumer and Media Products License between Sequential Brands Group, Inc. and High Life, LLC, dated as of May 30, 2016, as amended as of July 1, 2016, July 18, 2016, February 1, 2017, and July 31, 2018, and by the Renewal Notice dated December 2, 2018.

Cure Costs: \$0

4. Kids Apparel “GAIAM” License, between Sequential Brands Group, Inc. and M. Hidary & Company, Inc., dated as of May 10, 2016, as amended on January 2, 2018.

Cure Costs: \$0

5. License Agreement between Gaiam Americas, Inc. and First Choice Brands, Inc. d/b/a Fit 2 Live, dated as of November 19, 2019.

Cure Costs: \$0

6. Exclusive License between Gaiam Americas, Inc. and High Ridge Brands Inc., dated as of January 11, 2021.

Cure Costs:

7. Exclusive License between Gaiam America, Inc. and Daytona Apparel Group LLC, dated as of May 2021.

Cure Costs: \$0

8. Services Agreement among Gaiam Pty Limited, Gaiam International B.V., Gaiam Shared Services Inc., and EIJV Pty Ltd, dated September 2004.

¹ NTD: from D.I. 148 (Notice of Cure Costs and Potential Assumption and Assignment).

Cure Costs: \$0

9. Shareholders Agreement among Gaiam International V.V., Gaiam Inc., EIJV Pty Ltd, and Innovations Direct Pty Limited, dated September 22, 2004, as amended on June 29, 2005 and June 30, 2010 and by the Deed of Novation, dated effective June 30, 2016.

Cure Costs: \$0

10. Trademark Agreement between Gaiam America, Inc. and Gaia, Inc. dated September 27, 2017 and Trademark Assignment between Gaiam America, Inc. and Gaia, Inc., and letter agreement between the parties (terminating the Trademark Option Agreement), dated September 27, 2017.

Cure Costs: \$0

11. SVOD Rights Sub-License Agreement by and between Gaiam Americas, Inc. and Gaia, Inc. dated as of July 1, 2016.

Cure Costs: \$0

12. SVOD Rights Assignment Agreement by and between Gaiam Americas, Inc. and Gaia, Inc., dated as of July 1, 2016.

Cure Costs: \$0

13. Intellectual Property license and Coexistence Agreement by and between Gaiam Americas, Inc. and Gaia Inc., dated as of July 1, 2016.

Cure Costs: \$0

Settlement Agreements

1. Confidential Trademark Settlement Agreement between GAIA Herbs, Inc. and Gaiam Americas, Inc., effective as of August 28, 2020.

Cure Costs: \$0

2. Settlement Agreement between Implus Footcare on the one hand and Sequential Brands Group, Inc. and Fit for Life, LLC on the other hand, dated August 23, 2017.

Cure Costs: \$0

3. Indemnification Agreement among Gaiam Americas, Inc., on the one hand and Fit for Life, LLC and FFL.Com, LLC on the other hand, dated as of March 6, 2019.

Cure Costs: \$0

4. Confidential Settlement and General Release by and among Priority Fulfillment Services, Inc. and Third Party Defendant PFSweb, Inc. on the one hand and Gaiam Americas, Inc., Fit for Life, LLC, and FFL.Com LLC on the other hand.

Cure Costs: \$0

5. Revenue Share Agreement and Release by and among (i) Gaiam Americas, Inc. and (ii) High Life LLC, (iii) EIJV Pty Ltd, (iv) Innovations Direct Pty Ltd, and (v) Gaiam PTY LTD, dated as of November 8, 2019.

Cure Costs: \$0

6. Settlement, Release and Licensing Agreement between Gaiam and Eclipse IP LLC, relating to *inter alia*, the patent infringement action filed on November 20, 2014.

Cure Costs: \$0

7. Settlement Agreement between Gaiam and Ball Dynamics International LLC, relating to, *inter alia*, the patent infringement action filed on September 3, 2008.

Cure Costs: \$0

8. Settlement and Nonexclusive Patent License Agreement between Gaiam and Orostream LLC, relating to, *inter alia*, the patent infringement action filed on February 23, 2015.

Cure Costs: \$0

9. Settlement and Release Agreement between Gaiam Americas and Susan Nichols, dated as of November 13, 2018.

Cure Costs: \$0

AND 1

License Agreements

1. License Agreement between The Basketball Marketing Company, Inc. d/b/a AND 1 and Act 77 Ltd., dated August 25, 2009, as amended on December 31, 2013, June 7, 2016, November 19, 2019, and May 19, 2021.

Cure Costs: \$0

2. License Agreement between The Basketball Marketing Company, Inc. and Supply Accessories, LLC, dated effective as of June 30, 2020, as amended on July 19, 2021.

Cure Costs: \$0

3. And 1 License with Gem Park, between The Basketball Marketing Company and Gem Park Developments, dated December 30, 2015, as amended April 2017 and December 11, 2019.

Cure Costs: \$0

4. License Agreement between (i) Guirenniao Co., Ltd. and Xiamen EnWan Sports Industry Company Limited and (ii) The Basketball Marketing Company, Inc. and Sequential Brands Group, Inc., dated October 10, 2016, as amended on December 14, 2016 (Supplemental Agreement) and August 2017 (Amendment No. 1); Exclusive License Authorization Certificate – Xiamen EnWan Sports Industry Company, dated October 1, 2016; Exclusive License Authorization Certificate – Guirenniao Co., Ltd., dated October 1, 2016; Letter of Authorization for the Opening and Operation of Brand Accounts, dated June 14, 2018.

Cure Costs: \$0

5. License Agreement between Galaxy Brands, LLC and Galaxy Active LLC (f/k/a ESO Active LLC, successor-in-interest to E.S. Originals), dated as of January 1, 2014, as amended on October 10, 2016, December 2016, April 6, 2020, January 28, 2021, and April 26, 2021, and License Back Agreement dated December 2016. Letter regarding shopand1.com, dated July 21, 2015 and Consent to Assignment, dated December 29, 2020. Revenue Share Agreement between Galaxy Brands, LLC and E.S. Originals, dated as of October 10, 2016.

Cure Costs: \$0

6. License Back Agreement between Galaxy Brands LLC and E.S. Originals Inc., dated as of October 10, 2016.

Cure Costs: \$0

7. Amended and Restated License Agreement between Galaxy Brands LLC f/k/a Galaxy International LLC and High Life LLC, dated effective as of October 25, 2011, as amended on April 4, 2012, August 15, 2014, March 2015, October 16, 2015 (AND1 Team Sports Apparel Approval Email), May 10, 2016, June 22, 2016 (Renewal letter), September 30, 2016 (Revenue Share Agreement and Amendment), December 28, 2016 (Marketing Letter), March 1, 2017, and May 2017, August 10, 2018 (Marketing Letter), September 28, 2018 (Brand Initiatives Letter), November 13, 2020 (And1 Hats Approval Email).

Cure Costs: \$0

8. License Agreement between Sequential Brands Group, Inc. and Lifeworks Technology Group, LLC, dated July 1, 2015, Notice of Renewal, dated December 5, 2017 and Brand Initiatives Letter, dated September 28, 2018.

Cure Costs: \$0

9. Agreement between The Basketball Marketing Company, Inc., c/o Sequential Brands Group, Inc. and Oakbay USA LLC, dated December 31, 2016, as amended on March 15, 2019.

Cure Costs: \$0

Influencer and Sponsorship Agreements

1. Sponsorship Agreement between The Basketball Marketing Company, Inc. and Ms. Betnijah Laney, dated July 1, 2021.

Cure Costs: \$0

2. Sponsorship Agreement between Sequential Brands Group, Inc. and NP24 LLC for the services of Mr. Norman Powell, dated as of December 1, 2020.

Cure Costs: \$0

Investment Agreement

1. Investment Agreement between 4 Quarters Documentary LLC and The Basketball Marketing Company,

dated as of August 18, 2021.

Cure Costs: \$0

Settlement Agreement

1. Settlement Agreement and Release between Galaxy Brands, LLC, American Sporting Goods Corporation and DVS Footwear International LLC and SPR Industria de Confecção S.A, dated as of June 11, 2021.

Cure Costs: \$0

Avia

License Agreements

1. License Agreement between American Sporting Goods Corporation and Walmart Inc, and Sequential Brands Group, Inc., as guarantor, dated as of January 1, 2018.

Cure Costs: \$0

2. License Agreement between American Sporting Goods Corporation and Jiangxi Baiying Sports Technology Co., Ltd., (Licensee, and as successor-in-interest to Beiying Sports Technology Co., Ltd.), dated February 14, 2018, as amended on December 17, 2018, October 24, 2019 (Purchase Notice), July 22, 2020 and February 9, 2021, with Licensee's obligations guaranteed by New Baillun LP Sports Co., Ltd under the Guaranty, dated as of December 17, 2018.

Cure Costs: \$0

3. Trademark License Agreement between American Sporting Goods Corporation and Galaxy Active, LLC (f/k/a ESO Active, LLC, successor-in-interest to E.S. Originals, Inc.) dated January 1, 2018, as amended on May 27, 2019, June 22, 2020, January 28, 2021, and April 26, 2021.

Cure Costs: \$0

4. Avia License with Holmberg Brands between American Sporting Goods Corporation and Holmberg Brands Oy, dated May 27, 2019.

Cure Costs: \$0

5. Avia and Nevados License Agreement between American Sporting Goods Corporation and Latin Shoes S.A., dated as of January 1, 2018, as amended as of June 19, 2020.

Cure Costs: \$0

6. License Agreement between American Sporting Goods Corporation and Latin Shoes S.A., dated as of January 1, 2018, as amended as of June 19, 2020.

Cure Costs: \$0

7. Avia License Agreement between American Sporting Goods Corporation and SBG Universe Brands LLC and Aiweiya (China) Limited, dated as of December 15, 2019, as amended on February 9, 2021, with Licensee's obligations guaranteed by New Baillun LP Sports Co., Ltd under the Guaranty, dated as of December 14, 2019.

Cure Costs: \$0

8. License Agreement among Avia International, Euravia AG, and Avia Group International Inc., dated effective May 10, 1988.

Cure Costs: \$0

Settlement Agreements

1. Confidential Settlement Agreement and Mutual Release, among Delta Galil USA, Inc. on the one hand and American Sporting Goods Corporation and Sequential Brands Group, Inc. on the other, dated as of April 21, 2021.

Cure Costs: \$0

2. Settlement Agreement between Prologis Targeted US Logistics Fund, L.P., and American Sporting Goods Corporation, dated October 11, 2017.

Cure Costs: \$0

Swiss Tech

License Agreements

1. Trademark License Agreement between Galaxy Brands LLC and Walmart Inc., dated September 26, 2018.

Cure Costs: \$0

Intellectual Property

1. Undertaking Agreement between Galaxy Brands, LLC and Clarion Medical Technologies Inc., dated December 16, 2014.

Cure Costs: \$0

Consulting Agreements

1. Licensor Agency Agreement between BH 26 Consultoria e Participacoes Ltda. And Sequential Brands Group, Inc., dated effective June 1, 2017.

Cure Costs: \$0

2. Consulting Agreement between The Basketball Marketing Company, Inc. and Lippe Taylor Group, dated effective as of June 15, 2021.

Cure Costs: \$0

3. Consulting Agreement between Sequential Brands Group, Inc. and Lippe Taylor Group, dated effective as of August 1, 2021.

Cure Costs: \$0

4. Consulting Agreement between Sequential brands Group, Inc. and Galaxy Universal LLC, dated effective as of January 1, 2021, as amended.

Cure Costs: \$0

5. Letter Agreement between Symphony Investment Partners, Inc. and Sequential Brands Group, Inc., dated as of March 28, 2018, as amended on June 29, 2020.

Cure Costs: \$0

6. Consulting Agreement between Sequential Brands Groups, Inc. and Lippe Taylor Group, dated effective as of August 18, 2021.

Cure Costs: \$0

Exhibit 1A:

Redline comparison of Proposed Sale Order re: Gainline Galaxy Holdings LLC

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

	X	
In re	:	Chapter 11
	:	
Sequential Brands Group, Inc., <u>et al.</u> , ¹	:	Case No. 21- 11194 -21-11194
	:	<u>(JTD)</u>
Debtors.	:	
	:	(Jointly Administered)

**ORDER (I) APPROVING PURCHASE AGREEMENT AMONG DEBTORS
AND GAINLINE GALAXY HOLDINGS LLC, (II) APPROVING SALE OF CERTAIN
OF DEBTORS’ ASSETS FREE AND CLEAR OF LIENS, CLAIMS, INTERESTS AND
ENCUMBRANCES, (III) AUTHORIZING ASSUMPTION AND ASSIGNMENT OF
CERTAIN EXECUTORY CONTRACTS AND UNEXPIRED LEASES AND
(IV) GRANTING RELATED RELIEF**

Upon the motion (the “Motion”) of Sequential Brands Group, Inc. and its affiliated debtors and debtors-in-possession (collectively, the “Debtors”), for entry of an order (this “Order”) pursuant to sections 105(a), 363, 365, 503 and 507 of title 11 of the United States Code, 11 U.S.C. §§ 101 et seq. (the “Bankruptcy Code”), rules 2002, 6004, 6006, 9007, 9008, and 9014 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), and Rules 2002-1 and 6004-1 of the Local Rules of Bankruptcy Practice and Procedures of the United States Bankruptcy Court for the District of Delaware (the “Local Rules”), (i) approving the sale of the Debtors’ assets free and clear of liens, claims, interests and encumbrances (other than

¹ The Debtors, along with the last four digits of each Debtor’s tax identification number, are: Sequential Brands Group, Inc. (2789), SQBG, Inc. (9546), Sequential Licensing, Inc. (7108), William Rast Licensing, LLC (4304), Heeling Sports Limited (0479), Brand Matter, LLC (1258), SBG FM, LLC (8013), Galaxy Brands LLC (9583), The Basketball Marketing Company, Inc. (7003), American Sporting Goods Corporation (1696), LNT Brands LLC (3923), Joe’s Holdings LLC (3085), Gaiam Brand Holdco, LLC (1581), Gaiam Americas, Inc. (8894), SBG-Gaiam Holdings, LLC (8923), SBG Universe Brands, LLC (4322), and GBT Promotions LLC (7003). The Debtors’ corporate headquarters and the mailing address for each Debtor is 1407 Broadway, 38th Floor, New York, NY 10018.

Permitted Post-Closing Encumbrances),² (ii) authorizing assumption and assignment of certain executory contracts and unexpired leases; and (iii) granting related relief; and the Court having entered a prior order, dated ~~_____~~ September 24, 2021 [Docket No. ●138] (the “Bid Procedures Order”), approving bidding procedures for the Debtors’ assets (the “Bid Procedures”) and approving procedures for the assumption and assignment of the Debtors’ executory contracts and unexpired leases (the “Assumption and Assignment Procedures”), and granting certain related relief; and the Debtors having identified the bid by Buyer as the highest or otherwise best bid for the Transferred Assets; and upon the Declaration of ~~James Doak~~ Derek Herbert in support of the Motion [Docket No. ●134]; and the Auction having been ~~[held]~~ [cancelled] in accordance with the Bid Procedures; and the Debtors having filed the ~~a notice~~ Notice of ~~successful bidder~~ Selection of Successful Bidders and Cancellation of Auction [Docket No. ●262] (the “Successful Bidder Notice”), designating the Buyer as the Successful Bidder for the Transferred Assets; and the Court having jurisdiction to consider the Motion pursuant to 28 U.S.C. §§ 157 and 1334; and venue of these chapter 11 cases and the Motion in this district being proper pursuant to 28 U.S.C. §§ 1408 and 1409; and this matter being a core proceeding pursuant to 28 U.S.C. § 157(b); and the Court having found that proper and adequate notice of the Motion and the relief requested therein has been provided in accordance with the Bankruptcy Rules and the Local Rules, and that, except as otherwise ordered herein, no other or further notice is necessary; and any objections (if any) to the Motion having been withdrawn or overruled on the merits; and a hearing on the Motion (the “Sale Hearing”) having been held to consider the relief requested in the Motion and to review and consider (i) the Motion and the exhibits thereto, and (ii) the Asset

² Capitalized terms not defined herein have the meanings given them in the Purchase Agreement (as defined below) or, if not defined therein, the meanings given them in the Bid Procedures (as defined below).

Purchase Agreement, dated as of ~~_____~~ August 31, 2021, by and among the Debtors and Buyer, a copy of which is attached hereto as **Exhibit A** (together with any schedules and exhibits thereto, the "Purchase Agreement"), whereby the Debtors have agreed, among other things, to sell the Transferred Assets (as defined in the Purchase Agreement) to Buyer on the terms and conditions set forth in the Purchase Agreement (collectively, the "Sale Transaction"); and the Debtors having determined that the Qualified Bid submitted by Buyer as embodied in the Purchase Agreement is the highest and otherwise best bid for the Transferred Assets and having selected such bid as the Successful Bid pursuant to the Bid Procedures; and upon the record of the Sale Hearing and all of the proceedings had before the Court; and the Court having found and determined that the relief sought in the Motion as it pertains to the relief granted hereby is in the best interests of the Debtors, their estates, their creditors and all other parties-in-interest; and that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and upon the full record of the Sale Hearing and all other pleadings and proceedings in these chapter 11 cases, including the Motion; and after due deliberation and sufficient cause appearing therefor,

THE COURT MAKES THE FOLLOWING FINDINGS OF FACT AND CONCLUSIONS OF LAW BASED ON THE PLEADINGS, THE REPRESENTATIONS OF THE PARTIES, AND THE RECORD ESTABLISHED AND EVIDENCE PRESENTED AT THE HEARING:

A. Fed. R. Bankr. P. 7052. The findings and conclusions set forth herein constitute the Court's findings of fact and conclusions of law pursuant to Bankruptcy Rule 7052. To the extent that 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.

B. Jurisdiction and Venue; Final Order. The Court has jurisdiction to consider and decide the Motion pursuant to 28 U.S.C. §§ 157 and 1334. This matter is a core proceeding pursuant to 28 U.S.C. § 157(b). Venue of these chapter 11 cases and the Motion is proper pursuant to 28 U.S.C. §§ 1408 and 1409. The Court may enter a final order with respect to the Motion, the Purchase Agreement, the transactions contemplated thereby, and all related relief, in each case, consistent with Article III of the United States Constitution.

C. Final Order. This Order constitutes a final and appealable order as set forth in 28 U.S.C. § 158(a), except as otherwise set forth herein.

D. Statutory and Rule Predicates. The statutory and other legal predicates for the relief sought in the Motion are sections 105(a), 363 and 365 of the Bankruptcy Code, Bankruptcy Rules 2002, 6004, 6006, 9007, 9008, and 9014, Local Rules 2002-1 and 6004-1.

E. Opportunity to Object. A fair and reasonable opportunity to object or be heard regarding the relief granted by this Order, including, but not limited to, the assumption and assignment of the Assigned Contracts and the Cure Costs (each as defined below), has been afforded to all interested Persons and Entities (as defined below), including, but not limited to, the Sale Notice Parties.

F. Sound Business Purpose. The Debtors have demonstrated that their entry into the Purchase Agreement and related or ancillary agreements thereto or contemplated thereby (collectively, the “Ancillary Agreements”) is supported by good, sufficient and sound business reasons. A sale of the Transferred Assets, including the assignment of the Closing Assumed Contracts and the Additional Assumed Contracts and assumption of the Assumed Liabilities, will maximize the value of the Debtors’ estates and represents a reasonable exercise of the Debtors’ sound business judgment. The Debtors determined that the Purchase Agreement constitutes the highest and otherwise best offer for the Transferred Assets, and pursuant to the terms and conditions of the Purchase Agreement, the Debtors have agreed to transfer to Buyer all of the Debtors’ right, title and interest in and to, and Buyer has agreed to assume certain specified Assumed Liabilities that are not Excluded Liabilities related to, the Transferred Assets free and clear of all Liens (other than the Permitted Post-Closing Encumbrances) and, if requested by Buyer, to assume and assign the Closing Assumed Contracts and the Additional Assumed Contracts (collectively, the “Assigned Contracts”) to Buyer subject to the terms and conditions of the Purchase Agreement and this Order, and such determination is a valid and sound exercise of the Debtors’ business judgment.

G. The consummation of the Sale Transaction and the assumption and assignment of the Assigned Contracts are legal, valid, and properly authorized under all applicable provisions of the Bankruptcy Code, including, without limitation, sections 105(a), 363(b), 363(f), 363(m), and 365 of the Bankruptcy Code, and all of the applicable requirements of such sections have been complied with in respect of the Sale Transaction.

H. Compliance with Bid Procedures. As demonstrated by evidence proffered or adduced and the representations of counsel at the Sale Hearing, the Bid Procedures (as

approved by the Bid Procedures Order) were substantively and procedurally fair to all parties, were the result of arm's length negotiations, and provided a full, fair and reasonable opportunity for any party to make an offer to purchase the Transferred Assets. The Debtors, Buyer and their respective counsel and other advisors have complied with the Bid Procedures Order, the Bid Procedures, and the Assumption and Assignment Procedures in all respects. Buyer submitted a Qualified Bid pursuant to the Bid Procedures approved by the Court, was determined to be the Successful Bidder for the Transferred Assets, and was granted certain Bid Protections in accordance with the Bid Procedures Order and the Bid Procedures.

I. Marketing Process. The Debtors and their advisors thoroughly and fairly marketed the Transferred Assets and conducted the related sale process in good faith and in a fair and open manner, soliciting offers to acquire the Transferred Assets from a wide variety of parties. The sale process and the Bid Procedures were non-collusive, duly noticed, and provided a full, fair, reasonable, and adequate opportunity for any Person or Entity that expressed an interest in acquiring the Transferred Assets, or who the Debtors believed may have an interest in acquiring, and be permitted and able to acquire, the Transferred Assets, to conduct due diligence, make an offer to purchase the Debtors' assets, including, without limitation, the Transferred Assets, and submit higher and otherwise better offers for the Transferred Assets than Buyer's Successful Bid. The Debtors and Buyer have negotiated and undertaken their roles leading to the Sale Transaction and entry into the Purchase Agreement in a diligent, non-collusive, fair, reasonable, and good faith manner. The sale process conducted by the Debtors pursuant to the Bid Procedures Order and the Bid Procedures resulted in the highest and otherwise best offer for the Transferred Assets for the Debtors and their estates, was in the best interests of the Debtors, their creditors, and all parties-in-interest, and any other transaction would not have yielded as

favorable a result. The Debtors' determinations that the Purchase Agreement constitutes the highest and otherwise best offer for the Transferred Assets and maximizes value for the benefit of the Debtors' estates constitutes a valid and sound exercise of the Debtors' business judgment and are in accordance and compliance with the Bid Procedures and the Bid Procedures Order. The Purchase Agreement represents fair and reasonable terms for the purchase of the Transferred Assets. No other Person or Entity has offered to purchase the Transferred Assets for greater overall value to the Debtors' estates than the Buyer. Approval of the Motion (as it pertains to the Sale Transaction) and the Purchase Agreement and the consummation of the transactions contemplated thereby will maximize the value of each of the Debtors' estates and are in the best interests of the Debtors, their estates, their creditors, and all other parties in interest. There is no legal or equitable reason to delay consummation of the transactions contemplated by the Purchase Agreement, including, without limitation, the Sale Transaction.

J. Good Faith. Buyer is not an "insider" or "affiliate" of any of the Debtors as those terms are defined in section 101 of the Bankruptcy Code, and no common identity of incorporators, directors, managers, or controlling stockholders existed between the Debtors and the Buyer. The Purchase Agreement and the Ancillary Agreements, and each of the transactions contemplated therein were negotiated, proposed and entered into by the Debtors and Buyer, their respective boards of directors or equivalent governing bodies, officers, directors, employees, agents, professionals, and representatives without collusion or fraud, in good faith, and from arm's length bargaining positions, and are substantively and procedurally fair to all parties. The Buyer and its affiliates, with the consent and support of the Debtors and their professionals, engaged in discussions and negotiations with KKR Credit Advisors (US) LLC, on behalf of certain funds advised or managed by it, in its capacity as a Prepetition Term B Lender (as defined

in the Final DIP Order (as defined herein)) and as a financing party in connection with the Buyer's purchase of the Transferred Assets, regarding the terms of its bid, which ultimately was embodied in the Purchase Agreement and will maximize value to the Debtors' estates. Buyer is purchasing the Transferred Assets, in accordance with the Purchase Agreement, in good faith and is a good-faith purchaser under section 363(m) of the Bankruptcy Code and, as such, is entitled to all of the protections afforded thereby. In particular, (i) Buyer recognized that the Debtors were free to deal with any other party interested in purchasing the Transferred Assets; (ii) Buyer in no way induced or caused the chapter 11 filing by the Debtors; (iii) Buyer has not engaged in any conduct that would cause or permit the Sale Transaction or the Purchase Agreement to be avoided or subject to monetary damages under section 363(n) of the Bankruptcy Code by any action or inaction; (iv) no common identity of directors, managers, officers, or controlling stockholders exist between Buyer, on the one hand, and any of the Debtors, on the other hand; (v) Buyer complied with the Bid Procedures and all provisions of the Bid Procedures Order and the Assumption and Assignment Procedures; (vi) Buyer agreed to subject its Bid to the competitive Bid Procedures set forth in the Bid Procedures Order; and (vii) all payments to be made, and all other material agreements or arrangements entered into or to be entered into, by Buyer in connection with the Sale Transaction, including the Ancillary Agreements, have been disclosed.

K. No Collusion. Neither the Debtors nor the Buyer has engaged in any conduct that would cause or permit the Purchase Agreement or the consummation of the Sale Transaction to be avoided, or costs or damages to be imposed under section 363(n) of the Bankruptcy Code, and accordingly neither the Debtors nor the Buyer has violated section 363(n) of the Bankruptcy Code by any action or inaction. Specifically, the Buyer has not acted in a

collusive manner with any entity (as such term is defined in the Bankruptcy Code, an “Entity”) and the Purchase Price paid by the Buyer for the Transferred Assets was not controlled by any agreement among potential bidders. The transactions under the Purchase Agreement may not be avoided, and no damages may be assessed against the Buyer Parties (as defined herein) or any other party under section 363(n) of the Bankruptcy Code or any other applicable bankruptcy or non-bankruptcy law.

L. Fair Consideration. The aggregate consideration from Buyer for the Transferred Assets as set forth in the Purchase Agreement: (i) was negotiated at arm’s length; (ii) is fair and reasonable; (iii) constitutes fair consideration and fair value under the Bankruptcy Code, the Uniform Voidable Transactions Act (formerly the Uniform Fraudulent Transfer Act), the Uniform Fraudulent Conveyance Act and other similar laws of the United States, any state, territory, possession, or the District of Columbia, and any foreign jurisdiction; (iv) is the highest and best value obtainable for the Transferred Assets; (v) will provide a greater recovery to creditors than would be provided by any other available alternative; and (vi) constitutes reasonably equivalent value (as that term is defined in each of the Uniform Voidable Transactions Act (formerly the Uniform Fraudulent Transfer Act), the Uniform Fraudulent Conveyance Act, and section 548 of the Bankruptcy Code). Without limiting the foregoing, no objection was raised to the Sale Motion on the basis that the creditors of any particular Debtor were improperly prejudiced by the proposed sale. Based on the evidence before the Court, the sale consideration under the Purchase Agreement constitutes adequate consideration for the Transferred Assets of each Debtor and such consideration does not disadvantage the creditors of any particular Debtor.

M. No Successor or Other Derivative Liability. Except for Assumed Liabilities and Permitted Post-Closing Encumbrances, neither the Buyer, nor any of its successors or assigns, or any of their respective affiliates shall, to the fullest extent permitted by Law, have any liability for any Lien, Claim, or Interest that arose or occurred prior to the Closing, or otherwise may be asserted against the Debtors or is related to the Transferred Assets prior to the Closing. The Buyer (i) is not and shall not be deemed a “successor” to the Debtors or their estates; (ii) has not, *de facto* or otherwise, merged with or into any of the Debtors; (iii) does not have any common law or successor liability in relation to any employment plans; (iv) is not liable for any liability of Lien (other than Assumed Liabilities) against the Debtors or any of the Debtors’ predecessors or Affiliates; and (v) is not an alter ego or mere continuation or substantial continuation of the Debtors or the enterprise of the Debtors under any theory of law or equity as a result of any action taken in connection with the Purchase Agreement, Sale Transaction or any transactions or documents ancillary thereto or contemplated thereby or in connection with the acquisition of the Transferred Assets.

N. Sale Notice. As shown by the certificates of service filed with the Court and the representations or proffers made on the record at the Sale Hearing, (i) the Debtors have provided due, good, proper, timely, reasonable, adequate, appropriate, and sufficient notice of and sufficient opportunity to object to the Motion and the relief requested therein (including the Debtors’ requested findings with respect to successor liability), the bidding process (including, without limitation, the deadline for submitting Qualified Bids), the Sale Hearing, the Sale Transaction, the application of proceeds from the Sale Transaction, the proposed assumption and assignment of the Assigned Contracts, and the proposed entry of this Order in compliance with all applicable requirements of the Bankruptcy Code, the Bankruptcy Rules, the Local Rules and

the Sale Guidelines, (ii) such notice was adequate and sufficient under the circumstances of the chapter 11 cases and complied with the Bid Procedures Order and other orders of the Court, and (iii) no other or further notice is required.

O. Title to Assets. The Transferred Assets constitute property of the Debtors' estates and title or rights thereto is currently vested in the Debtors' estates within the meaning of section 541(a) of the Bankruptcy Code. The transfer of the Transferred Assets to the Buyer will be a legal, valid, and effective sale and transfer of the Transferred Assets and, except as provided in the Purchase Agreement or this Order, will vest the Buyer with all right, title, and interest of the Debtors to the Transferred Assets free and clear of all Liens (other than Permitted Post-Closing Encumbrances) and Liabilities (other than Assumed Liabilities). The Purchase Agreement is a valid and binding contract between the Debtors and the Buyer and shall be enforceable according to its terms.

P. Satisfaction of Section 363(f) Standards. The conditions of section 363(f) of the Bankruptcy Code, including 363(f)(1) and (2), have been satisfied in full. Upon entry of this Order, the Debtors are authorized to transfer all of their right, title and interest in and to the Transferred Assets free and clear of any and all claims (as such term is defined by section 101(5) of the Bankruptcy Code), liabilities (including any liability that results from, relates to or arises out of tort or any other product liability claim), interests and matters of any kind and nature whatsoever, including, without limitation, hypothecations, mortgages, security deeds, deeds of trust, debts, levies, indentures, restrictions (whether on voting, sale, transfer, disposition or otherwise), leases, licenses, easements, rights of way, encroachments, instruments, preferences, priorities, security agreements, conditional sales agreements, title retention contracts and other title retention agreements and other similar impositions, options, judgments, offsets, rights of

recovery, rights of preemption, rights of setoff, profit sharing interest, other third party rights, other impositions, imperfections or defects of title or restrictions on transfer or use of any nature whatsoever, claims for reimbursement, claims for contribution, claims for indemnity, claims for exoneration, products liability claims, alter-ego claims, successor-in-interest claims, successor liability claims, substantial continuation claims, COBRA claims, withdrawal liability claims, environmental claims, claims under or relating to any employee benefit plan, ERISA affiliate plan, or ERISA (including any pension or retirement plan), WARN Act claims or any claims under state or other laws of similar effect, tax claims (including claims for any and all foreign, federal, state and local taxes, including, but not limited to, sales, income, use or any other type of tax), escheatment claims, reclamation claims, obligations, liabilities, demands, and guaranties, and other encumbrances relating to, accruing, or arising any time prior to the Closing Date, duties, responsibilities, obligations, demands, commitments, assessments, costs, expense, losses, expenditures, charges, fees, penalties, fines, contributions, premiums, encumbrances, guaranties, pledges, consensual or nonconsensual liens (including any liens as that term is defined in section 101(37) of the Bankruptcy Code), statutory liens, real or personal property liens, mechanics' liens, materialman's liens, warehouseman's liens, tax liens, security interests, charges, options (including in favor of third parties), rights, contractual commitments, restrictions, restrictive covenants, covenants not to compete, rights to refunds, escheat obligations, rights of first refusal, rights and restrictions of any kind or nature whatsoever against the Debtors or the Transferred Assets, including, without limitation, any debts arising under or out of, in connection with, or in any way relating to, any acts or omissions, obligations, demands, guaranties, rights, contractual commitments, restrictions, product liability claims, environmental liabilities, employee pension or benefit plan claims, multiemployer benefit plan claims, retiree healthcare or life insurance

claims, or claims for taxes of or against the Debtors, and any derivative, vicarious, transferee or successor liability claims, rights or causes of action (whether in law or in equity, under any law, statute, rule or regulation of the United States, any state, territory, or possession, or the District of Columbia), whether arising prior to or subsequent to the commencement of these chapter 11 cases, whether known or unknown, choate or inchoate, filed or unfiled, scheduled or unscheduled, noticed or unnoticed, recorded or unrecorded, secured or unsecured, perfected or unperfected, allowed or disallowed, contingent or non-contingent, liquidated or unliquidated, matured or unmatured, material or non-material, disputed or undisputed, and whether imposed by agreement, understanding, law, equity, or otherwise, including claims otherwise arising under doctrines of successor liability, successor-in-interest liability, continuation liability or substantial continuation liability, including, without limitation, that the Buyer is in any way a successor, successor-in-interest, continuation or substantial continuation of the Debtors or their business, arising under or out of, in connection with, or in any way related to the Debtors, the Debtors' interests in the Transferred Assets, the operation of the Debtors' respective businesses at or before the effective time of the Closing pursuant to the Purchase Agreement, or the transfer of the Debtors' interests in the Transferred Assets to Buyer, and all Excluded Liabilities (collectively, "Liens"), as, and to the extent, provided for in the Purchase Agreement because in each case one or more of the standards set forth in section 363(f)(1)—(5) of the Bankruptcy Code has been satisfied. Except as otherwise expressly provided in the Purchase Agreement or this Order, such Liens shall attach to the proceeds allocated to the Debtors in the order of their priority, with the same validity, force and effect which they have against the Transferred Assets immediately prior to the Closing, subject to any claims and defenses the Debtors may possess with respect to such Liens. Those holders of Liens against the Transferred Assets who did not

object or who withdrew their objections to the Purchase Agreement or the Motion are deemed to have consented to the transactions contemplated by the Purchase Agreement pursuant to section 363(f)(2) of the Bankruptcy Code and shall be forever barred from pursuing or asserting such Liens against Buyer or any of its respective assets, property, affiliates, successors, assigns, or the Transferred Assets.

Q. Buyer would not have entered into the Purchase Agreement if the transfer of the Transferred Assets were not free and clear of all Liens (other than Permitted Post-Closing Encumbrances) and Liabilities (other than the Assumed Liabilities) as set forth in the Purchase Agreement and this Order, or if in the future Buyer would or could be liable for any such Liens and Liabilities. The total consideration to be provided under the Purchase Agreement and herein reflects the Buyer's reliance on this Order to provide it, pursuant to sections 105(a) and 363 of the Bankruptcy Code, with title to, interest in and possession of the Transferred Assets free and clear of all Liens (other than Permitted Post-Closing Encumbrances) and Liabilities (other than Assumed Liabilities) of any kind or nature whatsoever.

R. Assumption and Assignment of the Assigned Contracts. The assumption and assignment of the Assigned Contracts are integral to the Purchase Agreement, are in the best interests of the Debtors and their estates and represent the reasonable exercise of the Debtors' sound business judgment. Specifically, the assumption and assignment of the Assigned Contracts (i) are necessary to sell the Transferred Assets to Buyer, (ii) allow the Debtors to maximize the value of the Transferred Assets, including the Assigned Contracts, (iii) limit the losses suffered by the counterparties to the Assigned Contracts, and (iv) maximize the recoveries to other creditors of the Debtors by limiting the amount of claims against the Debtors' estates by avoiding the rejection of the Assigned Contracts.

S. With respect to each of the Closing Assumed Contracts, the Debtors and the Buyer have met all requirements of section 365(b) of the Bankruptcy Code. Further, in compliance with the requirements of sections 365(b) and 365(f) of the Bankruptcy Code, Buyer has provided adequate assurance of future performance under the Closing Assumed Contracts to the extent that any such assurance is required and not waived by the counterparties to such Closing Assumed Contracts. Accordingly, the Closing Assumed Contracts may be assumed by the Debtors and assigned to Buyer as provided for in the Purchase Agreement, the Assumption and Assignment Procedures and this Order.

T. Cure Notice: Adequate Assurance of Future Performance. As shown by the certificates of service filed with the Court, the Debtors have served upon each non-Debtor counterparty to such contracts (each, a “Counterparty”), prior to the Sale Hearing, ~~a notice~~notices, dated ~~_____~~September 29, 2021 [Docket No. ~~148~~148] , October 8, 2021 [Docket No. 175], and October 20, 2021 [Docket No. 225] (the “Notice of Potential Assignment”) that Debtors may wish to assume and assign to the Successful Bidder certain executory contracts and unexpired leases (the “Identified Contracts”) pursuant to section 365 of the Bankruptcy Code, and of the related proposed cure costs (if any) due under section 365(b) of the Bankruptcy Code (the “Cure Costs”) with respect to such contracts and leases. The service of the Notice of Potential Assignment was good, sufficient and appropriate under the circumstances of the chapter 11 cases and complied with the Assumption and Assignment Procedures and any orders of the Court, and no other or further notice is required with respect to the Cure Costs or for the assumption and assignment of the Identified Contracts, including, without limitation, the Closing Assumed Contracts and the Additional Assumed Contracts or Buyer’s provision of adequate assurance of future performance thereunder; provided, however, that, further notice

with respect to any Additional Assumed Contracts is required as set forth in paragraphs ~~[24-29]~~22-31 herein. All Counterparties to the Identified Contracts have had a reasonable and sufficient opportunity to object to the Cure Costs listed on the Notice of Potential Assignment in accordance with the Assumption and Assignment Procedures and, as to any Closing Assumed Contracts to be assumed by the Debtors and assigned to Buyer effective on and as of the Closing pursuant to Section ~~[1.5]~~ of the Purchase Agreement and to the assumption and assignment of such Closing Assumed Contract to Buyer in accordance with the Assumption and Assignment Procedures and the Bankruptcy Code. Accordingly, all Counterparties to Identified Contracts who did not object or who withdrew their objections to the Cure Costs listed on the Notice of Potential Assignment prior to the Sale Hearing are deemed to have consented to such Cure Costs, and all Counterparties to Closing Assumed Contracts who did not file an objection to the assumption by the Debtors of such Closing Assumed Contracts and the assignment thereof to Buyer prior to the Sale Hearing are deemed to have consented to the assumption of such Closing Assumed Contract and the assignment thereof to Buyer.

U. On ~~_____~~October 28, 2021, the Debtors further served the ~~Counterparties to any Closing Assumed Contract a notice [Docket No. ●] (the “Closing Assignment~~Successful Bidder Notice”) identifying Buyer as the Successful Bidder, ~~identifying all Closing Assumed Contracts, and providing Buyer’s proposed form of adequate assurance of future performance with respect to the relevant Closing Assumed Contracts~~ for the Transferred Assets. All Counterparties to the Closing Assumed Contracts have had a reasonable and sufficient opportunity to object to Buyer’s ability to provide adequate assurance of future performance as contemplated under sections 365(b)(1)(C) and 365(1)(1) of the Bankruptcy Code, in accordance with the Bid Procedures Order and the Assumption and Assignment

Procedures. Accordingly, all Counterparties to Closing Assumed Contracts who did not object or who withdrew their objections to Buyer's ability to provide adequate assurance of future performance under the Closing Assumed Contracts are deemed to have consented to the assumption of such Closing Assumed Contract and the assignment thereof to Buyer.

V. Application of Proceeds. Pursuant to the interim and final orders authorizing and approving the Debtors' debtor in possession financing and use of cash collateral [Docket Nos. [70](#) and [110](#)] (together, the "DIP Orders"), the Transferred Assets constitute Cash Collateral, Prepetition Collateral and DIP Collateral (each as defined in the DIP Orders) and are subject to the Adequate Protection Liens, Prepetition Liens and DIP Liens (each as defined in the DIP Orders). Subject to the "Payment in Full" (as defined in the DIP Orders) of the Prepetition BAML Obligations (as defined in the DIP Orders), pursuant to DIP Orders and the DIP Loan Documents (as defined in the DIP Orders), the Debtors are required to apply all consideration received from the sale of the Transferred Assets as follows: first, to the holders of the DIP Obligations as of the date of the initial funding under the DIP Credit Facility (as defined in the DIP Orders) (or as otherwise agreed to between the Buyer and such holders of the DIP Obligations) until such time as such DIP Obligations are paid in full in cash (or as otherwise agreed by the DIP Agent as directed by the Required DIP Lenders (as defined in the DIP Loan Documents)) and all commitments to lend under the DIP Loan Documents have been terminated, and second, to the Prepetition Term B Agent (as defined in the DIP Orders) for distribution to the holders of the Prepetition Term B Obligations as of the Petition Date (or as otherwise agreed to between the Buyer and such holders of the Prepetition Term B Obligations) in accordance with the Prepetition Term B Credit Agreement (as defined in the DIP Orders) until the Prepetition Term B Obligations (as defined in the DIP Orders) have been paid in full in cash (or as otherwise

agreed by the Prepetition Term B Agent (as defined in the DIP Orders) as directed by the Required Lenders (as defined in the Prepetition Term B Loan Documents)). The application of the consideration from the sale of the Transferred Assets pursuant to the immediately preceding sentence complies with the requirements of the DIP Orders and the DIP Loan Documents and is supported by good, sufficient and sound business reasons.

W. Record Retention. Pursuant to the terms of and subject to the conditions in Section 6.1(c) of the Purchase Agreement, following the Closing, the Debtors, their successors and assigns and any trustee in bankruptcy will have access to the Debtors' books and records for the specified purposes set forth in, and in accordance with, the Purchase Agreement.

X. Corporate Power and Authority. The Debtors and their applicable affiliates have (i) full corporate or similar power and authority to execute, deliver, and perform their obligations under the Purchase Agreement, the Ancillary Agreements and all other documents contemplated thereby, and the Debtors' sale of the Transferred Assets has been duly and validly authorized by all necessary corporate or similar action, (ii) all corporate or similar authority necessary to consummate the transactions contemplated by the Purchase Agreement and the Ancillary Agreements, and (iii) taken all corporate actions necessary to authorize and approve the Purchase Agreement and the consummation of the transactions contemplated thereby. No consents or approvals, other than those expressly provided for in the Purchase Agreement, are required for the Debtors to consummate the transactions contemplated by the Purchase Agreement or execute the Purchase Agreement.

Y. The Purchase Agreement was not entered into for the purpose of hindering, delaying, or defrauding creditors under the Bankruptcy Code or under the laws of the United States, any state, territory, possession, or the District of Columbia. Neither the Debtors

nor the Buyer is entering into the transactions contemplated by the Purchase Agreement fraudulently for the purpose of statutory and common law fraudulent conveyance and fraudulent transfer claims or similar claims.

Z. Valid and Binding Contract; Validity of Transfer. The Purchase Agreement is a valid and binding contract between the Debtors and Buyer and shall be enforceable pursuant to its terms. The Purchase Agreement, the Ancillary Agreements and the Sale Transaction itself, and the consummation thereof shall be specifically enforceable against and binding upon (without posting any bond) the Debtors, and any chapter 11 trustee appointed in these chapter 11 cases, or in the event the chapter 11 cases are converted to a case under chapter 7 of the Bankruptcy Code, a chapter 7 trustee, and shall not be subject to rejection or avoidance by the foregoing parties or any other Person. The consummation of the Sale Transaction is legal, valid, and properly authorized under all applicable provisions of the Bankruptcy Code, including, without limitation, sections 105(a), 363(b), 363(f), 363(m), 365(b), and 365(1) of the Bankruptcy Code and all of the applicable requirements of such sections have been complied with in respect of the Sale Transaction.

AA. No Sub Rosa Plan. The Sale Transaction, the Purchase Agreement and the other transactions contemplated thereby do not constitute a *sub rosa* chapter 11 plan. The Sale Transaction neither impermissibly restructures the rights of the Debtors' creditors nor impermissibly dictates a liquidating chapter 11 plan for the Debtors.

BB. Waiver of Bankruptcy Rules 6004(h) and 6006(d). The Debtors have demonstrated (i) good, sufficient, and sound business purposes and justifications for approving the Purchase Agreement and the Sale Transaction, and (ii) compelling circumstances for the immediate approval and consummation of the transactions contemplated by the Purchase

Agreement and all other Ancillary Documents for the Sale Transaction outside of (a) the ordinary course of business, pursuant to section 363(b) of the Bankruptcy Code, and (b) a chapter 11 plan, in that, among other things, the immediate consummation of the Sale Transaction to the Buyer and all transactions contemplated thereby are necessary and appropriate to maximize the value of the Debtors' estates, and the Sale Transaction will provide the means for the Debtors to maximize distributions to their creditors. Accordingly, there is cause to lift the stay contemplated by Bankruptcy Rules 6004 and 6006 with respect to the transactions contemplated by this Order. To maximize the value of the Transferred Assets and preserve the viability of the businesses to which they relate, it is essential that the Sale Transaction occur within the time constraints set forth in the Purchase Agreement. Time is of the essence in consummating the Sale Transaction. Given all of the circumstances of the chapter 11 cases and the adequacy and fair value of the Purchase Price under the Purchase Agreement, the proposed Sale Transaction constitutes a reasonable and sound exercise of the Debtors' business judgment and should be approved.

CC. Personally Identifiable Information. The appointment of a consumer privacy ombudsman pursuant to section 363(b)(1) or section 332 of the Bankruptcy Code is not required with respect to the relief requested in the Motion.

DD. Legal and Factual Bases. The legal and factual bases set forth in the Motion establish just cause for the relief granted herein. Entry of this Order is in the best interests of the Debtors and their estates, creditors, interest holders and all other parties-in-interest.

IT IS HEREBY ORDERED THAT:

1. The Motion as it pertains to the Sale Transaction and the Purchase Agreement is GRANTED as set forth herein.

2. Objections. All objections, reservations of rights regarding, or other responses to, the Motion or the relief requested therein, the Purchase Agreement, all other Ancillary Agreements, the Sale Transaction, entry of this Order, or the relief granted herein, including, without limitation, any objections to Cure Costs or relating to the cure of any defaults under any of the Assigned Contracts or the assumption and assignment of any of the Assigned Contracts to the Buyer by the Debtors, solely as it relates to the relief granted by this Order that have not been adjourned, withdrawn or resolved as reflected on the record at the Sale Hearing are overruled in all respects on the merits with prejudice, except as otherwise set forth herein. All Persons and Entities that failed to timely object to the Motion are deemed to have consented to the relief granted herein for all purposes.

3. Notice. Notice of the Motion, the Sale Hearing, the Purchase Agreement, the Closing Assumed Contracts, and the relief granted in this Order was fair, sufficient, proper and equitable under the circumstances and complied in all respects with (and the assumption and assignment of the Additional Assumed Contracts, when given in accordance with paragraphs ~~24~~22 through ~~29~~31) herein will be fair and equitable under the circumstances and comply in all respects with) sections 102(1) and 363 of the Bankruptcy Code, Bankruptcy Rules 2002, 6004 and 6006, Local Rules 2002-1 and 6004-1, the Assumption and Assignment Procedures, the Bid Procedures Order, and other orders of the Court.

4. Fair Purchase Price. The Buyer is giving substantial consideration under the Purchase Agreement, and as provided herein, for the benefit of the Debtors, their estates, and creditors. The consideration to be provided by Buyer under the Purchase Agreement is fair and reasonable and constitutes (a) reasonably equivalent value under the Bankruptcy Code and the Uniform Voidable Transactions Act (formerly the Uniform Fraudulent Transfer Act), (b) fair

consideration under the Uniform Fraudulent Conveyance Act, (c) reasonably equivalent value, fair consideration and fair value under any other applicable laws of the United States, any state, territory or possession or the District of Columbia, and (d) valid and valuable consideration for the releases of any potential Liens pursuant to this Order, which releases shall be deemed to have been given in favor of Buyer by all holders of Liens of any kind whatsoever against any of the Debtors or any of the Transferred Assets, other than as otherwise expressly set forth in this Order. The consideration provided by Buyer for the Transferred Assets is fair and reasonable and may not be avoided by section 363(n) of the Bankruptcy Code.

5. Approval of the Purchase Agreement. The Purchase Agreement and the Sale Transaction, including, without limitation, all transactions contemplated therein or in connection therewith (including the Ancillary Agreements) and all of the terms and conditions thereof, are hereby approved in their entirety, subject to the terms and conditions of this Order. The failure specifically to include or make reference to any particular provision of the Purchase Agreement in this Order shall not impair the effectiveness of such provision, it being the intent of the Court that the Purchase Agreement, the Sale Transaction and the transactions contemplated therein or in connection therewith (including the Ancillary Agreements) are authorized and approved in their entirety.

6. Consummation of Sale Transaction. Pursuant to sections 105, 363 and 365 of the Bankruptcy Code, the Debtors are authorized to perform their obligations under and comply with the terms of the Purchase Agreement and the Ancillary Agreements, pursuant to and in accordance with the terms and conditions of the Purchase Agreement, the Ancillary Agreements and this Order. The Debtors, as well as their affiliates, officers, employees and agents, are authorized to execute and deliver, and empowered to perform under, consummate and

implement, the Purchase Agreement, together with all additional instruments and documents that may be reasonably necessary or desirable to implement the Purchase Agreement and the Sale Transaction, including the Ancillary Agreements, and to take all further actions and execute such other documents as may be (a) necessary or appropriate to the performance of the obligations contemplated by the Purchase Agreement, including, without limitation, making any regulatory filings necessary or advisable in connection with such transfer, and (b) as may be reasonably requested by Buyer to implement the Purchase Agreement, the Ancillary Agreements and the Sale Transaction, in accordance with the terms thereof, without further order of the Court. The Buyer shall not be required to seek or obtain relief from the automatic stay under section 362 of the Bankruptcy Code to enforce any of its rights or remedies under the Purchase Agreement or any other Sale Transaction-related document. The automatic stay imposed by section 362 of the Bankruptcy Code is modified solely to the extent necessary to implement the preceding sentence and the other provisions of this Order; provided, however, that the Court shall retain exclusive jurisdiction over any and all disputes with respect thereto.

7. Direction to Government Agencies. Each and every federal, state, local, or foreign government or governmental or regulatory authority, agency, board, bureau, commission, court, department, or other Governmental Entity is hereby directed to accept any and all documents and instruments necessary and appropriate to consummate the Sale Transaction and the other transactions contemplated by the Purchase Agreement and the Ancillary Agreements and approved by this Order.

8. Transfer of Assets Free and Clear and Injunction. Upon the Closing, pursuant to sections 105(a), 363(b), 363(f), 365(b) and 365(f) of the Bankruptcy Code, the transfer of the Transferred Assets to Buyer shall (a) constitute a legal, valid and effective transfer

of all of Debtors' right, title and interest in and to such Transferred Assets subject to and in accordance with the Purchase Agreement, and (b) vest Buyer with all of the Debtors' right, title and interest in and to such Transferred Assets free and clear of all Liens (including those Liens identified in the Purchase Agreement but other than Permitted Post-Closing Encumbrances) and Liabilities (other than Assumed Liabilities), with such Liens, including, without limitation, the liens held by the DIP Agent for the benefit of the DIP Lenders, the Prepetition Liens held by the Prepetition BAML Agent for the benefit of the Prepetition BAML Lenders to the extent the Prepetition BAML Obligations have not been Paid-in-Full at the time of such sale and the Prepetition Liens held by the Prepetition Term B Agent for the benefit of the Prepetition Term B Lenders, attaching to the proceeds received by the Debtors in the order of their priority, with the same validity, force and effect which they had against such Transferred Assets immediately prior to the Closing. All Persons or Entities that are presently, or on or after the Closing may be, in possession of some or all of the Transferred Assets, are hereby directed to surrender possession of the Transferred Assets to Buyer or its respective designees on the Closing Date or at such time thereafter as Buyer may request.

9. Pursuant to sections 105(a) and 363(f) of the Bankruptcy Code, the sale and transfer of the Debtors' right, title and interest in the Transferred Assets to the Buyer pursuant to the Purchase Agreement are a legal, valid, and effective disposition of the Transferred Assets, and vest the Buyer with all right, title, and interest of the Debtors to and in the Transferred Assets free and clear of all Liens (other than Permitted Post-Closing Encumbrances) and Liabilities (other than Assumed Liabilities). The conditions of section 363(f) of the Bankruptcy Code have been satisfied in full, and the Debtors' sale of the Transferred

Assets shall be free and clear of any Liens in the Transferred Assets (other than Permitted Post-Closing Encumbrances) and Liabilities (other than Assumed Liabilities).

10. To the extent provided for in the Purchase Agreement, any and all of the Debtors' security deposits, or other security held by landlords, lessors, and other counterparties to the Assigned Contracts are being transferred and assigned to, and shall be the property of, the Buyer from and after the Closing, which transfer and assignment of security deposits, other deposits, or security shall satisfy in full the requirements of section 365(1) of the Bankruptcy Code for all contracts, leases, and licenses assumed and assigned pursuant to this Order or the Purchase Agreement.

11. The sale of the Transferred Assets is not subject to avoidance by any person or for any reason whatsoever, including, without limitation, pursuant to section 363(n) of the Bankruptcy Code and the Buyer and the Buyer Parties shall not be subject to damages, including any costs, fees, or expenses under section 363(n) of the Bankruptcy Code.

12. On the Closing Date, each of the Debtors' creditors, at the expense of the Debtors, is authorized to execute such documents and take all other actions as may be reasonably necessary to release its Liens or other interests in the Transferred Assets, if any, as such Liens may have been recorded or may otherwise exist.

13. The provisions of this Order authorizing the sale of the Transferred Assets free and clear of all Liens (other than Permitted Post-Closing Encumbrances) and all Liabilities (other than Assumed Liabilities) or as otherwise expressly set forth in this Order, shall be self-executing, and neither the Debtors nor the Buyer shall be required to execute or file releases, termination statements, assignments, consents, or other instruments in order to effectuate, consummate, and implement the provisions of this Order. If any Entity which has filed a

financing statement, mortgage, mechanic's lien, *lis pendens*, or other statement, document, or agreement evidencing any Liens on, or in, all or any portion of the Transferred Assets (other than statements or documents with respect to Permitted Post-Closing Encumbrances) shall not have delivered to the Debtors prior to the Closing Date, in proper form for filing and executed by the appropriate parties, termination statements, instruments of satisfaction, releases, and/or any other documents necessary for the purpose of documenting the release and/or termination of all Liens which the Entity has or may assert with respect to all or any portion of the Transferred Assets, then (a) the Debtors and the Buyer are hereby authorized to execute and file such statements, instruments, releases, and/or other similar documents on behalf of such Entity with respect to the Transferred Assets, and (b) the Buyer is hereby authorized to file, register, or otherwise record a certified copy of this Order that, once filed, registered, or otherwise recorded, shall constitute conclusive evidence of the release and/or termination of all Liens of any kind or nature against or in the Assets (other than Permitted Post-Closing Encumbrances),

14. Except for the Assumed Liabilities, or as otherwise expressly set forth in this Order or the Purchase Agreement, the Buyer and the Buyer Parties shall not have any liability or other obligation of the Debtors arising under or related to any of the Transferred Assets, including, but not limited to, any liability for any liabilities whether known or unknown as of the Closing, now existing or hereafter arising, whether fixed or contingent, with respect to the Debtors or any obligations of the Debtors, including, but not limited to, liabilities on account of any taxes arising, accruing, or payable under, out of, in connection with, or in any way relating to the operation of the Debtors' business prior to the Closing.

15. Upon the Closing, except with respect to Assumed Liabilities as to the Buyer only, or as otherwise expressly provided for in the Purchase Agreement or this Order, all

Persons or Entities, including, but not limited to, all debt holders, equity security holders, governmental, tax and regulatory authorities, lenders, trade creditors, litigation claimants, Counterparties, customers, landlords, licensors, employees, and other creditors and holders of Liens or other interests of any kind or nature whatsoever against or in any of the Debtors or any portion of the Transferred Assets (whether legal or equitable, secured or unsecured, matured or unmatured, contingent or non-contingent, known or unknown, liquidated or unliquidated, senior or subordinate, asserted or unasserted, whether arising prior to or subsequent to the Petition Date, whether imposed by agreement, understanding, law, equity, or otherwise), arising under or out of, in connection with, or in any way relating to, the Debtors, the Transferred Assets, the operation of the Debtors' business prior to the Closing Date, or the transfer of the Transferred Assets to the Buyer shall be, and hereby are forever barred, estopped, and permanently enjoined from asserting against the Buyer or any of its Affiliates, its past, present and future members or shareholders, its lenders, financing parties, subsidiaries, parents, divisions, agents, representatives, insurers, attorneys, successors and assigns, or any of its or their respective directors, managers, officers, employees, agents, representatives, attorneys, contractors, subcontractors, independent contractors, owners, insurance companies, or partners (each a "Buyer Party") and collectively the "Buyer Parties"), or their respective assets or properties, including, without limitation, the Transferred Assets, Liens of any kind or nature whatsoever such Person or Entity had, has, or may have against or in the Debtors, their estates, officers, directors, managers, shareholders, or the Transferred Assets, such Person's or Entities' Liens or any other interests in and to the Transferred Assets, including, without limitation, the following actions: (a) commencing or continuing in any manner any action or other proceeding, the employment of process, or any act (whether in law or equity, in any judicial, administrative,

arbitral, or other proceeding) against the Buyer or any Buyer Party, or their respective assets or properties, including, without limitation, the Transferred Assets; (b) enforcing, attaching, collecting, or recovering in any manner any judgment, award, decree, or order against the Buyer or any Buyer Party, or their respective assets or properties, including, without limitation, the Transferred Assets; (c) creating, perfecting, or enforcing any Liens against the Buyer or any Buyer Party, or their respective assets or properties, including the Transferred Assets; (d) asserting any setoff, right of subrogation, or recoupment of any kind against any obligation due the Buyer or any Buyer Party, or their respective assets or properties, including, without limitation the Transferred Assets; (e) commencing or continuing any action, in any manner or place, that does not comply with or is inconsistent with the provisions of this Order, other orders of the Court, the Purchase Agreement, the other Ancillary Documents or any other agreements or actions contemplated or taken in respect thereof; or (f) revoking, terminating, failing, or refusing to transfer or renew any license, permit, or authorization to operate any of the Transferred Assets or conduct any of the businesses operated with the Transferred Assets in connection with the Sale Transaction.

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

17. To the extent provided by section 525 of the Bankruptcy Code, no Governmental Entity may revoke or suspend any grant, permit, or license relating to the

operation of the Transferred Assets sold, transferred, assigned, or conveyed to the Buyer on account of the filing or pendency of these chapter 11 cases or the consummation of the Sale Transaction.

18. Subject to the terms, conditions, and provisions of this Order, all Entities are hereby forever prohibited and barred from taking any action that would adversely affect or interfere (a) with the ability of the Debtors to sell and transfer the Transferred Assets to Buyer in accordance with the terms of the Purchase Agreement and this Order, and (b) with the ability of the Buyer to acquire, take possession of, use and operate the Transferred Assets in accordance with the terms of the Purchase Agreement and this Order. Notwithstanding the foregoing, nothing in this Order or the Purchase Agreement shall prohibit any party from seeking to enforce or collect any of the Assumed Liabilities against the Buyer.

19. No Successor or Other Derivative Liability. Except for Assumed Liabilities, neither the Buyer, nor any of its successors or assigns, or any of their respective affiliates shall have any liability for any Lien, Claim, or Interest that arose or occurred prior to the Closing, or otherwise may be asserted against the Debtors or is related to the Transferred Assets prior to the Closing. The Buyer (i) is not and shall not be deemed a “successor” to the Debtors or their estates; (ii) has not, *de facto* or otherwise, merged with or into the Debtors; (iii) does not have any common law or successor liability in relation to any employment plans; (iv) is not liable for any liability (other than Assumed Liabilities) or Lien (other than Permitted Post-Closing Encumbrances) against the Debtors or any of the Debtors’ predecessors or Affiliates; and (v) is not an alter ego or mere continuation or substantial continuation of the Debtors or the enterprise of the Debtors under any theory of law or equity as a result of any action taken in connection with the Purchase Agreement, the Sale Transaction or any

transactions or documents ancillary thereto or contemplated thereby or in connection with the acquisition of the Transferred Assets. Thus, the Buyer shall have no successor, transferee, or vicarious liability of any kind or character, including, but not limited to, under any theory of foreign, federal, state, or local antitrust, environmental, successor, tax, ERISA, assignee, or transferee liability, labor, product liability, employment including but not limited to with respect to any Multiemployer Plan), *de facto* merger, substantial continuity, or other law, rule, or regulation, whether known or unknown as of the Closing Date, now existing or hereafter arising, whether asserted or unasserted, fixed or contingent, liquidated or unliquidated with respect to the Business, the Transferred Assets, the Debtors or any obligations of the Debtors arising prior to the Closing Date. The Buyer shall not be deemed to have expressly or implicitly assumed any of the Debtors' liabilities other than the Assumed Liabilities. Except as otherwise provided herein or in the Purchase Agreement, the transfer of the Transferred Assets to the Buyer pursuant to the Purchase Agreement shall not result in the Buyer or the Transferred Assets having any liability or responsibility for, or being required to satisfy in any manner, whether in law or in equity, whether by payment, setoff, or otherwise, directly or indirectly, any claim against the Debtors or against any insider of the Debtors or Liens (other than Permitted Post-Closing Encumbrances).

20. This Order is and shall be effective as a determination that, upon the Closing, all Liens and any other interest of any kind or nature whatsoever as to the Transferred Assets prior to the Closing (other than Permitted Post-Closing Encumbrances), shall have been unconditionally released, discharged, and terminated to the fullest extent permitted by applicable law, and that the conveyances described herein have been effected. This Order shall be binding upon and govern the acts of all Entities, including, without limitation, all filing agents, filing officers, title agents, title companies, recorders of mortgages, recorders of deeds, registrars of

deeds, administrative agencies, governmental departments, secretaries of state, federal, state, and local officials, and all other Entities who may be required by operation of law, the duties of their office, or contract, to accept, file, register or otherwise record or release any documents or instruments, or who may be required to report or insure any title or state of title in or to any lease; and each of the foregoing Entities is hereby directed to accept for filing any and all of the documents and instruments necessary and appropriate to consummate the transactions contemplated by the Purchase Agreement. A certified copy of this Order may be filed and/or recorded with the appropriate filing agents, filing officers, administrative agencies or units, governmental departments, secretaries of state, federal, state and local officials and all other Persons, institutions, agencies and Entities who may be required by operation of law, the duties of their office or contract evidencing the release, cancellation and termination provided herein of any Liens of record on the Transferred Assets prior to the date of this Order. Without limiting the generality of the foregoing, this Order shall constitute all approvals and consents, if any, required by the corporate laws of the states of formation of the Debtors and all other applicable business, corporation, trust, and other laws of the applicable governmental authorities with respect to the implementation and consummation of the Purchase Agreement, any related agreements or instruments and this Order, and the transactions contemplated thereby and hereby.

21. Upon the Closing, this Order shall be construed and shall constitute for any and all purposes a full and complete general assignment, conveyance and transfer of the Transferred Assets to Buyer and the Debtors' interests in the Transferred Assets acquired by Buyer pursuant to the terms of the Purchase Agreement.

22. Assumption and Assignment of the Assigned Contracts. Subject to and conditioned upon the Closing and paragraphs ~~24~~22 through ~~29~~31 with respect to Additional

Assumed Contracts, the Debtors are hereby authorized in accordance with sections 105(a) and 365 of the Bankruptcy Code to assume and assign the Assigned Contracts to Buyer free and clear of all Liens (other than Permitted Post-Closing Encumbrances) and Liabilities (other than Assumed Liabilities), and to execute and deliver to Buyer such documents or other instruments as may be necessary to assign and transfer the Assigned Contracts to Buyer as provided in the Purchase Agreement. Cure Costs shall be paid by the Debtors subject to the terms of, and in accordance with, the terms of the Purchase Agreement and Bid Procedures Order. Payment of the Cure Costs shall be in full satisfaction and cure of any and all defaults required to be cured with respect to the Assigned Contracts under section 365(b)(1) of the Bankruptcy Code. The Cure Amount solely reflects all accrued amounts as of the Petition Date which have been billed. The Debtors shall be responsible for all unpaid obligations with respect to each executory contract which were incurred in the ordinary course, but which are not billed and due in the ordinary course prior to the effective date of any assumption and assignment, and which become due in the ordinary course on or after the effective date of assumption and assignment. The Debtors shall pay, in the ordinary course, all obligations which accrue postpetition and prior to the Closing, pursuant to the terms of each executory contract. Subject to paragraphs ~~24~~22 through ~~29~~31 herein, Buyer has also provided adequate assurance of future performance under the Assigned Contracts in satisfaction of section 365 of the Bankruptcy Code to the extent that any such assurance is required and not waived by the Counterparties to such Assigned Contracts. In accordance with the Assumption and Assignment Procedures and the terms of this Order and subject to paragraphs ~~24~~22 through ~~29~~31 herein, following the Closing, Buyer shall be fully and irrevocably vested with all of the Debtors' right, title and interest in and under the Assigned Contracts in connection with the Transferred Assets, free and clear of any Liens (other than

Permitted Post-Closing Encumbrances) and Liabilities (other than Assumed Liabilities), and each Assigned Contract shall be fully enforceable by the Buyer in accordance with its respective terms and conditions, except as limited by this Order. In accordance with the Assumption and Assignment Procedures and subject to paragraphs ~~24~~22 through ~~29~~31, following assignment of the Assigned Contracts to Buyer, the Debtors shall be relieved from any further liability with respect to such Assigned Contracts. Buyer acknowledges and agrees that from and after the Closing, or any later applicable effective date of assumption with respect to a particular Assigned Contract, subject to and in accordance with the Purchase Agreement, it shall comply with the terms of each Assigned Contract in its entirety, unless any such provisions are not enforceable pursuant to the terms of this Order. The assumption by the Debtors and assignment to Buyer of any Assigned Contract shall not be a default under such Assigned Contract. To the extent provided in the Purchase Agreement, the Debtors shall cooperate with, and take all actions reasonably requested by, the Buyer to effectuate the foregoing. For the avoidance of doubt, nothing in this paragraph affects the Buyer's right to re-designate an Assigned Contract as an Additional Rejected Contract in accordance with, and subject to the conditions set forth in, Section ~~1.5(d)~~ of the Purchase Agreement.

23. Assigned Contracts. Except as otherwise expressly provided in the Purchase Agreement or this Order, upon the Closing Date, pursuant to Bankruptcy Code sections 105(a), 363, and 365, the Debtors are authorized to (a) assume each of the Identified Contracts and assign the Identified Contracts, set forth in Exhibit B (the "Identified Contracts Exhibit") attached hereto, which may be subsequently modified, pursuant to Section 1.5(c)-(e) of the Purchase Agreement, at any time prior to the date that is five (5) days prior to the Sale Hearing and upon Buyer's delivery of written notice to the Debtors, to add or remove certain contracts

pursuant to the terms of the Purchase Agreement, to the Buyer free and clear of all Claims, Interests, and Encumbrances (other than any Permitted Encumbrances) and (b) execute and deliver to the Buyer such documents or other instruments as may be reasonably requested by Buyer to assign and transfer the Closing Assumed Contracts to the Buyer. The Debtors served all Counterparties to the Closing Assumed Contracts with the Notice of Potential Assignment ~~and the Closing Assignment Notice~~, and the deadline to object to the Cure Costs and adequate assurance of future performance with respect to the Buyer has passed. Accordingly, unless an objection to the proposed assumption and assignment of an Assigned Contract (including whether applicable law excuses a Counterparty from accepting performance by, or rendering performance to, Buyer), the proposed Cure Costs or the adequate assurance of future performance information with respect to Buyer was filed and served before the applicable deadline, each Counterparty to an Assigned Contract is forever barred, estopped and permanently enjoined from asserting against the Debtors or Buyer, their respective affiliates, successors or assigns or the property of any of them, any objection to assignment or default existing as of the date of the Contract Objection Deadline (as defined in the Assumption and Assignment Procedures) if such objection or default was not raised or asserted prior to or at the appropriate Contract Objection Deadline.

24. Adequate Assurance of Future Performance. All of the requirements of sections 365 of the Bankruptcy Code, including without limitation, the demonstration of adequate assurance of future performance, have been satisfied for the assumption by the Debtors, and the assignment by the Debtors to Buyer, solely with respect to the Closing Assumed Contracts. Buyer has satisfied its adequate assurance of future performance requirements with respect to the Closing Assumed Contracts and has demonstrated it is sufficiently capitalized or

otherwise able to comply with the necessary obligations under the Closing Assumed Contracts. Adequate assurance of future performance with respect to Additional Assumed Contracts shall be provided in accordance with the Bid Procedures Order and this Order.

25. Nothing in this Order shall affect the rights of Buyer, to the extent such rights are provided in the Purchase Agreement, to designate or add any Additional Assumed Contracts to or from the schedule of Additional Assumed Contracts as set forth in the Purchase Agreement and in accordance with the terms thereof.

26. Cure Costs. To the extent a Counterparty to an Assigned Contract failed to timely object to a Cure Cost, such Cure Cost has been and shall be deemed to be finally determined as set forth on the relevant Notice of Potential Assignment as to each Counterparty and any such Counterparty shall be barred, and forever prohibited from challenging, objecting to or denying the validity and finality of the Cure Cost as of such date.

27. Objections to Assumption and Assignment. Any objection by a Counterparty to an Additional Assumed Contract to the assumption and assignment, Cure Cost or adequate assurance of future performance of Buyer with respect to such Additional Assumed Contract must be filed with the Court and served on the Objection Notice Parties and counsel to the Buyer by the deadline set forth in the Bid Procedures and Bid Procedures Order (the "Post-Auction Objection Deadline"); provided, however, that the Debtors served all Counterparties to the Additional Assumed Contracts that are Identified Contracts with the Notice of Potential Assignment, and the deadline to object to (a) the Cure Costs associated therewith, (b) the proposed assumption and assignment of any Identified Contract and (c) whether applicable law excuses a counterparty from accepting performance by, or rendering performance to, Buyer (the "Contract Objections") with respect to any Additional Assumed Contracts that are

Identified Contracts has passed, and accordingly, all Counterparties to Additional Assumed Contracts that are Identified Contracts who did not object or who withdrew their Contract Objections pursuant to the Assumption and Assignment Procedures are deemed to have consented to the Cure Costs (except to the extent such Cure Costs further accrue) and Debtors' assumption and assignment to Buyer of such Additional Assumed Contracts.

28. Impact of No Objection. If no objection by a Counterparty to an Additional Assumed Contract has been filed by the Post-Auction Objection Deadline, this Order shall serve as approval of the assumption and assignment of such Additional Assumed Contract, and the assumption and assignment of such Additional Assumed Contract shall be effective upon the applicable designation date set forth in the applicable Notice of Potential Assignment with respect to such Additional Assumed Contract. If an objection is timely filed and not withdrawn or resolved, the Debtors, Buyer and the objecting Counterparty shall have authority to compromise, settle or otherwise resolve any objections without further order of the Court. If the Debtors, Buyer and the objecting Counterparty determine that the objection cannot be resolved without judicial intervention, then the determination of the assumption and assignment of the Additional Assumed Contract will be determined as set forth in the Bid Procedures Order and the Bid Procedures.

29. Except as set forth in paragraphs ~~[28-29]~~27-28, all Counterparties' rights under section 365 with respect to the assumption and assignment of the Additional Assumed Contracts pursuant to the Bankruptcy Code are reserved pending delivery of an applicable Notice of Potential Assignment filed by the Debtors with the Court and are subject to the procedures and provisions set forth in the Assumption and Assignment Procedures and paragraphs ~~[24]~~22 to ~~29]~~31 above.

30. Upon the Debtors' assumption and assignment of the Assigned Contracts to the Buyer under the provisions of this Order and any additional orders of the Court and the payment of any Cure Cost in accordance with the Purchase Agreement or any applicable order, no default or other obligations arising prior to the Closing Date shall exist under any Assigned Contract, and each Counterparty is forever barred and estopped from (a) declaring a default by the Debtors or the Buyer under such Assigned Contract, (b) raising or asserting against the Debtors or the Buyer (or any Buyer Party), or the property of either of them, any assignment fee, default, breach, or claim of pecuniary loss, or condition to assignment, arising under or related to the Assigned Contracts, or (c) taking any other action against the Buyer or any Buyer Party as a result of any Debtor's financial condition, bankruptcy, or failure to perform any of its obligations under the relevant Assigned Contract, in each case in connection with the Sale Transaction. Each Counterparty is also forever barred and estopped from raising or asserting against the Buyer or any Buyer Party any assignment fee, default, breach, Claim, pecuniary loss, or condition to assignment arising under or related to the Assigned Contracts existing as of the Closing Date or arising by reason of the closing of the Sale Transaction, except for any amounts that are Assumed Liabilities.

31. With respect to objections to any Cure Costs that remain unresolved as of the Sale Hearing, such objections shall be resolved in accordance with the procedures approved in the Assumption and Assignment Procedures. Consideration of unresolved Contract Objections relating to assignment of Assigned Contracts, unless otherwise ordered by the Court or with the consent of the Counterparty to any Assigned Contract that is subject to a Contract Objection relating to such assignment, shall be adjourned to a date to be determined; provided, however, that (a) any Assigned Contract that is the subject of a Contract Objection with respect solely to

the amount of the Cure Cost may be assumed and assigned prior to resolution of such objection, and (b) such undisputed Cure Cost shall be promptly cured on or after the Closing Date or as otherwise agreed to by the Debtors, Buyer and the applicable Counterparty by payment of the applicable Cure Cost by the Debtors.

32. Buyer's Standing; Debtors' Standing. The Buyer shall have standing to object to the allowance of claims (as such term is defined in section 101(5) of the Bankruptcy Code) asserted against the Debtors or their estates including, without limitation, any unresolved or disputed Assumed Liabilities or otherwise, that constitute obligations assumed by the Buyer pursuant to the terms of the Purchase Agreement. Nothing in this Order shall divest the Debtors of their standing or duty as debtors-in-possession under the Bankruptcy Code from reconciling claims asserted against the Debtors or their estates and objecting to any such claims that should be reduced, reclassified or otherwise disallowed.

33. Ipsa Facto Clauses Ineffective. With respect to the Assigned Contracts, in connection with the Sale Transaction: (a) the Debtors may assume each of the Assigned Contracts in accordance with section 365 of the Bankruptcy Code; (b) the Debtors may assign each Assigned Contract in accordance with sections 363 and 365 of the Bankruptcy Code, and any provisions in any Assigned Contract that directly or indirectly prohibit or condition the assignment of such Assigned Contract or allow the party to such Assigned Contract to terminate, recapture, impose any penalty, condition renewal or extension, or modify any term or condition upon the assignment of such Assigned Contract, constitute unenforceable anti-assignment provisions which are void and of no force and effect; (c) all other requirements and conditions under sections 363 and 365 of the Bankruptcy Code for the assumption by the Debtors and assignment to the Buyer of each Assigned Contract have been satisfied; and (d) effective upon

the Closing Date, or any later applicable effective date of assumption with respect to a particular Assigned Contract, the Assigned Contracts shall be transferred and assigned to, and from and following the Closing, or such later applicable effective date, and the Assigned Contracts shall remain in full force and effect for the benefit of the Buyer, notwithstanding any provision in any Assigned Contract (including those of the type described in sections 365(b)(2) and (e) of the Bankruptcy Code) that prohibits, restricts, or conditions such assignment or transfer and, pursuant to section 365(k) of the Bankruptcy Code, the Buyer shall be deemed to be substituted for the applicable Debtor as a party to the applicable Assigned Contract and the Debtors shall be relieved from any further liability with respect to the Assigned Contracts after such assumption by the Debtors and assignment to the Buyer, except as otherwise provided in the Purchase Agreement. To the extent any provision in any Assigned Contract assumed and assigned pursuant to this Order (i) prohibits, restricts, or conditions, or purports to prohibit, restrict, or condition, such assumption and assignment (including, without limitation, any “change of control” provision), or (ii) is modified, breached, or terminated, or deemed modified, breached, or terminated by any of the following: (A) the commencement of the Debtors’ chapter 11 cases, (B) the insolvency or financial condition of any of the Debtors at any time before the closing of the Debtors’ chapter 11 cases, (C) the Debtors’ assumption and assignment of such Assigned Contract, (D) a change of control or similar occurrence, or (E) the consummation of the Sale Transaction, then such provision shall be deemed modified in connection with the Sale Transaction so as not to entitle the Counterparty to prohibit, restrict, or condition such assumption and assignment, to modify, terminate, or declare a breach or default under such Assigned Contract, or to exercise any other default-related rights or remedies with respect thereto, including without limitation, any such provision that purports to allow the Counterparty

to terminate or recapture such Assigned Contract, impose any penalty, additional payments, damages, or other financial accommodations in favor of the Counterparty thereunder, condition any renewal or extension thereof, impose any rent acceleration or assignment fee, or increase or otherwise impose any other fees or other charges in connection therewith. All such provisions constitute unenforceable anti-assignment provisions that are void and of no force and effect in connection with the Sale Transaction pursuant to sections 365(b), 365(e), and 365(f) of the Bankruptcy Code.

34. Except as otherwise specifically provided for by order of the Court, all defaults or other obligations of the Debtors under the Assigned Contracts arising or accruing prior to the Closing Date or required to be paid pursuant to section 365 of the Bankruptcy Code in connection with the assumption and assignment of the Assigned Contracts (in each case, without giving effect to any acceleration clauses or any default provisions of the kind specified in section 365(b)(2) of the Bankruptcy Code), whether monetary or non-monetary, shall be promptly cured pursuant to the terms of the Purchase Agreement and this Order on or after the Closing Date or as otherwise agreed to by the Debtors, Buyer and the applicable Counterparty by the payment of the applicable Cure Cost by the Debtors, in accordance with the Purchase Agreement. The Buyer shall have no liability arising or accruing under the Assigned Contracts on or prior to the Closing, except as otherwise expressly provided in the Purchase Agreement or this Order.

35. Good Faith; Statutory Mootness. Buyer is a good faith purchaser within the meaning of section 363(m) of the Bankruptcy Code and, as such, is entitled to, and is hereby granted, the full rights, benefits, privileges, and protections of section 363(m) of the Bankruptcy Code. The Sale Transaction contemplated by the Purchase Agreement and the Ancillary

Agreements is undertaken by Buyer without collusion and in good faith, as that term is defined in section 363(m) of the Bankruptcy Code, and accordingly, the reversal or modification on appeal of the authorization provided herein shall neither affect the validity of the Sale Transaction (including the assumption and assignment of the Assigned Contracts) nor the transfer of the Transferred Assets owned by the Debtors to Buyer pursuant to the Purchase Agreement, free and clear of all Liens. The Debtors and Buyer will be acting in good faith if they proceed to consummate the Sale Transaction at any time after entry of this Order.

36. Approval of the Application of Proceeds. Subject to the “Payment in Full” of the Prepetition BAML Obligations, the Debtors are authorized and directed to distribute the consideration received by the Debtors from the sale of the Transferred Assets as follows: first, to the holders of the DIP Obligations as of the date of the initial funding under the DIP Credit Facility (or as otherwise agreed to between the Buyer and such holders of the DIP Obligations) until such time as the DIP Obligations are paid in full in cash (or as otherwise agreed by the DIP Agent as directed by the Required Lenders) and all commitments to lend under the DIP Loan Documents have been terminated, and second, to the Prepetition Term B Agent for distribution to the holders of the Prepetition Term B Obligations as of the Petition Date (or as otherwise agreed to between the Buyer and such holders of the Prepetition Term B Obligations) in accordance with the Prepetition Term B Credit Agreement until the Prepetition Term B Obligations have been paid in full in cash (or as otherwise agreed by the Prepetition Term B Agent as directed by the Required Lenders). The application of the consideration from the sale of the Transferred Assets pursuant to the immediately preceding sentence complies with the requirements of the DIP Orders and the DIP Loan Documents and is supported by good, sufficient and sound business reasons. The consideration from the sale of the Transferred Assets

pursuant to section ~~{2.1}~~ of the Purchase Agreement is comprised of, among other things, (i) ~~55,500,000~~ of cash plus any Additional Cash Consideration (as defined in the Purchase Agreement) (excluding, an Escrow Amount (as defined in the Purchase Agreement) in an amount equal to ~~1,665,000~~ to be held in escrow pursuant to the Purchase Agreement which escrowed amount shall be applied in accordance with this Order upon release to the Debtors, (ii) ~~227,500,000~~ million in the form of debt issued by Buyer as such amount may be reduced by an amount equal to (A) any Additional Cash Consideration and (B) the Estimated Royalty Adjustment (as defined in the Purchase Agreement) and (iii) 11.3% of Series A Units of Gainline Galaxy Holdings LLC which for purposes of application to claims of the Debtors' estate shall be valued at ~~50,000,000~~, and all such consideration shall be applied in accordance with this Order and the DIP Orders.

37. Modification of Purchase Agreement. The Purchase Agreement, the Ancillary Agreements and any related agreements, documents or other instruments may be modified, amended or supplemented through a written document signed by the parties thereto in accordance with the terms thereof and this Order without further order of the Court; provided that no such modification, amendment or supplement may be made without further order of the Court if it is materially adverse to the Debtors or the Debtors' estates.

38. Failure to Specify Provisions. The failure specifically to include any particular provisions of the Purchase Agreement in this Order shall not diminish or impair the effectiveness of such provisions, it being the intent of the Court that the Purchase Agreement be authorized and approved in its entirety.

39. Record Retention. Pursuant to the terms of and subject to the conditions contained in the Purchase Agreement, following the Closing, the Debtors, their successors and

assigns and any trustee in bankruptcy will have access to the Debtors' books and records subject to the terms of, and for the specified purposes set forth in, and in accordance with, Section {6.1} of the Purchase Agreement.

40. Standing. The Purchase Agreement shall be in full force and effect, regardless of any Debtor's lack of good standing in any jurisdiction in which such Debtor is formed or authorized to transact business.

41. Bulk Sales; Taxes. No bulk sales law, bulk transfer law or any similar law of any state or other jurisdiction (including those relating to taxes other than Transfer Taxes) shall apply to the Debtors' conveyance of the Transferred Assets or this Order.

42. Reservation of Rights. Nothing in this Order shall be deemed to waive, release, extinguish or estop the Debtors or their estates from asserting or otherwise impair or diminish any right (including any right of recoupment), claim, cause of action, defense, offset or counterclaim in respect of any asset that is not a Transferred Asset.

43. Conflicts. In the event there is a conflict between this Order and the Purchase Agreement (including any Ancillary Agreements executed in connection therewith), this Order shall control and govern. ~~In addition, in the event there is a conflict between the Purchase Agreement and the Closing Assignment Notice (as amended) with respect to the assumption and assignment of any executory contract or unexpired lease, the Closing Assignment Notice (as amended) will control, and any contracts listed on the Closing Assignment Notice shall be "Closing Assumed Contracts" as such term is used herein.~~ Likewise, all of the provisions of this Order are non-severable and mutually dependent. To the extent that this Order is inconsistent with any prior order or pleading with respect to the Motion in these chapter 11 cases, the terms of this Order shall control.

44. Waiver of Bankruptcy Rules 6004(h) and 6006(d). Notwithstanding the provisions of Bankruptcy Rules 6004(h) and 6006(d) or any applicable provisions of the Local Rules, this Order shall not be stayed after the entry hereof, but shall be effective and enforceable immediately upon entry, and the fourteen-day stay provided in Bankruptcy Rules 6004(h) and 6006(d) is hereby expressly waived and shall not apply, and the Debtors and the Buyer are authorized and empowered to close the Sale Transaction immediately upon entry of this Order.

45. Personally Identifiable Information. After giving due consideration to the facts, circumstances, and conditions of the Purchase Agreement, the Sale Transaction is consistent with the Debtors' privacy policies concerning personally identifiable information and no showing was made that the sale of any personally identifiable information contemplated in the Purchase Agreement, subject to the terms of this Order, would violate applicable non-bankruptcy law.

46. Binding Effect of this Order. This Order, the Purchase Agreement, and the Ancillary Agreements shall be binding in all respects upon, (a) the Debtors, (b) the Debtors' estates, (c) all creditors of, and holders of equity interests in, the Debtors, (d) all holders of Liens or other interests (whether known or unknown) in, against, or on all or any portion of the Transferred Assets, (e) all Counterparties, (f) the Buyer and the Buyer Parties, (g) the Transferred Assets, and (h) all successors and assigns of each of the foregoing, including, without limitation, any trustee subsequently appointed in the chapter 11 cases, or a chapter 7 trustee appointed upon a conversion of one or more of the chapter 11 cases to a case under chapter 7 of the Bankruptcy Code or other plan fiduciaries, plan administrators, liquidating trustees, or other estate representatives appointed or elected in the Debtors' cases. This Order, the Purchase Agreement, and the Ancillary Agreements shall inure to the benefit of the Debtors, their estates and creditors,

the Buyer, and the Buyer Parties, and the respective successors and assigns of each of the foregoing, including, without limitation, any trustee subsequently appointed in the chapter 11 cases or upon conversion to chapter 7 under the Bankruptcy Code, and any Entity seeking to assert rights on behalf of any of the foregoing or that belong to the Debtors' estates. The Purchase Agreement and all other Ancillary Documents shall be binding in all respects upon the Debtors and the Buyer.

47. Subsequent Plan Provisions. Nothing contained in any chapter 11 plan confirmed in the Debtors' chapter 11 cases, any order confirming any such plan, or in any other order in these chapter 11 cases (including any order entered after any conversion of any of these chapter 11 cases to a case under chapter 7 of the Bankruptcy Code) or any related proceeding subsequent to entry of this Order shall alter, conflict with, or derogate from, the provisions of the Purchase Agreement or this Order.

48. Further Assurances. From time to time, as and when requested by any party, each party to the Purchase Agreement shall execute and deliver, or cause to be executed and delivered, all such documents and instruments and shall take, or cause to be taken, all such further or other actions as such other party may reasonably deem necessary or desirable to consummate the transactions contemplated by the Purchase Agreement.

49. Retention of Jurisdiction. The Court shall retain jurisdiction with respect to all matters arising from or related to this Order and the Purchase Agreement (and such other related agreements, documents, or other instruments) and to interpret, implement, and enforce the terms of this Order and Purchase Agreement.

Dated: [_____]

Wilmington, Delaware

UNITED STATES BANKRUPTCY JUDGE

| [Exhibit A](#)

| [Galaxy APA](#)

|
|
Exhibit B

Assumed Contracts Exhibit

Exhibit 2

Proposed Sale Order re: Centric Brands, LLC

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

In re:	:	Chapter 11
	:	Case No. 21-11194 (JTD)
Sequential Brands Group, Inc., <u>et al.</u> , ¹	:	(Jointly Administered)
	:	
Debtors.	:	

**ORDER (I) AUTHORIZING THE SALE OF CERTAIN ASSETS OF
THE DEBTORS TO CENTRIC BRANDS LLC FREE AND CLEAR OF ALL LIENS,
CLAIMS, INTERESTS AND ENCUMBRANCES, (II) AUTHORIZING THE
ASSUMPTION AND ASSIGNMENT OF CERTAIN EXECUTORY CONTRACTS IN
CONNECTION THEREWITH, AND (III) GRANTING RELATED RELIEF**

Upon the motion, dated August 31, 2021 (the “Motion”),² of Sequential Brands Group, Inc., Joe’s Holdings LLC (the “Seller”) and certain of their affiliates, as debtors and debtors in possession in the above-captioned cases (each, a “Debtor” and collectively, the “Debtors”), pursuant to Bankruptcy Code sections 105(a), 363 and 365 of title 11 of the United States Code (the “Bankruptcy Code”) and 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”), seeking entry of, among other things, (i) an order (the “Bidding Procedures Order”) (a) approving the bidding procedures (the “Bidding

¹ The Debtors, along with the last four digits of each Debtor’s tax identification number, are: Sequential Brands Group, Inc. (2789), SQBG, Inc. (9546), Sequential Licensing, Inc. (7108), William Rast Licensing, LLC (4304), Heeling Sports Limited (0479), Brand Matter, LLC (1258), SBG FM, LLC (8013), Galaxy Brands LLC (9583), The Basketball Marketing Company, Inc. (7003), American Sporting Goods Corporation (1696), LNT Brands LLC (3923), Joe’s Holdings LLC (3085), Gaiam Brand Holdco, LLC (1581), Gaiam Americas, Inc. (8894), SBGGaiam Holdings, LLC (8923), SBG Universe Brands, LLC (4322), and GBT Promotions LLC (7003). The Debtors’ corporate headquarters and the mailing address for each Debtor is 1407 Broadway, 38th Floor, New York, NY 10018.

² Capitalized terms used but not defined herein shall have the meaning ascribed to them in the Motion or the Centric APA (as defined herein), as applicable.

Procedures”) in connection with the sale or disposition (each, a “Sale”) of all or substantially all of the Debtors assets (including the Purchased Assets (as defined the Centric APA, as defined below)), (b) authorizing the Debtors to enter into one or more stalking horse agreements and to provide bidding protections thereunder, (c) scheduling an auction (the “Auction”) and approving the form and manner of notice thereof, (d) approving procedures for the assumption and assignment of certain executory contracts, (e) scheduling a sale hearing (the “Sale Hearing”) to approve the Sale and approving the form and manner of notice thereof; and (ii) an order (a) approving the Sale and other transactions contemplated by the Centric APA free and clear of all liens, Claims (as defined below), liabilities, rights, Interests (as defined below) and Encumbrances (as defined in the Centric APA) (other than Permitted Encumbrances, as defined in the Centric APA) in accordance with the terms of the Centric APA, (b) approving the assumption and assignment of certain executory contracts and unexpired leases, and (c) granting certain related relief; and the Debtors having executed that certain Asset Purchase Agreement by and among Centric Brands LLC, as Buyer, and Joe’s Holdings LLC, as Seller, dated as of August 31, 2021 (as may be amended from time to time in accordance with the terms thereof and this Order, the “Centric APA”), attached hereto as **Exhibit 1**, contemplating the sale of the Purchased Assets to Centric Brands LLC (“Centric” or “Buyer”) or Assignee (as defined below) free and clear of any Claims, Interests, or Encumbrances (other than any Permitted Encumbrances) (the “Sale Transaction”); and, in accordance with and pursuant to, section 11.03 of the Centric APA, Centric having assigned all of Centric’s rights, interests, and obligations under the Centric APA to JJWHP, LLC (the “Assignee”); and the Court having entered the Bidding Procedures Order on September 24, 2021 [Docket No. 138] approving the Centric Expense Reimbursement (as defined in the Motion [Docket No. 19]); and the Auction having been cancelled in accordance with the Bidding

Procedures; and the Sale Hearing having been held on November 4, 2021; and the Court having reviewed and considered the relief sought in the Motion, the Centric APA, all objections to the Motion, and the arguments of counsel made, and the evidence proffered or adduced at the Sale Hearing; and all parties in interest having been heard or having had the opportunity to be heard regarding the Sale Transaction and the relief requested in this Order; and due and sufficient notice of the Sale Hearing and the relief sought therein having been given under the particular circumstances of these chapter 11 cases and in accordance with the Bidding Procedures Order; and it appearing that no other or further notice need be provided; and it appearing that the relief requested in the Motion is in the best interests of the Debtors, their estates, their creditors and all other parties in interest; and it appearing that the Court has jurisdiction over this matter; and it further appearing that the legal and factual bases set forth in the Motion and the Herbert Declaration [Docket No. 134] and at the Sale Hearing establish just cause for the relief granted herein; and after due deliberation thereon,

THE COURT HEREBY FINDS THAT:³

Jurisdiction and Venue

A. This Court has jurisdiction to hear and determine the Motion pursuant to 28 U.S.C. §§ 157 and 1334, the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware dated as of February 29, 2012, and this matter is a core proceeding pursuant to 28 U.S.C. § 157(b). Venue of these cases and proceedings is proper in this District and this Court under 28 U.S.C. §§ 1408 and 1409.

³ The findings and conclusions set forth herein constitute this 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.

Statutory Predicates

B. The statutory predicates for the relief requested in the Motion are Bankruptcy Code sections 105, 363 and 365. Such relief is also warranted pursuant to Bankruptcy Rules 2002, 6004, 6006, 9007, 9008 and 9014 and Local Rules 2002-1 and 6004-1.

Final Order

C. This Order constitutes a final and appealable order within the meaning of 28 U.S.C. § 158(a).

Notice of the Centric APA, Assumption and Assignment of Assumed Contracts, Sale Transaction, Sale Hearing and Bidding Procedures Order

D. On August 31, 2021 (the "Petition Date"), the Debtors commenced these chapter 11 cases (the "Chapter 11 Cases") by filing a voluntary petition for relief under chapter 11 of the Bankruptcy Code. Since the Petition Date, the Debtors have continued to operate and manage their businesses as debtors-in-possession pursuant to Bankruptcy Code sections 1107(a) and 1108.

E. The Debtors gave due and proper notice of the Sale on September 24, 2021 [Docket No. 139] (the "Sale Notice"). The Sale Notice constituted good, sufficient, and appropriate notice of the Sale under the particular circumstances and no further notice need be given with respect to the proposed Sale. As provided by the Sale Notice, a reasonable opportunity to object or be heard regarding the requested relief has been afforded to all interested persons and entities. Other parties interested in bidding on the Purchased Assets were provided, pursuant to the Bidding Procedures Order, sufficient information to make an informed judgment on whether to bid.

F. The Debtors also gave due and proper notice of the potential assumption and assignment of each executory contract or unexpired lease available to be assumed by the Debtors and assigned to the Buyer to each non-debtor party under each such executory contract or unexpired lease as reflected on the notices of assumption, sale and assignment of the Assumed

Contracts (as defined in the Centric APA) filed on September 29, 2021 [Docket No. 148], October 8, 2021 [Docket No. 175], and October 20, 2021 [Docket No. 225] (the “Assumption Notice”). Such notice was good, sufficient, and appropriate under the particular circumstances, and the counterparties to the Assumed Contracts are hereby deemed to consent to the relief granted herein unless otherwise provided in this Order.

G. As evidenced by the affidavits of service [Docket Nos. 151, 152, 178, 179, 181, 188, 247, 254, 260, 262] and publication [Docket No. 147] previously filed with this Court, and based on the representations of counsel at the Sale Hearing, due, proper, timely, adequate and sufficient notice of the Motion, the Bidding Procedures Order, the Auction, the Sale Hearing, the assumption and assignment of the Assumed Contracts, the Centric APA, this Order and the Sale Transaction has been provided in accordance with Bankruptcy Code sections 102(1) and 363, Bankruptcy Rules 2002, 9007, 9008 and 9014, and Local Rules 2002-1 and 6004-1. The Debtors have complied with all obligations to provide notice of the Motion, the Bidding Procedures Order, the Auction, the Sale Hearing, the assumption and assignment of the Assumed Contracts, the Centric APA, this Order and the Sale Transaction as required by the Bidding Procedures Order. The aforementioned notices are good, sufficient and appropriate under the circumstances, and no other or further notice of the Motion, the Bidding Procedures Order, the Auction, the Sale Hearing, the assumption and assignment of the Assumed Contracts, the Centric APA, this Order or the Sale Transaction is or shall be required.

H. A reasonable opportunity to object or be heard regarding the relief requested in the Motion and provided in this Order was afforded to all parties in interest.

Compliance with the Bidding Procedures Order

I. As demonstrated by the evidence proffered or adduced at the Sale Hearing and the representations of counsel at the Sale Hearing, the Debtors have complied in all material respects with the Bidding Procedures Order. The Debtors and their professionals have adequately and appropriately marketed the Purchased Assets in compliance with the Bidding Procedures and the Bidding Procedures Order, and in accordance with the Debtors' fiduciary duties. Based upon the record of these proceedings, creditors, other parties in interest and prospective purchasers were afforded a reasonable and fair opportunity to bid for the Purchased Assets.

J. The Bidding Procedures were substantively and procedurally fair to all parties and all potential bidders and afforded notice and a full, fair and reasonable opportunity for any person to make a higher or otherwise better offer to purchase the Purchased Assets. The Debtors conducted the sale process without collusion and in accordance with the Bidding Procedures.

K. The Bidding Procedures Order is incorporated herein by reference.

L. The Buyer is the Successful Bidder, and the Centric APA is the Successful Bid, for the Purchased Assets in accordance with the Bidding Procedures Order. The Buyer has complied in all respects with the Bidding Procedures Order and all other applicable orders of this Court in negotiating and entering into the Centric APA, and the Sale Transaction and the Centric APA likewise comply with the Bidding Procedures Order and all other applicable orders of this Court.

Business Judgment

M. The Centric APA, including the form and total consideration to be realized by the Debtors under the Centric APA, (i) constitutes the highest and best offer received by the Debtors for the Purchased Assets; (ii) is fair and reasonable; and (iii) is in the best interests of the Debtors, their estates, their creditors and all other parties in interest.

N. The Debtors' determination that the consideration provided by the Buyer under the Centric APA constitutes the highest and best offer for the Purchased Assets constitutes a valid and sound exercise of the Debtors' business judgment.

O. Consistent with their fiduciary duties, the Debtors have demonstrated good, sufficient and sound business reasons and justifications for entering into the Sale Transaction and the performance of their obligations under the Centric APA, including, but not limited to, the fact that (i) the consideration provided by the Buyer under the Centric APA will provide a greater recovery for the Debtors' estates than would be provided by any other available alternative, including a separate liquidation of the Purchased Assets; and (ii) unless the Sale Transaction is concluded expeditiously as provided for in the Motion and pursuant to the Centric APA, recoveries of creditors will be diminished.

Corporate Authority

P. Subject to entry of this Order, the Debtors (i) have full corporate power and authority to execute and deliver the Centric APA and all other documents contemplated thereby, (ii) have all of the necessary corporate power and authority to consummate the transactions contemplated by the Centric APA, including, without limitation, the Sale Transaction and the assumption and assignment of the Assumed Contracts, (iii) have taken all corporate action necessary to authorize and approve the Centric APA and the consummation by the Debtors of the transactions contemplated thereby, including, without limitation, the Sale Transaction and the assumption and assignment of the Assumed Contracts, and (iv) subject to entry of this Order, need no consents or approvals, including any consents or approvals from any non-Debtor entities, other than those expressly set forth in the Centric APA or this Order, to consummate the transactions

contemplated thereby, including, without limitation, the Sale Transaction and the assumption and assignment of the Assumed Contracts.

Good Faith

Q. The sales process engaged in by the Debtors and the Buyer, including, without limitation, the Auction, which was conducted in accordance with the Bidding Procedures and the Bidding Procedures Order, and the negotiation of the Centric APA, was at arm's length, non-collusive, in good faith, and substantively and procedurally fair to all parties in interest. None of the Debtors or the Buyer has engaged in any conduct that would cause or permit the Centric APA or the Sale Transaction to be avoided, or costs or damages to be imposed, under Bankruptcy Code section 363(n).

R. The Debtors and the Buyer have complied, in good faith, in all respects with the Bidding Procedures Order and the Bidding Procedures. The Debtors and the Seller, and their respective management, board of directors, board of managers (or comparable governing authority), employees, agents, and representatives, and the Buyer and its employees, agents, advisors and representatives, each actively participated in the bidding process and in the Auction, and each acted in good faith and without collusion or fraud of any kind. Buyer subjected its bid to competitive bidding in accordance with the Bidding Procedures and was designated the Successful Bidder for the Purchased Assets in accordance with the Bidding Procedures and the Bidding Procedures Order.

S. The Buyer is a good faith buyer within the meaning of Bankruptcy Code section 363(m), and is therefore entitled to the full protection of that provision in respect of the Sale Transaction, each term of the Centric APA (and any ancillary documents executed in connection therewith) and each term of this Order, and otherwise has proceeded in good faith in all respects

in connection with this proceeding. None of the Debtors or the Buyer has engaged in any conduct that would prevent the application of Bankruptcy Code section 363(m). The Debtors were free to deal with any other party interested in buying or selling some or all of the Purchased Assets on behalf of the Debtors' estates. The protections afforded by Bankruptcy Code section 363(m) are integral to the Sale Transaction and the Buyer would not consummate the Sale Transaction without such protections.

T. The form and total consideration to be realized by the Debtors under the Centric APA constitutes fair value, fair, full and adequate consideration, reasonably equivalent value and reasonable market value for the Purchased Assets.

U. Neither the Buyer nor any of its affiliates, officers, directors, managers, shareholders, members or any of their respective successors or assigns is an "insider" of any of the Debtors, as that term is defined under Bankruptcy Code section 101(31). No common identity of directors, managers, controlling shareholders, or members exists between the Debtors and the Buyer.

No Fraudulent Transfer

V. The consideration provided by the Buyer for the Purchased Assets pursuant to the Centric APA (i) is fair and reasonable, (ii) is the highest and best offer for the Purchased Assets, (iii) will provide a greater recovery for the Debtors' creditors and estates than would be provided by any other practical available alternative, and (iv) constitutes reasonably equivalent value and fair consideration under the Bankruptcy Code and under the laws of the United States, and each state, territory, possession and the District of Columbia.

W. The Centric APA was not entered into, and none of the Debtors or the Buyer has entered into the Centric APA or proposes to consummate the Sale Transaction, for the purpose of

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

Free and Clear

X. The transfer of the Purchased Assets to the Buyer will be legal, valid, and effective transfers of the Purchased Assets, and will vest the Buyer with all right, title, and interest of the Seller to the Purchased Assets free and clear of all claims, liens (including, without limitation, any statutory lien on real and personal property and any and all "liens" as that term is defined and used in the Bankruptcy Code, including section 101(37) thereof), liabilities, interests, rights and encumbrances, including, without limitation, the following: all mortgages, restrictions (including, without limitation, any restriction on the use, voting rights, transfer rights, claims for receipt of income or other exercise of any attributes of ownership), hypothecations, charges, indentures, loan agreements, instruments, leases, licenses, sublicenses, options, deeds of trust, security interests, equity interests, conditional sale rights or other title retention agreements, pledges, judgments, demands, rights of first refusal, consent rights, offsets, contract rights, rights of setoff, recoupment rights, rights of recovery, reimbursement rights, contribution claims, indemnity rights, exoneration rights, product liability claims, alter-ego claims, environmental rights and claims (including, without limitation, toxic tort claims), labor rights and claims, employment rights and claims, pension rights and claims, tax claims, regulatory violations by any governmental entity, decrees of any court or foreign or domestic governmental entity, charges of any kind or nature, debts arising in any way in connection with any agreements, acts, or failures to act, reclamation claims,

obligation claims, demands, guaranties, option rights or claims, rights, contractual or other commitment rights and claims, and all other matters of any kind and nature, whether known or unknown, choate or inchoate, filed or unfiled, scheduled or unscheduled, noticed or unnoticed, recorded or unrecorded, perfected or unperfected, allowed or disallowed, contingent or non-contingent, liquidated or unliquidated, matured or unmatured, material or non-material, disputed or undisputed, whether arising prior to or subsequent to the commencement of the Chapter 11 Cases, and whether imposed by agreement, understanding, law, equity or otherwise, including claims otherwise arising under any theory, law or doctrine of successor or transferee liability or related theories (all of the foregoing, including, without limitation, liens and liabilities, but excluding Assumed Liabilities, collectively being referred to in this Order as “Claims” and, as used in this Order, the term “Claims” includes, without limitation, any and all “claims” as that term is defined and used in the Bankruptcy Code, including section 101(5) thereof); provided, however, that such transfer shall not be free and clear of any Permitted Encumbrances.

Y. The Debtors, to the extent permitted by applicable law, may transfer the Purchased Assets free and clear of all Claims, other interests of any kind or nature whatsoever (“Interests”), and Encumbrances, other than any Permitted Encumbrances, including, without limitation, rights or claims based on any successor or transferee liability, because, in each case, one or more of the standards set forth in Bankruptcy Code section 363(f)(1)-(5) has been satisfied.

Z. Those (a) holders of Claims and (b) non-Debtor parties to the Assumed Contracts, who did not object or who withdrew their objections to the Motion, are deemed to have consented pursuant to section Bankruptcy Code 363(f)(2). Those (i) holders of Claims and (ii) non-Debtor parties to the Assumed Contracts who did object, fall within one or more of the other subsections of Bankruptcy Code section 363(f).

AA. Each of (i) the DIP Parties and (ii) the Prepetition Secured Parties (each as defined in the DIP Orders) has consented to the sale of the Purchased Assets to the Buyer pursuant to the Centric APA free and clear of any Claims, Interests, or Encumbrances (other than the Permitted Encumbrances) of the DIP Parties and the Prepetition Secured Parties against the Purchased Assets (the “Secured Lenders’ Liens”), and any reference herein to Claims, Interests, or Encumbrances shall include the Secured Lenders’ Liens.

BB. The Debtors have, to the extent necessary, satisfied the requirements of section 363(b)(1) of the Bankruptcy Code.

CC. The Buyer would not have entered into the Centric APA and would not consummate the transactions contemplated thereby, including, without limitation, the Sale Transaction and the assumption and assignment of the Assumed Contracts, (i) if the transfer of the Purchased Assets were not free and clear of all Claims, Interests, and Encumbrances (other than any Permitted Encumbrances), or (ii) if the Buyer would, or in the future could, be liable for any such Claims (other than any Permitted Encumbrances). The Buyer will not consummate the transactions contemplated by the Centric APA, including, without limitation, the Sale Transaction and the assumption and assignment of the Assumed Contracts, unless this Court expressly orders that none of the Buyer, its respective affiliates, its respective present or contemplated members or shareholders, or the Purchased Assets will have any liability whatsoever (other than any Permitted Encumbrances) with respect to, or be required to satisfy in any manner, whether at law or equity, or by payment, setoff, or otherwise, directly or indirectly, any Claims.

DD. Not transferring the Purchased Assets free and clear of all Claims, Interests, and Encumbrances (other than any Permitted Encumbrances) would adversely impact the Debtors’ efforts to maximize the value of their estates, and the transfer of the Purchased Assets other than

pursuant to a transfer that is free and clear of all Claims, Interests, and Encumbrances (other than any Permitted Encumbrances) would be of substantially less benefit to the Debtors' estates.

EE. Neither the Buyer nor any of its affiliates are a mere continuation of the Debtors or their estates, there is no continuity or common identity between the Buyer, any of its affiliates and any of the Debtors, and there is no continuity of enterprise between the Buyer, any of its affiliates and any of the Debtors. Neither the Buyer nor any of its affiliates are holding themselves out to the public as a continuation of any of the Debtors. Neither the Buyer nor any of its affiliates are a successor to any of the Debtors or their estates and none of the transactions contemplated by the Centric APA, including, without limitation, the Sale Transaction and the assumption and assignment of the Assumed Contracts amounts to a consolidation, merger, or *de facto* merger of the Buyer or any of its affiliates with or into any of the Debtors.

FF. Without limiting the generality of the foregoing, and other than as may be set forth in the Centric APA, none of the Buyer, its affiliates, its and their respective present or contemplated members or shareholders, or the Purchased Assets will have any liability whatsoever with respect to, or be required to satisfy in any manner, whether at law or equity, or by payment, setoff, or otherwise, directly or indirectly, any Claims relating to any U.S. federal, state or local income tax liabilities, that the Debtors may incur in connection with consummation of the transactions contemplated by the Centric APA, including, without limitation, the Sale Transaction and the assumption and assignment of the Assumed Contracts, or that the Debtors have otherwise incurred prior to the consummation of the transactions contemplated by the Centric APA.

Validity of Transfer

GG. The consummation of the transactions contemplated by the Centric APA, including, without limitation, the Sale Transaction and the assumption and assignment of the Assumed

Contracts is legal, valid and properly authorized under all applicable provisions of the Bankruptcy Code, including, without limitation, Bankruptcy Code sections 105(a), 363(b), 363(f), 363(m), 365(b) and 365(f), and all of the applicable requirements of such sections have been complied with in respect of the transactions contemplated under the Centric APA.

HH. The Purchased Assets constitute property of the Debtors' estates and good title to the Purchased Assets of the Debtors is vested in the Debtors' estates within the meaning of Bankruptcy Code section 541(a). The Debtors are the sole and lawful owners of the Purchased Assets, and no other person has any ownership right, title, or interest therein.

II. The Centric APA has been duly and validly executed and delivered by the Debtors and, subject to the terms of the Centric APA, shall constitute a valid and binding obligation of the Debtors, enforceable against the Debtors in accordance with its terms. The Centric APA, the Sale Transaction, and the consummation thereof shall be specifically enforceable against and binding upon (without posting any bond) the Debtors and any chapter 7 or chapter 11 trustee appointed in these chapter 11 cases, and shall not be subject to rejection or avoidance by the foregoing parties or any other person.

JJ. The sale, conveyance, assignment and transfer of any personally identifiable information pursuant to the terms of the Centric APA and this Order complies with the terms of the Debtors' policy regarding the transfer of such personally identifiable information as of the Petition Date and, as a result, consummation of the Sale Transaction is permitted pursuant to section 363(b)(1)(A) of the Bankruptcy Code. Accordingly, appointment of a consumer privacy ombudsman in accordance with sections 363(b)(1) or 332 of the Bankruptcy Code is not required with respect to the Sale Transaction.

Assumed Contracts

KK. The assumption and assignment of the Assumed Contracts pursuant to the Assumption Notice, the terms of this Order and the Centric APA is integral to the transactions contemplated by the Centric APA and is in the best interests of the Debtors, their estates and creditors, and all other parties in interest, and represents a reasonable exercise of the Debtors' sound and prudent business judgment.

LL. Pursuant to the terms of the Centric APA and this Order, on or before the Closing Date, as applicable pursuant to the terms of this Order, the Debtors or the Buyer, as applicable, shall have, except as otherwise provided in the Centric APA or this Order, or as otherwise expressly agreed to between the Debtors or the Buyer, as applicable, and such counterparty: (i) cured, or provided adequate assurance of cure of, any monetary default existing as of and including the Closing Date under any of the Assumed Contracts, within the meaning of Bankruptcy Code section 365(b)(1)(A), (ii) provided compensation, or adequate assurance of compensation, to any party for actual pecuniary loss to such party resulting from a monetary default existing as of and including the Closing Date under any of the Assumed Contracts, within the meaning of Bankruptcy Code section 365(b)(1)(B), and (iii) provided adequate assurance of future performance under the Assumed Contracts within the meaning of Bankruptcy Code sections 365(b)(1)(C), 365(b)(3) (to the extent applicable) and 365(f)(2)(B).

MM. The Buyer's License has continued in full force and effect, including following commencement of the Chapter 11 Cases, and will be an Assumed Contract upon consummation of the Sale Transaction, subject to the terms and conditions of the Centric APA.

Application of Proceeds

NN. Pursuant to the interim and final orders authorizing and approving the Debtors' debtor in possession financing and use of cash collateral [Docket Nos. 70 and 110] (together, the "DIP Orders"), the Purchased Assets constitute Cash Collateral, Prepetition Collateral and DIP Collateral (each as defined in the DIP Orders) and are subject to the Adequate Protection Liens, Prepetition Liens and DIP Liens (each as defined in the DIP Orders). Subject to the "Payment in Full" (as defined in the DIP Orders) of the Prepetition BAML Obligations (as defined in the DIP Orders), pursuant to DIP Orders and the DIP Loan Documents (as defined in the DIP Orders), the Debtors are required to apply all consideration received from the sale of the Purchased Assets as follows: first, to the holders of the DIP Obligations as of the date of the initial funding under the DIP Credit Facility (as defined in the DIP Orders) (or as otherwise agreed to between the Buyer and such holders of the DIP Obligations) until such time as such DIP Obligations are paid in full in cash (or as otherwise agreed by the DIP Agent as directed by the Required DIP Lenders (as defined in the DIP Loan Documents)) and all commitments to lend under the DIP Loan Documents have been terminated, and second, to the Prepetition Term B Agent (as defined in the DIP Orders) for distribution to the holders of the Prepetition Term B Obligations as of the Petition Date (or as otherwise agreed to between the Buyer and such holders of the Prepetition Term B Obligations) in accordance with the Prepetition Term B Credit Agreement (as defined in the DIP Orders) until the Prepetition Term B Obligations (as defined in the DIP Orders) have been paid in full in cash (or as otherwise agreed by the Prepetition Term B Agent (as defined in the DIP Orders) as directed by the Required Lenders (as defined in the Prepetition Term B Loan Documents)). The application of the consideration from the sale of the Purchased Assets pursuant to the immediately preceding

sentence complies with the requirements of the DIP Orders and the DIP Loan Documents and is supported by good, sufficient and sound business reasons.

Compelling Circumstances for an Immediate Sale

OO. To maximize the value of the Purchased Assets, it is essential that the transactions contemplated by the Centric APA, including, without limitation, the Sale Transaction and the assumption and assignment of the Assumed Contracts, occur within the time constraints set forth in the Centric APA. Time is of the essence in consummating the transactions contemplated by the Centric APA, including, without limitation, the Sale Transaction and the assumption and assignment of the Assumed Contracts. Accordingly, there is cause to waive the stays contemplated by Bankruptcy Rules 6004 and 6006.

PP. The Debtors have demonstrated compelling circumstances and a good, sufficient, and sound business purpose and justification for the immediate approval and consummation of the transactions contemplated by the Centric APA, including, without limitation, the Sale Transaction and the assumption and assignment of the Assumed Contracts prior to, and outside of, a chapter 11 plan because, among other things, the Debtors' estates will suffer irreparable harm if the relief requested in the Motion is not granted on an expedited basis. The transactions contemplated by the Centric APA, including, without limitation, the Sale Transaction and the assumption and assignment of the Assumed Contracts, neither impermissibly restructure the rights of the Debtors' creditors nor impermissibly dictates the terms of a chapter 11 plan for the Debtors, and therefore, do not constitute a *sub rosa* plan.

QQ. The legal and factual bases set forth in the Motion and the Herbert Declaration filed in support thereof, and presented at the Sale Hearing establish just cause for the relief granted herein.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED THAT:

General Provisions

1. The Motion is granted as provided herein, and entry into and performance under, and in respect of, the Centric APA attached hereto as **Exhibit 1** and the consummation of the transactions contemplated thereby, including, without limitation, the Sale Transaction and the assumption and assignment of the Assumed Contracts is authorized and approved.

2. Any objections and responses to the Motion or the relief requested therein that have not been withdrawn, waived, settled, or resolved, and all reservation of rights included in such objections and responses, are overruled on the merits and denied with prejudice. All persons and entities given notice of the Motion that failed to timely object thereto are deemed to consent to the relief granted herein, including for purposes of sections 363(f)(2), 365(c)(1), and 365(e)(2) of the Bankruptcy Code.

Approval of the Centric APA

3. The Centric APA, all ancillary documents, the transactions contemplated thereby, including, without limitation, the Sale Transaction and the assumption and assignment of the Assumed Contracts (but subject to the Buyer's rights with respect thereto pursuant to the Centric APA) and all the terms and conditions thereof, are approved. The failure specifically to include any particular provision of the Centric APA in this Order shall not diminish or impair the effectiveness of such provision, it being the intent of the Court that the Centric APA be authorized and approved in its entirety.

4. The Debtors and their respective officers, employees and agents are authorized and directed to take any and all actions necessary, appropriate or reasonably requested by the Buyer to perform, consummate, implement and close the Sale Transaction, including, without limitation,

(a) the sale to the Buyer of all Purchased Assets, in accordance with the terms and conditions set forth in the Centric APA and this Order; and (b) execution, acknowledgment and delivery of such deeds, assignments, conveyances and other assurance, documents and instruments of transfer and any action for purposes of assigning, transferring, granting, conveying and confirming to the Buyer, or reducing to possession, the Purchased Assets, all without further order of this Court. The Debtors are further authorized to pay, without further order of this Court, whether before, at or after the Closing Date, any expenses or costs that are required to be paid by the Debtors under the Centric APA, this Order or the Bidding Procedures Order, in order to consummate the Sale Transaction or perform their obligations under the Centric APA, including payment of the Centric Expense Reimbursement to the extent provided by the Centric APA and the Bidding Procedures Order.

5. All persons and entities, including, without limitation, the Debtors, the Debtors' estates, all debt security holders, equity security holders, governmental tax and regulatory authorities, lenders, customers, vendors, employees, former employees, litigation claimants, trustees, trade creditors, and any other creditors (or agent of any of the foregoing) who may or do hold Claims (whether legal or equitable, secured or unsecured, matured or unmatured, contingent or noncontingent, senior or subordinated) against the Debtors or the Purchased Assets owned by the Debtors, arising under or out of, in connection with, or in any way relating to, the Debtors, the Purchased Assets owned by the Debtors, the operation or ownership of the Purchased Assets by the Debtors prior to the Closing Date, or the Sale Transaction, are hereby prohibited, forever barred, estopped, and permanently enjoined from asserting or pursuing such Claims against Buyer, its affiliates, successors, assigns, its property or the Purchased Assets, including, without limitation, taking any of the following actions with respect to any Claims: (a) commencing or

continuing in any manner any action, whether at law or in equity, in any judicial, administrative, arbitral, or any other proceeding, against Buyer, its affiliates, successors, assigns, assets (including the Purchased Assets), and/or properties; (b) enforcing, attaching, collecting, or recovering in any manner any judgment, award, decree, or order against Buyer, its affiliates, successors, assigns, assets (including the Purchased Assets), and/or properties; (c) creating, perfecting, or enforcing any Claim against Buyer, its affiliates, any of their respective successors, assigns, assets (including the Purchased Assets), and/or properties; (d) asserting a Claim as a setoff, right of subrogation, or recoupment of any kind against any obligation due against Buyer, its affiliates or any of their respective successors or assigns; or (e) commencing or continuing any action in any manner or place that does not comply, or is inconsistent, with the provisions of this Order, the Centric APA, or the agreements or actions contemplated or taken in respect thereof, including the Debtors' ability to transfer the Purchased Assets to the Buyer in accordance with the terms of this Order and the Centric APA. No such Person shall assert or pursue against Buyer or its affiliates, successors or assigns any such Claim.

6. The sale of the Purchased Assets to the Buyer under the Centric APA constitutes a transfer for reasonably equivalent value and fair consideration under the Bankruptcy Code and laws of all applicable jurisdictions, including, without limitation, the laws of each jurisdiction in which the Purchased Assets are located, and the sale of the Purchased Assets to the Buyer may not be avoided under any statutory or common law fraudulent conveyance and fraudulent transfer theories whether under the Bankruptcy Code or under the laws of the United States, any state, territory, possession thereof or the District of Columbia or any other applicable jurisdiction with laws substantially similar to the foregoing.

7. In accordance with and pursuant to section 11.03 of the Centric APA, Centric assigned all of its rights and obligations under the Centric APA (including the right to receive the Purchased Assets) to the Assignee. Accordingly, the Assignee shall have the benefit of all factual findings, orders, and other provisions of this Order related to the Buyer.

Transfer of the Purchased Assets Free and Clear

8. Pursuant to Bankruptcy Code sections 105(a) and 363(f), the Purchased Assets shall be sold free and clear of all Claims, Interests, and Encumbrances (other than any Permitted Encumbrances), including, for the avoidance of doubt, the Secured Lenders' Liens, with all such Claims to attach to the proceeds of the Sale Transaction to be received by the Debtors with the same validity, force, priority and effect which they now have as against the Purchased Assets, subject to any claims and defenses the Debtors may possess with respect thereto; provided, however, that setoff rights will be extinguished to the extent there is no longer mutuality after the consummation of the Sale Transaction.

9. At Closing, all of the Debtors' right, title and interest in and to, and possession of, the Purchased Assets shall be immediately vested in the Buyer pursuant to Bankruptcy Code sections 105(a), 363(b), and 363(f) free and clear of any and all Claims, Interests, and Encumbrances (other than any Permitted Encumbrances). Such transfer shall constitute a legal, valid, binding and effective transfer of, and shall vest the Buyer with good and marketable title to, the Purchased Assets. All person or entities, presently or on or after the Closing Date, in possession of some or all of the Purchased Assets are directed to surrender possession of the Purchased Assets to the Buyer or its designees on the Closing Date or at such time thereafter as the Buyer may request.

10. This Order is and shall be binding upon and govern the acts of all entities, including, without limitation, all filing agents, filing officers, title agents, title companies, recorders of mortgages, recorders of deeds, registrars of deeds, registrars of patents, trademarks or other intellectual property, administrative agencies, governmental departments, secretaries of state, federal and local officials and all other persons and entities who may be required by operation of law, the duties of their office or contract, to accept, file, register or otherwise record or release any documents or instruments; and each of the foregoing persons and entities is hereby authorized to accept for filing any and all of the documents and instruments necessary and appropriate to consummate the Sale Transaction contemplated by the Centric APA.

11. Except as otherwise expressly provided in the Centric APA or this Order, all persons and entities (and their respective successors and assigns), including, but not limited to, all debt security holders, equity security holders, affiliates, foreign, federal, state and local governmental, tax and regulatory authorities, lenders, customers, vendors, employees, trade creditors, litigation claimants and other creditors holding Claims against the Debtors or the Purchased Assets arising under or out of, in connection with, or in any way relating to, the Debtors, the Debtors' predecessors or affiliates, the Purchased Assets, the ownership, sale or operation of the Purchased Assets prior to Closing or the transfer of the Purchased Assets to the Buyer, are hereby forever barred, estopped and permanently enjoined from asserting or prosecuting any cause of action or any process or other act or seeking to collect, offset, or recover on account of any Claims against the Buyer, its successors or assigns, their property or the Purchased Assets. Following the Closing, no holder of any Claim or Encumbrance (other than Permitted Encumbrances) shall interfere with the Buyer's title to or use and enjoyment of the Purchased Assets based on or related to any such

Claim or Encumbrance (other than Permitted Encumbrances), or based on any action or omission of the Debtors, including any action or omission the Debtors may take in the Chapter 11 Cases.

12. The Debtors are authorized and directed to execute such documents as may be necessary to release any Claims, Interests, or Encumbrances (other than Permitted Encumbrances) of any kind against the Purchased Assets as such Claims, Interests, or Encumbrances (other than Permitted Encumbrances) may have been recorded or may otherwise exist. If any person or entity that has filed financing statements, lis pendens or other documents or agreements evidencing Claims, Interests, or Encumbrances (other than Permitted Encumbrances) against or in the Purchased Assets shall not have delivered to the Debtors prior to the Closing of the Sale Transaction, in proper form for filing and executed by the appropriate parties, termination statements, instruments of satisfaction, releases of all Claims, Interests, or Encumbrances (other than Permitted Encumbrances) that the person or entity has with respect to the Purchased Assets, (a) the Debtors are hereby authorized and directed to execute and file such statements, instruments, releases and other documents on behalf of the person or entity with respect to the Purchased Assets; (b) the Buyer is hereby authorized to file, register or otherwise record a certified copy of this Order, which, once filed, registered or otherwise recorded, shall constitute conclusive evidence of the release of all such Claims, Interests, or Encumbrances (other than Permitted Encumbrances) against the Buyer and the applicable Purchased Assets; (c) the Debtors' creditors and the holders of any Claims, Interests, or Encumbrances (other than Permitted Encumbrances) are authorized and directed to execute such documents and take all other actions as may be necessary to terminate, discharge or release their Claims, Interests, or Encumbrances (other than Permitted Encumbrances) in the Purchased Assets and (d) the Buyer may seek in this Court or any other court to compel appropriate parties to execute termination statements, instruments of satisfaction and releases of

all such Claims, Interests, or Encumbrances (other than Permitted Encumbrances) with respect to the Purchased Assets. This Order is deemed to be in recordable form sufficient to be placed in the filing or recording system of each and every federal, state, or local government agency, department or office, and such agencies, departments and offices are authorized and directed to accept this Order for filing or recording. Notwithstanding the foregoing, the provisions of this Order authorizing the sale and assignment of the Purchased Assets free and clear of Claims, Interests, and Encumbrances (other than any Permitted Encumbrances) shall be self-executing, and none of the Debtors or the Buyer shall be required to execute or file releases, termination statements, assignments, consents or other instruments in order to effectuate, consummate and implement the provisions of this Order.

13. To the maximum extent permitted under applicable law, the Buyer shall be authorized, as of the Closing Date, to operate under any license, permit, registration and governmental authorization or approval of the Debtors with respect to the Purchased Assets, and all such licenses, permits, registrations and governmental authorizations and approvals are deemed to have been, and hereby are, directed to be transferred to the Buyer with respect to the Purchased Assets as of the Closing Date. To the extent the Buyer cannot operate under any such license, permit, registration and governmental authorization or approval in accordance with the previous sentence, such licenses, permits, registrations and governmental authorizations and approvals shall be in effect while the Buyer, with assistance from the Debtors (and at the Buyer's sole cost and expense), works promptly and diligently to apply for and secure all necessary government approvals for new issuance of such licenses, permits, registrations and governmental authorizations and approvals to the Buyer.

14. No governmental unit (as defined in Bankruptcy Code section 101(27)) or any representative thereof may deny, revoke, suspend or refuse to renew any permit, license or similar grant relating to the operation of the Purchased Assets on account of the filing or pendency of the Chapter 11 Cases or the consummation of the Sale Transaction to the extent that any such action by a governmental unit or any representative thereof would violate Bankruptcy Code section 525.

No Successor or Transferee Liability

15. Upon the Closing Date, except as provided in the Centric APA, the entrance of this Order and the Centric APA shall mean that the Buyer (and any of its affiliates, successors, or assigns), as a result of any action taken in connection with the Centric APA, the consummation of the transactions contemplated by the Centric APA, including, without limitation, the Sale Transaction and the assumption and assignment of the Assumed Contracts, or the transfer or operation of the Purchased Assets, shall not be deemed to: (a) be a legal successor or successor employer to the Debtors, or otherwise be deemed a successor to the Debtors, and shall instead be, and be deemed to be, a new employer with respect to all federal or state unemployment laws, including any unemployment compensation or tax laws, or any other similar federal or state laws; (b) have, *de facto*, or otherwise, merged or consolidated with or into the Debtors; or (c) be an alter ego or a mere continuation or substantial continuation of the Debtors or the enterprise(s) of the Debtors, including, in the case of each of (a)-(c), without limitation, (x) within the meaning of any foreign, federal, state or local revenue law, pension law, the Employee Retirement Income Security Act, the Consolidated Omnibus Budget Reconciliation Act, the WARN Act (29 U.S.C. §§ 2101 et seq.) (“WARN”), Comprehensive Environmental Response Compensation and Liability Act (“CERCLA”), the Fair Labor Standard Act, Title VII of the Civil Rights Act of 1964 (as amended), the Age Discrimination and Employment Act of 1967 (as amended), the Federal Rehabilitation Act

of 1973 (as amended), the National Labor Relations Act, 29 U.S.C. § 151, et seq. or (y) in respect of (i) any environmental liabilities, debts, claims or obligations arising from conditions first existing on or prior to the Closing Date (including, without limitation, the presence of hazardous, toxic, polluting, or contaminating substances or wastes), which may be asserted on any basis, including, without limitation, under CERCLA, (ii) any liabilities, penalties, costs, debts or obligations of or required to be paid by the Debtors for any taxes of any kind for any period, labor, employment, or other law, rule or regulation (including, without limitation, filing requirements under any such laws, rules or regulations), or (iii) any products liability law or doctrine with respect to the Debtors' liability under such law, rule or regulation or doctrine.

16. Without limiting the generality of the foregoing, and except as otherwise provided in the Centric APA and this Order, neither the Buyer nor any of its affiliates shall have any responsibility for (a) any liability or other obligation of the Debtors related to the Purchased Assets or (b) any Claims against the Debtors or any of their predecessors or affiliates. By virtue of the Buyer's purchase of the Purchased Assets, neither the Buyer nor any of its affiliates shall have any liability whatsoever with respect to the Debtors' (or their predecessors' or affiliates') respective businesses or operations or any of the Debtors' (or their predecessors' or affiliates') obligations based, in whole or part, directly or indirectly, on any theory of successor or vicarious liability of any kind or character, or based upon any theory of antitrust, environmental (including, but not limited to CERCLA), successor or transferee liability, *de facto* merger or substantial continuity, labor and employment (including, but not limited to, WARN) or products liability law, whether known or unknown as of the Closing, now existing or hereafter arising, asserted or unasserted, fixed or contingent, liquidated or unliquidated, including any liabilities or non-monetary obligations on account of any settlement or injunction or any liabilities

on account of any taxes arising, accruing or payable under, out of, in connection with, or in any way relating to the operation of the Purchased Assets prior to the Closing or such later time as Buyer is assigned and assumes any Assumed Contract (collectively, with the potential claims set forth in paragraph 15, “Successor or Transferee Liability”). The Buyer would not have acquired the Purchased Assets but for the foregoing protections against Successor or Transferee Liability.

17. None of the Buyer or its affiliates, successors, assigns, equity holders, employees or professionals shall have or incur any liability to, or be subject to any action by any of the Debtors or any of their estates, predecessors, successors or assigns, arising out of the negotiation, investigation, preparation, execution, delivery of the Centric APA and the entry into and consummation of the sale of the Purchased Assets, except as expressly provided in the Centric APA and this Order.

18. Nothing in this Order or the Centric APA shall require the Buyer or any of its affiliates to (a) continue or maintain in effect, or assume any liability in respect of any employee, collective bargaining agreement, pension, welfare, fringe benefit or any other benefit plan, trust arrangement or other agreements to which the Debtors are a party or have any responsibility therefor including, without limitation, medical, welfare and pension benefits payable after retirement or other termination of employment; or (b) assume any responsibility as a fiduciary, plan sponsor or otherwise, for making any contribution to, or in respect of the funding, investment or administration of any employee benefit plan, arrangement or agreement (including but not limited to pension plans) or the termination of any such plan, arrangement or agreement.

19. No bulk sales law or similar law of any state or other jurisdiction shall apply in any way to the transactions with the Debtors that are approved by this Order, including, without limitation, the Centric APA and the Sale Transaction.

Good Faith; Arm's Length Sale

20. The Centric APA has been negotiated and executed, and the transactions contemplated thereby, including, without limitation, the Sale Transaction, the assumption and assignment of the Assumed Contracts, are and have been undertaken, by Debtors, the Buyer and their respective representatives at arm's length, without collusion and in "good faith," as that term is defined in Bankruptcy Code section 363(m). Accordingly, the reversal or modification on appeal of the authorization provided herein to consummate the Sale Transaction shall not affect the validity of the Sale Transaction or any term of the Centric APA, and shall not permit the unwinding of the Sale Transaction. The Buyer is a good faith purchaser within the meaning of Bankruptcy Code section 363(m) and, as such, is entitled to the full protections of Bankruptcy Code section 363(m).

21. None of the Debtors or the Buyer has engaged in any conduct that would cause or permit the Centric APA or the transactions contemplated thereby, including, without limitation, the Sale Transaction, the assumption and assignment of the Assumed Contracts, to be avoided or costs, or damages or costs, to be imposed, under Bankruptcy Code section 363(n). The consideration provided by the Buyer for the Purchased Assets under the Centric APA is fair and reasonable, and the Sale Transaction may not be avoided under Bankruptcy Code section 363(n).

Assumption and Assignment of the Assumed Contracts

22. Except as otherwise expressly provided in the Centric APA or this Order, upon the Closing Date, pursuant to Bankruptcy Code sections 105(a), 363, and 365, the Debtors are authorized to (a) assume each of the Assumed Contracts and assign the Assumed Contracts, set forth in **Exhibit 2** (the "Assumed Contracts Exhibit") attached hereto, which may be subsequently modified at any time prior to the date that is twenty-one (21) days prior to the Closing Date and

upon Buyer's delivery of written notice to the Debtors, to add or remove certain contracts pursuant to the terms of the Centric APA, to the Buyer free and clear of all Claims, Interests, and Encumbrances (other than any Permitted Encumbrances) and (b) execute and deliver to the Buyer such documents or other instruments as may be reasonably requested by Buyer to assign and transfer the Assumed Contracts to the Buyer.

23. The Cure Costs (as defined in the Centric APA) listed on the Assumption Notice and Assumed Contracts Exhibit are the sole amounts necessary to be paid upon assumption of the Assumed Contracts under Bankruptcy Code sections 365(b)(1)(A) and (B) and 365(f)(2)(A). All Cure Costs, if any, shall be paid by the Buyer. Upon the payment of the Cure Costs, if any, by the Buyer, the Assumed Contracts shall remain in full force and effect, and no default shall exist under the Assumed Contracts nor shall there exist any event or condition which, with the passage of time or giving of notice, or both, would constitute such a default. The Cure Costs shall not be subject to further dispute or audit, including, without limitation, any based on performance prior to the Closing Date, irrespective of whether such Assumed Contract contains an audit clause. After the payment of the Cure Costs by the Buyer, none of the Debtors or the Buyer shall have any further liabilities to the counterparties to the Assumed Contracts other than the Debtors' obligations under the Assumed Contracts that accrue and become due and payable on or after the Closing Date.

24. In the event of a dispute as of, or after, the Closing Date regarding assumption and assignment or Cure Cost of any executory contract or unexpired lease proposed to be an Assumed Contract, the assumption and assignment of such executory contract or unexpired lease, and payment of any applicable Cure Costs, shall be made following the entry of an order of the Court resolving any such dispute (or upon the consensual resolution of such dispute as may be agreed by the Buyer and such counterparty and, solely with respect to disputes regarding Cure Costs, the

Debtors). Upon an election of the Buyer to designate an executory contract or unexpired lease as an Excluded Contract, the Buyer shall have no liability whatsoever to the counterparty to such executory contract or unexpired lease or the Debtors.

25. To the extent any non-Debtor counterparty to an Assumed Contract has failed to timely object to a proposed Cure Cost, such Cure Cost has been and shall be deemed to be finally determined as the Cure Cost listed on the Assumption Notice and Assumed Contracts Exhibit and any such non-Debtor counterparty shall be prohibited from challenging, objecting to, or denying the validity and finality of the Cure Cost at any time. The non-Debtor counterparty to an Assumed Contract is forever bound by the applicable Cure Cost and, upon payment of the Cure Costs as provided herein and in the Centric APA, is hereby enjoined from taking any action against Buyer with respect to any claim for cure under the Assumed Contract.

26. Any provisions in any Assumed Contract that prohibit or condition the assignment of such Assumed Contract or allow the party to such Assumed Contract to terminate, recapture, impose any penalty, condition on renewal or extension or modify any term or condition upon assignment of such Assumed Contract, constitute unenforceable anti-assignment provisions that are void and of no force and effect.

27. Any party that may have had the right to consent to the assignment of an Assumed Contract is deemed to have consented to such assignment, including for purposes of Bankruptcy Code sections 365(c)(1)(B) and 365(e)(2)(A)(ii) and otherwise, if such party failed to object to the assumption and assignment of such Assumed Contract.

28. Each Assumed Contract constitutes an executory contract or unexpired lease under the Bankruptcy Code and all requirements and conditions under Bankruptcy Code sections 363 and 365 for the assumption by the Debtors and assignment to the Buyer of the Assumed Contracts

have been, or will be, satisfied. Upon the Buyer's assumption of the Assumed Contracts in accordance with the terms hereof, in accordance with Bankruptcy Code sections 363 and 365, (a) the Buyer shall be fully and irrevocably vested with all rights, title and interest of the Debtors under the Assumed Contracts, (b) the Buyer shall be deemed to be substituted for the Debtors as a party to the applicable Assumed Contracts, and (c) the Debtors shall be relieved, pursuant to Bankruptcy Code section 365(k), from any further liability under the Assumed Contracts.

29. The Buyer has demonstrated adequate assurance of future performance under the relevant Assumed Contracts within the meaning of Bankruptcy Code sections 365(b)(1)(C) and 365(f)(2)(B).

30. There shall be no rent accelerations, assignment fees, increases or any other fees charged to the Debtors or the Buyer as a result of the assumption, assignment and sale of the Assumed Contracts. Subject to the terms of the Centric APA, the validity of the transactions contemplated by the Centric APA, including, without limitation, the Sale Transaction and the assumption and assignment of the Assumed Contracts, shall not be affected by any dispute between any of the Debtors or their affiliates, and another party to an Assumed Contract regarding the payment of any amount. Upon assignment to the Buyer, the Assumed Contracts shall be valid and binding, in full force and effect and enforceable by the Buyer in accordance with their respective terms.

31. Pursuant to Bankruptcy Code sections 105(a), 363, and 365, all counterparties to the Assumed Contracts are forever barred and permanently enjoined from raising or asserting against the Debtors or the Buyer any assignment fee, default, breach or claim of pecuniary loss, or condition to assignment, arising under or related to the Assumed Contracts existing as of and including the Closing Date under the Centric APA or arising by reason of the consummation of

transactions contemplated by the Centric APA, including, without limitation, the Sale Transaction, the assumption and assignment of the Assumed Contracts.

32. All counterparties to the Assumed Contracts shall cooperate and expeditiously execute and deliver, upon the reasonable requests of the Buyer, and shall not charge the Debtors or the Buyer for any instruments, applications, consents or other documents which may be required or requested by any public or quasi-public authority or other party or entity to effectuate the applicable transfers in connection with the Sale of the Purchased Assets.

Application of Proceeds

33. Subject to the “Payment in Full” of the Prepetition BAML Obligations, the Debtors are authorized and directed to distribute the consideration received by the Debtors from the sale of the Purchased Assets as follows: first, to the holders of the DIP Obligations as of the date of the initial funding under the DIP Credit Facility (or as otherwise agreed to between the Buyer and such holders of the DIP Obligations) until such time as the DIP Obligations are paid in full in cash (or as otherwise agreed by the DIP Agent as directed by the Required Lenders) and all commitments to lend under the DIP Loan Documents have been terminated, and second, to the Prepetition Term B Agent for distribution to the holders of the Prepetition Term B Obligations as of the Petition Date (or as otherwise agreed to between the Buyer and such holders of the Prepetition Term B Obligations) in accordance with the Prepetition Term B Credit Agreement until the Prepetition Term B Obligations have been paid in full in cash (or as otherwise agreed by the Prepetition Term B Agent as directed by the Required Lenders). The application of the consideration from the sale of the Purchased Assets pursuant to the immediately preceding sentence complies with the requirements of the DIP Orders and the DIP Loan Documents and is supported by good, sufficient and sound business reasons.

Related Relief

34. Each and every federal, state and governmental agency or department, and any other person or entity, is hereby authorized to accept any and all documents and instruments in connection with or necessary to consummate the Sale Transaction contemplated by the Centric APA.

35. No governmental unit may revoke or suspend any right, license, copyright, patent, trademark or other permission relating to the use of the Purchased Assets sold, transferred or conveyed to the Buyer on account of the filing or pendency of these Chapter 11 Cases or the consummation of the sale of the Purchased Assets.

36. Except as expressly provided in the Centric APA, nothing in this Order shall be deemed to waive, release, extinguish or estop the Debtors or their estates from asserting, or otherwise impair or diminish, any right (including, without limitation, any right of recoupment), claim, cause of action, defense, offset or counterclaim in respect of any Excluded Asset.

37. All entities that are presently, or on the Closing Date may be, in possession of some or all of the Purchased Assets are hereby directed to surrender possession of the Purchased Assets to the Buyer on or prior to the Closing Date or such later date that such party and Buyer mutually agree.

38. To the extent this Order is inconsistent with any prior order or pleading filed in these Chapter 11 Cases related to the Motion, the terms of this Order shall govern. To the extent there is any inconsistency between the terms of this Order and the terms of the Centric APA, the terms of this Order shall govern.

39. This Order and the Centric APA shall be binding in all respects upon all pre-petition and post-petition creditors of the Debtors, all interest holders of the Debtors, all non-Debtor parties

to the Assumed Contracts, any Court-appointed committee, all successors and assigns of the Debtors and their affiliates and subsidiaries, and any trustees, examiners, “responsible persons” or other fiduciaries appointed in these Chapter 11 Cases or upon a conversion of the Debtors’ cases to those under chapter 7 of the Bankruptcy Code, including a chapter 7 trustee, and the Centric APA and Sale Transaction shall not be subject to rejection or avoidance under any circumstances by any party. If any order under Bankruptcy Code section 1112 is entered, such order shall provide (in accordance with Bankruptcy Code sections 105 and 349) that this Order and the rights granted to the Buyer hereunder shall remain effective and, notwithstanding such dismissal, shall remain binding on parties in interest. For the avoidance of doubt, the Debtors’ inability to satisfy in full all administrative expense claims of the Debtors’ estates shall not be a basis for termination, rejection or avoidance (as applicable) of the Centric APA or the Sale Transaction.

40. This Court shall retain jurisdiction to, among other things, interpret, implement, and enforce the terms and provisions of this Order and the Centric APA, all amendments thereto and any waivers and consents thereunder and each of the agreements executed in connection therewith to which the Debtors are a party or which has been assigned by the Debtors to the Buyer, and to adjudicate, if necessary, any and all disputes concerning or relating in any way to the Sale Transaction, including any and all disputes with any counterparty to any executory contract or unexpired lease of the Debtors (including, without limitation, disputes with respect to assumption and assignment of any Assumed Contracts or any cure disputes) and any party that has, or asserts, possession, control or other rights in respect of any of the Purchased Assets; provided, however, that, in the event the Court abstains from exercising or declines to exercise such jurisdiction with respect to the Centric APA, the Bidding Procedures Order, or this Order, such abstention, refusal, or lack of jurisdiction shall have no effect upon and shall not control, prohibit, or limit the exercise

of jurisdiction of any other court having competent jurisdiction with respect to any such matter. This Court retains jurisdiction to compel delivery of the Purchased Assets, to protect the Debtor and its assets, including the Purchased Assets, against any Claims and successor and transferee liability and to enter orders, as appropriate, pursuant to Bankruptcy Code sections 105(a) or 363 (or other applicable provisions) necessary to transfer the Purchased Assets to the Buyer.

41. At any time prior to the Closing Date, the Buyer or the Debtors may terminate the Centric APA pursuant to the terms thereof without any penalty or liability to the Buyer or the Debtors (or their estates), except as set forth in the Centric APA.

42. The Centric APA and any related agreements, documents, or other instruments may be modified, amended or supplemented by the parties thereto and in accordance with the terms thereof, without further order of the Court.

43. This Order constitutes a final order within the meaning of 28 U.S.C. § 158(a). Notwithstanding any provision in the Bankruptcy Rules to the contrary, including but not limited to Bankruptcy Rules 6004(h) and 6006(d), the Court expressly finds there is no reason for delay in the implementation of this Order and, accordingly: (a) the terms of this Order shall be immediately effective and enforceable upon its entry; (b) the Debtors are not subject to any stay of this Order or in the implementation, enforcement or realization of the relief granted in this Order; and (c) the Debtors and the Buyer may, in their discretion and without further delay, take any action and perform any act authorized under this Order.

44. The Buyer shall not be required to seek or obtain relief from the automatic stay under Bankruptcy Code section 362, to give any notice permitted by the Centric APA or to enforce any of its remedies under the Centric APA or any other sale-related document. The automatic stay imposed by Bankruptcy Code section 362 is modified solely to the extent necessary to implement

the preceding sentence; provided however, that this Court shall retain exclusive jurisdiction over any and all disputes with respect thereto.

45. The provisions of this Order are non-severable and mutually dependent.

46. Notwithstanding the provisions of Bankruptcy Rules 6004(h) and 6006(d) or any applicable provisions of the Local Rules, this Order shall not be stayed after the entry hereof, but shall be effective and enforceable immediately upon entry, and the 14-day stay provided in Bankruptcy Rules 6004(h) and 6006(d) is hereby expressly waived and shall not apply. Time is of the essence in closing the Sale Transaction and the Debtors and the Buyer intend to close the Sale Transaction as soon as practicable.

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

Exhibit 1

Centric APA

**SECOND AMENDED AND RESTATED
ASSET PURCHASE AGREEMENT**

by and among

CENTRIC BRANDS LLC,

as Buyer

and

JOE'S HOLDINGS LLC,

as Seller

October 28, 2021

TABLE OF CONTENTS

	<u>PAGE</u>
ARTICLE 1 DEFINITIONS.....	1
SECTION 1.01 Definitions.....	1
SECTION 1.02 Construction.....	7
ARTICLE 2 PURCHASE AND SALE	8
SECTION 2.01 Purchase and Sale	8
SECTION 2.02 Assumed Liabilities	10
SECTION 2.03 Excluded Liabilities	10
SECTION 2.04 Excluded Assets.....	11
SECTION 2.05 Assignment of Contracts and Rights.....	11
SECTION 2.06 Purchase Price.....	12
SECTION 2.07 [Intentionally Omitted].	12
SECTION 2.08 Purchase Price Allocation.....	12
SECTION 2.09 Good Faith Deposit.	13
SECTION 2.10 Closing.....	13
ARTICLE 3 REPRESENTATIONS AND WARRANTIES OF SELLER.....	14
SECTION 3.01 Organization and Qualification.....	14
SECTION 3.02 Corporate Authorization	15
SECTION 3.03 Execution and Delivery; Enforceability.....	15
SECTION 3.04 Consents and Approvals	15
SECTION 3.05 No Conflicts	15
SECTION 3.06 Litigation.....	15
SECTION 3.07 Title to the Purchased Assets	16
SECTION 3.08 Intellectual Property.....	16
SECTION 3.09 Taxes	17
SECTION 3.10 Assumed Contracts	17
SECTION 3.11 No Other Representations or Warranties	18
ARTICLE 4 REPRESENTATIONS AND WARRANTIES OF BUYER.....	18
SECTION 4.01 Corporate Existence and Power	18
SECTION 4.02 Corporate Authorization	18
SECTION 4.03 Execution and Delivery; Enforceability.....	18
SECTION 4.04 No Conflicts.....	18
SECTION 4.05 Availability of Funds; Solvency	19
SECTION 4.06 Litigation.....	19
SECTION 4.07 Buyer’s Knowledge.	19
SECTION 4.08 Brokers.....	19
SECTION 4.09 Condition of Purchased Assets; Representations.....	19

ARTICLE 5 COVENANTS OF SELLER.....	20
SECTION 5.01 Conduct of the Business.....	20
SECTION 5.02 Access to Information.....	21
SECTION 5.03 Update of Disclosure Schedules	22
SECTION 5.04 Use of Name	22
SECTION 5.05 Notices of Certain Events	22
ARTICLE 6 COVENANTS OF BUYER.....	23
SECTION 6.01 Confidentiality	23
SECTION 6.02 Notices of Certain Events	23
SECTION 6.03 Preservation of Books and Records	23
SECTION 6.04 Insurance.....	23
SECTION 6.05 Communication.....	24
SECTION 6.06 Release	24
SECTION 6.07 Buyer’s Knowledge	24
ARTICLE 7 COVENANTS OF BUYER AND SELLER	24
SECTION 7.01 Further Assurances.....	24
SECTION 7.02 Certain Filings.....	25
SECTION 7.03 Public Announcements	25
SECTION 7.04 Tax Matters	25
SECTION 7.05 Misallocated Assets	26
SECTION 7.06 Pre-Closing Accounts Receivables; Payments after Closing.....	26
SECTION 7.07 Bulk Transfer Laws.....	27
SECTION 7.08 Bankruptcy Court Approval.....	27
SECTION 7.09 Bidding Protections.....	30
SECTION 7.10 Buyer’s License	30
ARTICLE 8 CONDITIONS TO CLOSING.....	31
SECTION 8.01 Conditions to Obligations of Buyer and Seller.....	31
SECTION 8.02 Conditions to Obligation of Buyer.....	31
SECTION 8.03 Conditions to Obligation of Seller	31
ARTICLE 9 SURVIVAL	32
SECTION 9.01 Survival.....	32
ARTICLE 10 TERMINATION.....	32
SECTION 10.01 Grounds for Termination	32
SECTION 10.02 Effect of Termination.....	34
SECTION 10.03 Costs and Expenses.....	34

ARTICLE 11 MISCELLANEOUS	35
SECTION 11.01 Notices	35
SECTION 11.02 Amendments and Waivers	36
SECTION 11.03 Successors and Assigns.....	36
SECTION 11.04 Governing Law	36
SECTION 11.05 Jurisdiction.....	36
SECTION 11.06 WAIVER OF JURY TRIAL.....	37
SECTION 11.07 Counterparts; Third Party Beneficiaries	37
SECTION 11.08 Specific Performance	37
SECTION 11.09 Entire Agreement	38
SECTION 11.10 No Strict Construction	38
SECTION 11.11 Severability	38
SECTION 11.12 Disclosure Schedules	38

EXHIBITS

Exhibit A	Form of Assignment and Assumption Agreements
Exhibit B	Form of Bills of Sale
Exhibit C	Form of Assignment of Trademarks
Exhibit D	Form of Assignment of Copyrights
Exhibit E	Form of Assignment of Domain Names
Exhibit F	Form of Assignment of Other Intellectual Property
Exhibit G	Milestones
Exhibit H	Bid Procedures Order

SCHEDULES

Schedule 1.01(a)	Knowledge of Seller
Schedule 2.01(a)	Trademarks
Schedule 2.01(c)	Domain Names, Websites and Social Media Handles
Schedule 2.01(d)	Copyrights
Schedule 2.05(a)	Assumed Contracts and Cure Costs
Schedule 3.04	Consents and Approvals
Schedule 3.06	Litigation
Schedule 3.08(g)	Certain Intellectual Property Contracts
Schedule 5.01	Conduct of the Business

SECOND AMENDED AND RESTATED ASSET PURCHASE AGREEMENT

THIS SECOND AMENDED AND RESTATED ASSET PURCHASE AGREEMENT dated as of October 28, 2021 (the “**Agreement**”), is made and entered into by and between Centric Brands LLC, a Delaware limited liability company (“**Buyer**”) and Joe’s Holdings LLC, a Delaware limited liability company (the “**Company**” or “**Seller**”). Seller and Buyer are sometimes referred to collectively herein as the “**Parties**” and individually as a “**Party**”. Capitalized terms used herein and not otherwise defined herein have the meanings set forth in Article 1.

WITNESSETH:

WHEREAS, on August 31, 2021, the Parties entered into that certain Asset Purchase Agreement (the “**Original Agreement**”);

WHEREAS, on September 23, 2021, the Parties entered into that certain Amended and Restated Asset Purchase Agreement (the “**Amended and Restated Agreement**”);

WHEREAS, the Parties wish to amend and restate the Amended and Restated Agreement in its entirety as set forth herein;

WHEREAS, subject to the terms and conditions set forth in this Agreement, Seller desires to sell, assign, transfer, and convey to Buyer, and Buyer desires to, and shall, (i) purchase and acquire from Seller, all of Seller’s right, title and interest in and to the Purchased Assets (as defined below) and (ii) assume all of the Assumed Liabilities (as defined below); and

WHEREAS, Seller, and certain of its affiliates (the “**Debtors**”) intend to seek relief under Chapter 11 of Title 11, §§ 101-1330 of the United States Code (as amended, the “**Bankruptcy Code**”) by filing cases (the “**Chapter 11 Cases**”) in the United States Bankruptcy Court for the District of Delaware (the “**Bankruptcy Court**”) and to seek approval of the Bankruptcy Court to consummate the transactions contemplated by this Agreement.

NOW, THEREFORE, in consideration of the premises and the mutual promises herein made, and in consideration of the foregoing and of the representations, warranties, covenants, agreements and conditions herein contained, the receipt and sufficiency of which are hereby acknowledged, the Parties, intending to be legally bound hereby, agree as follows:

ARTICLE 1

DEFINITIONS

SECTION 1.01 *Definitions.*

(a) The following terms, as used herein, have the following meanings:

“**Action**” means any claim, action, suit, arbitration or proceeding by or before any Governmental Authority.

“**Affiliate**” means, with respect to any Person, another Person that, directly or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with, such Person, where “control” means the possession, directly or indirectly, of the power to direct the management and policies of a Person whether through the ownership of voting securities, by contract or otherwise. For the avoidance of doubt, ownership of more than fifty percent (50%) of the voting securities shall be deemed to be “control” for purposes of this definition.

“**Alternative Transaction**” means any reorganization, merger, transaction, consolidation, business combination, joint venture, partnership, sale of assets, financing (debt or equity), or restructuring or similar transaction of or by Seller involving any of the Purchased Assets; provided, however, that an Alternative Transaction shall not include (a) after the entry of the Bid Procedures Order, a sale for the Purchased Assets determined by the Debtors to be higher or otherwise better in accordance with the Bid Procedures (as defined in the Bid Procedures Order), or (b) pursuit of confirmation of a Chapter 11 plan of liquidation, confirmation of which plan shall take place solely following the Bankruptcy Court’s entry of the Sale Order, with the occurrence of any “effective date” or similar concept under such plan subject to the occurrence of the Closing Date.

“**Auction**” means any auction for the sale of Debtors’ assets conducted pursuant to the terms and conditions of the Bid Procedures and the Bid Procedures Order.

“**Backup Bidder**” has the meaning set forth in the Bid Procedures Order.

“**Bankruptcy Rules**” means the Federal Rules of Bankruptcy Procedure.

“**Bid Procedures**” means the bidding procedures for the solicitation and submission of bids for a sale, reorganization, or other disposition of the Debtors, any portion of, or all or substantially all of their assets approved by the Bankruptcy Court pursuant to the Bid Procedures Order.

“**Bid Procedures Motion**” means the motion seeking entry of the Bid Procedures Order and the Sale Order.

“**Bid Procedures Order**” means an order of the Bankruptcy Court in the form attached hereto as Exhibit H that, among other things, approves (a) the Bid Procedures, (b) bid protections granted to Buyer, including the Expense Reimbursement and provides that such bid protections shall constitute allowed administrative expenses of Debtors’ estates under section 503(b) of the Bankruptcy Code, (c) the form and manner of notice of auction(s), sale transaction(s), and hearing(s), (d) the procedures for assumption and assignment of the Assumed Contracts, and (e) the date for auction(s), if necessary; with any material changes thereto in form and substance reasonably acceptable to Buyer.

“**Brand**” means the Joe’s Jeans brand.

“**Business**” means all activities by Seller or any Affiliate of Seller associated with the ownership, licensing, and marketing of the Purchased Assets.

“**Business Day**” means a day other than Saturday, Sunday or other day on which commercial banks in New York, New York are authorized or required by law to close.

“**Buyer’s License**” means the Joe’s Jeans Sportswear and Jeanswear License between Sequential Brands Group, Inc. and Centric West LLC (as successor to GBG USA Inc.), dated as of September 1, 2015, as amended.

“**Causes of Action**” means any Claim, action, suit, arbitration or proceeding by or before any Governmental Authority.

“**Claim**” means a “claim” as defined in Section 101 of the Bankruptcy Code.

“**Closing Date**” means the date of the Closing.

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

“**Confidentiality Agreement**” means the Confidentiality and Nondisclosure Agreement, dated April 29, 2021 by and between Blackstone Alternative Credit Advisors LP and the Company.

“**Contract**” means any contract, agreement, license, sublicense, sales order, purchase order, instrument or other commitment, that is binding on any Person under applicable Law.

“**COVID-19**” means SARS-CoV-2 or COVID-19, and any evolutions thereof or related or associated epidemics, pandemic or disease outbreaks.

“**Cure Costs**” means with respect to any Assumed Contract, the Liabilities that must be paid or otherwise satisfied to cure all monetary defaults under such Assumed Contract to the extent required by Section 365(b) of the Bankruptcy Code.

“**Customer Information**” means all customer lists and other customer data primarily related to the Business (subject to any restrictions on the transfer of such information arising under privacy Laws or privacy policies of the Seller or without providing notice or obtaining the consent of the applicable customer; provided, that Buyer and Seller shall mutually agree upon a process for providing any such notices or obtaining such consents after the date of this Agreement, to the extent applicable).

“**Disclosure Schedules**” means the Disclosure Schedules attached hereto, as may be supplemented and amended pursuant to Section 5.03.

“**Encumbrance**” means any mortgage, lien, pledge, security interest, charge, easement, covenant, right of way, claim, title defect, or other survey defect.

“**Excluded Contract**” means any Contract of Seller that is not an Assumed Contract.

“**Expense Reimbursement**” means an amount in cash equal to the lesser of (a) \$200,000 and (b) all reasonable and documented out-of-pocket third-party expenses actually incurred by Buyer in connection with the negotiation of this Agreement and the transactions contemplated hereby.

“**Final Order**” means a judgment or Order of the Bankruptcy Court (or any other court of competent jurisdiction) entered by the clerk of the Bankruptcy Court (or such other court) on the

docket in the Chapter 11 Cases (or the docket of such other court), which has not been modified, amended, reversed, vacated or stayed (other than such modifications or amendments that are consented in writing to by Buyer); provided that the possibility that a motion under Rule 60 of the Federal Rules of Civil Procedures, or any analogous rule under the Federal Rules of Bankruptcy Procedure, may be filed relating to such Order, shall not cause an Order not to be a Final Order.

“Governmental Authority” means any (a) multinational, federal, state, municipal, local or other governmental or public department, court, tribunal, bureau, agency or instrumentality of government, domestic or foreign, (b) any subdivision or authority of any of the foregoing or (c) any regulatory or administrative authority.

“Intellectual Property” means any and all intellectual property of every kind, whether protected or arising under the Laws of the United States or any other jurisdiction, including all intellectual or industrial property rights in any of the following: (a) the Trademarks, Domain Names and Copyrights, and all rights under Contracts relating to the foregoing and (b) all other intellectual property owned by Seller as of the Closing Date that is used or held for use by Seller primarily in the conduct of the Business, including (i) any inventions (whether patentable or not and whether reduced to practice or not), (ii) patents, (iii) patent applications, and (iv) copies of all advertising, marketing, proof of sales, and creative and promotional material, in each case, to the extent the intellectual property described in this definition is primarily related to the Business; provided, however, for the avoidance of doubt, that the intellectual property described in the foregoing clause (b) shall be limited to such intellectual property that is owned by Seller as of the Closing Date (all such intellectual property described in the foregoing clause (b), the **“Other Intellectual Property”**).

“Knowledge of Seller” means the actual knowledge of the individuals set forth on Schedule 1.01(a) hereto.

“Law” means any law, treaty, statute, ordinance, code, decree, Order, rule or regulation of any Governmental Authority.

“Liability” means any and all debts, liabilities, commitments and obligations of any kind, whether fixed, contingent or absolute, matured or unmatured, liquidated or unliquidated, accrued or not accrued, asserted or not asserted, known or unknown, determined, determinable or otherwise, whenever or however arising (including, whether arising out of any Contract or tort based on negligence or strict liability) and whether or not the same would be required to be reflected in financial statements or disclosed in the notes thereto.

“Material Adverse Effect” means any change, effect, event, circumstance, occurrence or state of facts that, individually or in the aggregate, (a) would be reasonably likely to prevent or materially delay or materially impair the ability of Seller to consummate the transactions contemplated by this Agreement, or (b) has had or would reasonably be expected to have a material adverse effect on the Purchased Assets, taken as a whole, excluding, however, for purposes of clause (b) only, any change, effect, event, circumstance, occurrence or state of facts that results from or arises out of: (i) the execution and delivery of this Agreement or the announcement thereof or the pendency or consummation of the transactions contemplated by this Agreement and the other Transaction Documents; (ii) general changes or developments in global or national political,

economic, business, monetary, financial or capital or credit market conditions or trends; (iii) general political, economic, business, monetary, financial or capital or credit market conditions or trends (including interest rates); (iv) geopolitical conditions or any outbreak or escalation of hostilities, acts of terrorism or war, civil unrest, epidemic, pandemic, disease outbreak or other health crisis or public health event (including COVID-19), regional, national or international emergency, earthquakes, floods, hurricanes, tornadoes, wildfires, natural disasters or any other acts of God or similar force majeure events, or any escalation or worsening of the foregoing; (v) the failure of the financial or operating performance of Seller or its business to meet internal, Buyer or analyst or other external projections, forecasts or budgets for any period (it being understood that the underlying cause of such failure to meet such projections and forecasts may be taken into account in determining whether a Material Adverse Effect has occurred); (vi) any action taken or omitted to be taken after the date hereof by or at the written request of Buyer, or in compliance with the express covenants and agreements contained in this Agreement; (vii) changes in (or proposals to change) Laws or accounting regulations or principles; (viii) any existing event, occurrence or circumstance that relates to Buyer's License and of which Buyer has knowledge as of the date hereof; or (ix) the Chapter 11 Cases, including the Auction and any announced liquidation of Seller or any of its assets; provided, that any change, effect, event, circumstance, occurrence or state of facts described in clauses (ii), (iii), (iv) and (vii) shall be taken into account in determining whether a Material Adverse Effect has occurred or would reasonably be expected to occur to the extent that such change, effect, event, circumstance, occurrence or state of facts has a materially disproportionate effect on the Purchased Assets, taken as a whole, as compared to the effects on other participants in the same industry as Seller.

"Milestones" means the milestones set forth on Exhibit G.

"Order" means any award, writ, injunction, judgment, order, ruling, decision, subpoena, precept, directive, consent, approval, award, decree or similar determination or finding entered, issued, made or rendered by any Governmental Authority.

"Permitted Encumbrances" means the following Encumbrances: (a) Encumbrances for Taxes, assessments or other governmental charges or levies that are not yet due or payable or that are being contested in good faith by appropriate Causes of Action; (b) Encumbrances that will be released at the Closing with no Liability to Buyer or its Affiliates; (c) Encumbrances incurred by or at the written direction of Buyer at the Closing; and (d) outbound Intellectual Property licenses, covenants not to sue and similar rights that are subject to Section 365(n) of the Bankruptcy Code or other outbound non-exclusive licenses to Intellectual Property entered into in the ordinary course of business that are in each case Assumed Contracts hereunder.

"Person" means any individual, corporation (including any non-profit corporation), partnership, limited liability company, joint venture, unincorporated organization, estate, trust, association, organization or other legal entity or group (as defined in Section 13(d)(3) of the Securities Exchange Act of 1934, as amended) or Governmental Authority.

"Pre-Closing Tax Period" means any taxable period ending on or before the Closing Date and, with respect to any Straddle Period, the portion of such taxable period ending on and including the Closing Date.

“**Sale Order**” means an Order by the Bankruptcy Court, in form and substance reasonably acceptable to Buyer and Seller, among other things, (a) approving this Agreement, (b) authorizing the sale of the Purchased Assets to Buyer pursuant to section 363 of the Bankruptcy Code, pursuant to the terms and conditions set forth herein, free and clear of any Encumbrances (other than Permitted Encumbrances), (c) authorizing the assumption and assignment to Buyer of the Assumed Contracts and the Assumed Liabilities pursuant to section 365 of the Bankruptcy Code and (d) authorizing the other transactions contemplated by this Agreement.

“**Successful Bidder**” has the meaning set forth in the Bid Procedures Order.

“**Tax**” means (a) all federal, state, local or foreign income, gross receipts, franchise, estimated, alternative minimum, add-on minimum, sales, use, transfer, real property gains, registration, value added, excise, natural resources, severance, stamp, occupation, premium, windfall profit, environmental, customs, duties, real property, special assessment, personal property, capital stock, social security, unemployment, disability, payroll, license, employee or other withholding tax, or any other taxes, fees, assessments or charges of any kind whatsoever including any interest, penalties or additions to tax or additional amounts in respect of the foregoing; (b) any Liability for payment of amounts described in clause (a), whether as a result of transferee Liability, of being a member of an affiliated, consolidated, combined or unitary group for any period or otherwise through operation of law; and (c) any Liability for the payment of amounts described in clauses (a) or (b) as a result of any tax sharing, tax indemnity, tax receivable or tax allocation agreement or express or implied obligation (other than any such agreement or obligation entered into in the ordinary course of business that is not primarily related to Taxes).

“**Tax Return**” means any report, return, election, extension or similar document (including schedules or any related or supporting information) filed or required to be filed with respect to Taxes with any Governmental Authority or other authority in connection with the determination, assessment or collection of any Tax or the administration of any Laws or administrative requirements relating to any Tax, including any information return, claim for refund, amended return or declaration of estimated Taxes.

“**Transaction Document**” means this Agreement, Assignment Agreements, Bills of Sale, Assignment of Trademarks, Assignment of Copyrights, Assignment of Domain Names and any other agreements, instruments or documents entered into pursuant to, or as contemplated by, this Agreement.

“**Transfer Taxes**” means any sales, use, property transfer or gains, documentary, stamp, registration, intangible, conveyance, recording or similar Tax (including, for certainty, goods and services tax and harmonized sales tax) and any recording costs or fees, however styled or designated, or other amounts in the nature of transfer Taxes payable in connection with the sale or transfer of the Purchased Assets, including the filing costs, attorneys’ fees, and processing fees associated with the transfer and recordation of the Purchased Intellectual Property.

(b) Each of the following terms is defined in the Section set forth opposite such term:

Term
Agreement

Section
Preamble

Allocation Schedule	Section 2.08
Assignment of Trademarks	Section 2.10(a)(iv)
Assignment of Copyrights	Section 2.10(a)(iv)
Assignment of Domain Names	Section 2.10(a)(iv)
Assumed Contracts	Section 2.01(b)
Assumed Liabilities	Section 2.02
Assignment and Assumption Agreements	Section 2.10(a)(ii)
Assignment of Other Intellectual Property	Section 2.10(a)(iv)
Bankruptcy and Equity Exception	Section 3.03
Bankruptcy Code	Recitals
Bankruptcy Court	Recitals
Bills of Sale	Section 2.10(a)(iii)
Buyer	Preamble
Cash Consideration	Section 2.06
Chapter 11 Cases	Recitals
Closing	Section 2.10
Company	Preamble
Copyrights	Section 2.01(d)
Debtors	Preamble
Domain Names	Section 2.01(c)
End Date	Section 10.01(b)
Excluded Liabilities	Section 2.03
Excluded Records	Section 2.01(f)
Good Faith Deposit	Section 2.09(a)
Original Agreement	Recitals
Party or Parties	Preamble
Petition Date	Section 7.08(a)
Purchased Assets	Section 2.01
Purchased Intellectual Property	Section 3.08(a)
Purchase Price	Section 2.06
Seller	Preamble
Straddle Period	Section 7.04(a)(i)
Surviving Post-Closing Covenants	Section 9.01
Trademarks	Section 2.01(a)
William Rast APA	Section 2.06

SECTION 1.02 *Construction.* In construing this Agreement, including the Exhibits and Schedules hereto, the following principles shall be followed: (a) the terms “herein,” “hereof,” “hereby,” “hereunder” and other similar terms refer to this Agreement as a whole and not only to the particular Article, Section or other subdivision in which any such terms may be employed unless otherwise specified; (b) except as otherwise set forth herein, references to Articles, Sections, Schedules and Exhibits refer to the Articles, Sections, Schedules and Exhibits of this Agreement, which are incorporated in and made a part of this Agreement; (c) a reference to any Person shall include such Person’s successors and assigns; (d) the word “includes” and “including” and their syntactical variants mean “includes, but is not limited to” and “including, without limitation,” and corresponding syntactical variant expressions; (e) a defined term has its defined meaning

throughout this Agreement, regardless of whether it appears before or after the place in this Agreement where it is defined, including in any Schedule; (f) the word “dollar” and the symbol “\$” refer to the lawful currency of the United States of America; (g) unless the context of this Agreement clearly requires otherwise, words importing the masculine gender shall include the feminine and neutral genders and vice versa, (h) the words “to the extent” shall mean “the degree by which” and not “if”; (i) the word “will” will be construed to have the same meaning and effect as the word “shall,” and the words “shall,” “will,” or “agree(s)” are mandatory, and “may” is permissive, (j) where a word is defined herein, references to the singular will include references to the plural and vice versa, (k) all references to a day or days will be deemed to refer to a calendar day or calendar days, as applicable, unless Business Days are expressly specified, (l) any reference to any agreement or Contract will be a reference to such agreement or Contract, as amended, modified, supplemented or waived; (m) any reference to any particular Code section or any Law will be interpreted to include any amendment to, revision of or successor to that section or Law regardless of how it is numbered or classified; provided that, for the purposes of the representations and warranties set forth herein, with respect to any violation of or non-compliance with, or alleged violation of or non-compliance, with any Code section or Law, the reference to such Code section or Law means such Code section or Law as in effect at the time of such violation or non-compliance or alleged violation or non-compliance; (n) references to “written” or “in writing” include in electronic form; (o) the headings contained in this Agreement and the other Transaction Documents are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement and the other Transaction Documents; (p) 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 shall be excluded and if the last day of such period is not a Business Day, the period shall end on the next succeeding Business Day; and (q) the word “or” shall not be exclusive.

ARTICLE 2

PURCHASE AND SALE

SECTION 2.01 *Purchase and Sale.* Subject to the entry of the Bid Procedures Order and the Sale Order and upon the terms and subject to the conditions of this Agreement and the Sale Order, on the Closing Date, Seller shall sell, transfer, assign, convey and deliver, or cause to be sold, transferred, assigned, conveyed and delivered, to Buyer, and Buyer shall purchase, acquire and accept from Seller, free and clear of all Encumbrances (other than Permitted Encumbrances), all of Seller’s right, title and interest in the following assets, properties, interests and rights (collectively, the “**Purchased Assets**”), other than, for the avoidance of doubt, the Excluded Assets, which, notwithstanding the foregoing provisions of this Section 2.01 to the contrary, will remain, as applicable, the assets, properties, interests and rights of Seller:

(a) all trademarks and service marks owned by Seller and all registrations, renewals and applications therefor as set forth on Schedule 2.01(a) and, in each case, all worldwide rights, title and interest associated with the foregoing, together with the goodwill associated with any of the foregoing, in each case, that are primarily associated with the Brand (collectively, the “**Trademarks**”);

(b) all Contracts set forth on Schedule 2.05(b) (as described below), under the heading “Assumed Contracts” (collectively, the “**Assumed Contracts**”);

(c) the domain names, websites, and social media handles owned by Seller that are utilized in connection with the Business, including related passwords (collectively, the “**Domain Names**”), as set forth on Schedule 2.01(c);

(d) all copyrights (registered or unregistered), designs, patterns, sketches, works of authorship, creations or drawings owned by Seller and relating to products developed, manufactured, marketed or sold by Seller primarily in connection with the Trademarks or the Business, including the applications and registrations thereof set forth on Schedule 2.01(d) (collectively, the “**Copyrights**”);

(e) all Other Intellectual Property;

(f) subject to the first proviso in this Section 2.01(f), Seller’s books and records, to the extent exclusively related to the Business, including all corporate records, executed copies of the Assumed Contracts, all technical information and data, databases, computer files, schematics, all filings made with or records required to be kept by any Governmental Authority, all research and development reports, all financial and accounting records, all creative, promotional or advertising materials, and any other ledgers, files, documents, correspondence and business records relating to the foregoing; provided, however, in no event shall any books and records of any kind or medium, communications, corporate records, minute books, emails, correspondence or any other transmission, records or materials that, in each case, are related to the sale of the Business or the Purchased Assets by Seller, including, without limitation, the transactions contemplated by this Agreement, the negotiation thereof and hereof and the consummation of the transactions contemplated hereby, constitute Purchased Assets and shall instead constitute “Excluded Assets” (as defined below) (such excluded records, the “**Excluded Records**”); provided, further, that Seller shall be entitled to retain a copy of such books and records described in this Section 2.01(f) that constitute Purchased Assets for recordkeeping purposes, which such copies shall be kept confidential by Seller, except such obligation shall not apply (x) to any information that becomes generally available to the public or (y) to the extent disclosure of such information is required by Law or pursuant to any Order; provided, that Seller will provide Buyer with prior written notice of any disclosure required by Law or pursuant to any Order and, where applicable and reasonably requested by Buyer and at Buyer’s sole cost and expense, will use commercially reasonable efforts to cooperate with Buyer to obtain a protective order or other confidential treatment or otherwise limit the scope of information that is required to be disclosed, and Seller shall only disclose that portion of such information as Seller is legally required to disclose.

(g) other than as set forth in Section 2.01(i), all claims (including counterclaims), rights, causes of action, privileges, demands, indemnification rights, and defense rights of Seller, in each case, to the extent related to Buyer’s ownership, licensing, and marketing of the Purchased Assets, whether arising or related to periods before, at or following the Closing;

(h) all associated income, royalties, damages, and payments due from or payable by any third party, in each case, solely to the extent arising (in whole or in part, but if in part, only to the extent of such part) after the Closing and exclusively related to Buyer’s ownership, licensing,

and marketing of the Purchased Assets, including under the Assumed Contracts, following the Closing;

(i) all accounts receivable and other receivables arising under or pursuant to any Assumed Contract solely to the extent arising (in whole or in part, but if in part, only to the extent of such part) after the Closing and exclusively related to Buyer's ownership, licensing, and marketing of the Purchased Assets following the Closing, it being understood and agreed that none of Seller's right to, interest in or entitlement to any fees, payments or any other amounts payable to Seller by Buyer in its capacity as a licensee under Buyer's License that relate to the provision of any license thereunder prior to the Closing and that remain unpaid as of the Closing shall be included in Purchased Assets or be offset or credited by Buyer against any amounts payable under Buyer's License following the Closing; and

(j) all Customer Information.

SECTION 2.02 *Assumed Liabilities*. Upon the terms and subject to the conditions of this Agreement, Buyer agrees, effective at the time of the Closing, to assume the following Liabilities of Seller (the "**Assumed Liabilities**"):

(a) all Liabilities of Seller relating to or arising out of the Assumed Contracts solely to the extent arising (in whole or in part, but if in part, only to the extent of such part) after the Closing;

(b) all Cure Costs related to the Assumed Contracts;

(c) all Liabilities relating to or arising out of the Purchased Assets solely to the extent arising (in whole or in part, but if in part, only to the extent of such part) after the Closing; and

(d) any and all Liabilities for Transfer Taxes, if any.

For the avoidance of doubt, the fact that a Liability may be excluded under one clause of this Section 2.02 does not imply that it is not intended to be included under another clause.

SECTION 2.03 *Excluded Liabilities*. Notwithstanding any provision in this Agreement to the contrary, Buyer shall not assume or be liable for hereunder any Liabilities of Seller other than the Assumed Liabilities, and Seller shall retain and be responsible for all other Liabilities of Seller (other than the Assumed Liabilities), including the following (collectively, the "**Excluded Liabilities**"):

(a) any and all Liabilities for Taxes (other than Transfer Taxes) (i) of or imposed on Seller (or any member or Affiliate of Seller) or (ii) related or attributable to (but solely to the extent related or attributable to) the Purchased Assets or the Business for any Pre-Closing Tax Period (including any Taxes with respect to a Straddle Period allocated to Seller pursuant to Section 7.04(a));

(b) any indebtedness for borrowed money, bank loans or facilities or any other debt instruments of Seller;

(c) all Liabilities related to any Action to the extent relating to the ownership or operation of the Purchased Assets or the Business prior to the Closing Date;

(d) all Liabilities under the Assumed Contracts arising prior to the Closing Date to the extent relating to the period prior to the Closing Date;

(e) all Liabilities arising under or relating to any Excluded Asset;

(f) any brokerage, commission, finders or similar fees, which is payable in connection with the transactions contemplated by this Agreement or otherwise, pursuant to any arrangement entered into by Seller or any Affiliate thereof; and

(g) all Liabilities relating to any employee or consultant of Seller or any of its Affiliates, whether arising before, on or following the Closing Date.

SECTION 2.04 *Excluded Assets.* Notwithstanding anything contained in Section 2.01 to the contrary, Seller is not selling, and Buyer is not purchasing, any assets other than those specifically listed or described in Section 2.01 (including the Excluded Contracts and the Excluded Records, such assets that are not Purchased Assets, the “**Excluded Assets**”). For the avoidance of doubt, all Intellectual Property of Seller that is not Purchased Intellectual Property is excluded from Purchased Assets.

SECTION 2.05 *Assignment of Contracts and Rights.*

(a) Schedule 2.05(a) sets forth a list of all Assumed Contracts to which Seller is party and that Buyer intends to have Seller assume and assign to Buyer on the Closing Date, together with the applicable Cure Costs, if any, for each such Assumed Contract as reasonably estimated in good faith by Seller. At any time prior to the date that is twenty-one (21) days prior to the Closing Date, Buyer may, by written notice to the Company, designate in writing any Contract related to the Business not designated as an Assumed Contract and, upon such designation, such Assumed Contract will constitute a Purchased Asset and will be conveyed to Buyer under, and in accordance with the terms of, this Agreement at Closing (and, if applicable, will cease to constitute an Excluded Asset). All Contracts of Seller which do not constitute Assumed Contracts or which otherwise cannot be assumed and assigned to Buyer shall not be considered Purchased Assets and shall automatically be deemed Excluded Contracts.

(b) Seller shall use its reasonable best efforts to assign, or cause to be assigned, the Assumed Contracts to Buyer so long as Buyer pays all Cure Costs associated with the assumption and assignment of such Assumed Contracts. If Buyer does not pay all Cure Costs associated with the assignment and assumption of an Assumed Contract, it shall become an Excluded Contract. Notwithstanding anything to the contrary herein, Seller shall not be obligated to assume and assign any such Contract pursuant to this Section 2.05 with respect to which Buyer fails to pay any Cure Costs or to satisfy the Bankruptcy Court as to adequate assurance of future performance.

(c) Except as to Assumed Contracts assigned pursuant to Section 365 of the Bankruptcy Code, this Agreement shall not constitute an agreement to assign any Purchased Asset or any right thereunder if an attempted assignment, without the consent of a third party or Governmental Authority (each, a “**Transfer Consent**”), would constitute a breach or in any way

adversely affect the rights of Buyer or Seller thereunder. If such Transfer Consent is not obtained or such assignment is not attainable pursuant to Section 365 of the Bankruptcy Code, to the extent permitted and subject to any approval of the Bankruptcy Court that may be required, Seller and Buyer will reasonably cooperate in a mutually agreeable arrangement (at Buyer's sole cost and expense) under which Buyer would obtain the benefits and assume the obligations thereunder in accordance with this Agreement.

(d) At Closing, (i) Seller shall, pursuant to the Sale Order and the 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 and the consideration for which is included in the Purchase Price, (ii) Buyer shall pay promptly all Cure Costs in connection with such assumption and assignment, and (iii) Buyer shall assume and perform and discharge the Assumed Liabilities under the Assumed Contracts, pursuant to the Sale Order and the Assignment and Assumption Agreement.

(e) To the extent that Buyer makes a valid designation with respect to any Contract pursuant to Section 2.05(a), the applicable exhibits and schedules to this Agreement will be deemed to have automatically been updated (without action of any Party or Person) to reflect such designation. If Buyer exercises its rights in clause (a) above to designate a Contract as an Assumed Contract or an Excluded Contract, as applicable, then the Parties acknowledge and agree that there will be no reduction in, or increase to, the Purchase Price as a result of such designation or change in designation; provided, however, that such designation may increase or decrease (as applicable) the extent of the Assumed Liabilities, Purchased Assets and/or Excluded Contracts.

SECTION 2.06 *Purchase Price*. On the terms and subject to the conditions contained herein, including the terms of Section 7.06(a), the purchase price (the "**Purchase Price**") for the Purchased Assets shall consist of (a) an amount in cash that, when combined with the Cash Consideration as defined in, and payable under, that certain Asset Purchase Agreement, by and among JJWHP, LLC and William Rast Licensing, LLC, dated as of October 28, 2021 (the "**William Rast APA**"), equals \$48,500,000 (the "**Cash Consideration**") and (b) the assumption of the Assumed Liabilities.

SECTION 2.07 *[Intentionally Omitted]*.

SECTION 2.08 *Purchase Price Allocation*. No later than thirty (30) days prior to the Closing Date, Buyer shall deliver to Seller a schedule allocating the Purchase Price (and any adjustments thereto as determined for U.S. federal income tax purposes) among the Purchased Assets and Assumed Liabilities (the "**Allocation Schedule**"). The Allocation Schedule shall be prepared in accordance with Section 1060 of the Code. The Allocation Schedule shall be deemed final unless Seller notifies Buyer in writing that Seller objects to one or more items reflected in the Allocation Schedule within fifteen (15) Business Days after delivery of the Allocation Schedule to Seller. In the event of any such objection, Buyer and Seller shall negotiate in good faith to resolve such dispute. If Buyer and Seller reach an agreement regarding the Allocation Schedule, the Parties shall file all Tax Returns, including Form 8594 (Asset Acquisition Statement under Code Section 1060), in a manner consistent with the Allocation Schedule and shall not take any position inconsistent therewith upon examination of any Tax Return, in any Tax refund claim, in any Action related to Taxes, or otherwise unless otherwise required by applicable Law. If Buyer and Seller are

unable to reach a timely resolution of any dispute regarding the Allocation Schedule, each of the Parties shall be entitled to adopt its own position regarding the Allocation Schedule and to report the federal, state and local income and other Tax consequences of the purchase and sale contemplated hereby in a manner consistent with its own position regarding the Allocation Schedule.

SECTION 2.09 *Good Faith Deposit.*

(a) No later than one (1) Business Day following the date of this Agreement, Buyer shall deposit (or cause to be deposited) in a trust account maintained on behalf of Seller (and to be designated by Seller prior to the date hereof) cash in an amount that, when combined with the Good Faith Deposit as defined in, and payable under, the William Rast APA, equals \$4,850,000 (the “**Good Faith Deposit**”), to be held in escrow in accordance with the terms of this Agreement and to be released as provided in Section 2.09(b).

(b) If the Closing occurs, the Good Faith Deposit (and any interest accrued thereon) shall be transferred to and retained by Seller at the Closing as a credit against the Cash Consideration. If this Agreement is terminated in accordance with the terms hereof, the Good Faith Deposit (together with any interest accrued thereon) shall be treated in the manner set forth in Section 10.02(b).

SECTION 2.10 *Closing.* The closing (the “**Closing**”) of the purchase and sale of the Purchased Assets and the assumption of the Assumed Liabilities hereunder shall take place remotely by conference call and by exchange of signature pages by email or fax as soon as possible following entry of the Sale Order, but in no event later than three (3) Business Days, after satisfaction of the conditions set forth in Article 8, or at such other time or place as Buyer and the Company may agree in writing. At the Closing:

(a) Buyer shall deliver to Seller:

(i) the Cash Consideration (less the Good Faith Deposit as set forth in Section 2.09(b)) and the amounts pursuant to Section 7.06(a)) by wire transfer of immediately available funds, to the bank account(s) designated in writing by the Company at least three days prior to the Closing Date;

(ii) one or more assignment and assumption agreements, in the form attached hereto as Exhibit A (the “**Assignment and Assumption Agreements**”), duly executed by Buyer;

(iii) a Bill of Sale, in the form attached hereto as Exhibit B (the “**Bill of Sale**”), duly executed by Buyer;

(iv) instruments of assignment of Trademarks (the “**Assignment of Trademarks**”), Copyrights (the “**Assignment of Copyrights**”), Domain Names (the “**Assignment of Domain Names**”), and Other Intellectual Property (the “**Assignment of Other Intellectual Property**”) that are included in the Purchased Assets, if any, duly executed by Seller in a form appropriate for recordation with the appropriate Governmental

Authorities in the form of Exhibits C, D, E and F, respectively, in each case duly executed by Buyer;

(v) each other Transaction Document to which Buyer is a party, duly executed by Buyer; and

(vi) such other assignments and other good and sufficient instruments of assumption and transfer, in form satisfactory to Buyer and Seller, as Seller may reasonably request to transfer and assign the Purchased Assets and Assumed Liabilities to Buyer.

(b) Seller shall deliver to Buyer:

(i) the Assignment and Assumption Agreements, duly executed by Seller;

(ii) the Bill of Sale, duly executed by Seller;

(iii) Assignment of Trademarks, Assignment of Copyrights and Assignment of Domain Names, in each case duly executed by Seller;

(iv) each other Transaction Document to which Seller is a party, duly executed by each applicable Seller;

(v) certificate of non-foreign status executed by Seller (or, if applicable, a direct or indirect owner of a Seller) for U.S. federal income tax purposes, prepared in accordance with Treasury Regulation Section 1.1445-2(b) and a properly executed IRS Form W-9;

(vi) a list of all usernames, passwords and other relevant login information needed to access all Domain Names; and

(vii) such other deeds, bills of sale, assignments and other good and sufficient instruments of conveyance and assignment, in form satisfactory to Buyer and Seller, as Buyer may reasonably request to vest in Buyer all right, title and interest in, to and under the Purchased Assets.

ARTICLE 3

REPRESENTATIONS AND WARRANTIES OF SELLER

Except as set forth in the Disclosure Schedules, Seller hereby represents and warrants to Buyer as of the date of this Agreement and the Closing Date as follows:

SECTION 3.01 *Organization and Qualification.* Seller has been duly organized and is validly existing and in good standing (where applicable) under the Laws of its jurisdiction of incorporation, with the requisite power and authority to own its properties and conduct its business as currently conducted, except for any failure to be in good standing as would not, individually or in the aggregate, have a Material Adverse Effect.

SECTION 3.02 *Corporate Authorization.* Subject to entry of the Sale Order, the execution, delivery and performance by Seller of this Agreement and the consummation of the transactions contemplated hereby have been, or prior to the Closing will be, duly authorized by all necessary corporate or other action on the part of Seller. Subject to entry of the Sale Order, Seller has all necessary power and authority to execute and deliver this Agreement and each agreement, certificate, document and instrument to be executed and delivered by it pursuant to this Agreement, as applicable, and to consummate the transactions contemplated hereby and thereby and to perform its obligations hereunder and thereunder.

SECTION 3.03 *Execution and Delivery; Enforceability.* This Agreement has been duly and validly executed and delivered by Seller and, subject to the Bankruptcy Court's entry of the Bid Procedures Order and the Sale Order and subject to the effect of any Laws relating to bankruptcy, reorganization, insolvency, moratorium, fraudulent conveyance or preferential transfers, or similar Laws relating to or affecting creditors' rights generally and subject, as to enforceability, to the effect of general principles of equity (regardless of whether such enforceability is considered in any Causes of Action in equity or at Law) (the "**Bankruptcy and Equity Exception**") will constitute the valid and binding obligation of Seller, enforceable against Seller in accordance with its terms.

SECTION 3.04 *Consents and Approvals.* No consent, approval, authorization or Order of or with any third party, or Governmental Authority having jurisdiction over Seller or any of its properties is required for the execution and delivery by Seller of this Agreement and performance of and compliance by Seller with all of the provisions hereof and the consummation of the transactions contemplated herein, except (a) for any Transfer Consents, the failure of which to obtain would not, individually or in the aggregate, be material to the Business or the Purchased Assets, taken as a whole, (b) as set forth on Schedule 3.04, (c) the entry of the Sale Order and the expiration, or waiver by the Bankruptcy Court, of the fourteen (14) day period set forth in Rules 6004(h) and 3020(e) of the Federal Rules of Bankruptcy Procedure, as applicable, (d) for notices, filings and consents required in connection with the Chapter 11 Cases; and (e) for such consents, approvals, authorizations and Orders, the failure of which to provide, make or obtain, would not, individually or in the aggregate, be material to the Business or the Purchased Assets, taken as a whole.

SECTION 3.05 *No Conflicts.* The execution, delivery and performance by Seller of this Agreement and the other Transaction Documents to which it is or will be a party and the consummation by Seller of the transactions contemplated hereby and thereby do not and will not (a) conflict with or violate any of the organizational documents of Seller; (b) conflict with or violate any Law applicable to Seller; (c) result in any breach of, constitute a default (or an event that, with notice or lapse of time or both, would become a default) under or require any consent of any Person pursuant to, any note, bond, mortgage, indenture, agreement, lease, license, permit, franchise, instrument, obligation or other contract to which Seller is a party; or (d) subject to entry of the Sale Order, require any consent or approval of, registration or filing with, or notice to any Governmental Authority, except, in the causes of clauses (b)-(d), as would not, individually or in the aggregate, be material to the Business or the Purchased Assets, taken as a whole, or to Seller.

SECTION 3.06 *Litigation.* Except as set forth on Schedule 3.06, as of the date hereof, there are no Causes of Action to which Seller is a party pending, or, to the Knowledge of Seller,

threatened (a) to restrain or prevent the transactions contemplated by this Agreement, or (b) otherwise affecting the Purchased Assets, except as would not be material to the Business, taken as a whole. Except as set forth on Schedule 3.06, Seller is not a party to any outstanding Order relating to the Business.

SECTION 3.07 *Title to the Purchased Assets.* Seller has good and valid title to all of the Purchased Assets, and all of the Purchased Assets are free and clear of Encumbrances (other than Permitted Encumbrances). Upon delivery to Buyer on the Closing Date of the instruments of transfer contemplated by Section 2.10, and subject to the terms of the Sale Order, Seller will thereby transfer to Buyer, all of Seller's right, title and interest in and to the Purchased Assets free and clear of all Encumbrances (other than Permitted Encumbrances).

SECTION 3.08 *Intellectual Property.*

(a) Seller exclusively owns all right, title and interest in and to the Intellectual Property that constitute Purchased Assets (the "**Purchased Intellectual Property**"). Seller is listed in the applicable records of the appropriate federal, state, or foreign agency or registry as the sole owner of record for any registered Purchased Intellectual Property. The Purchased Intellectual Property constitutes all of the Intellectual Property owned by Seller and its Affiliates that is primarily used in the Business. Other than as set forth on Schedule 3.08(a), to the Knowledge of Seller, no third party Intellectual Property is material to the Business as currently conducted.

(b) Trademarks:

(i) Schedule 2.01(a) contains a complete and accurate list of all registered and applied for Trademarks, including for each the applicable trademark or service mark, application number, filing date, trademark registration number and registration date, as applicable, owned by Seller and its Affiliates that is primarily used in the Business.

(ii) To the Knowledge of Seller all of the registered Trademarks are subsisting and in full force and effect. All necessary maintenance and renewal documentation and fees in connection with the registered Trademarks have been timely filed with the appropriate authorities and paid, except as would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

(iii) There are no pending or, to the Knowledge of Seller, threatened oppositions, invalidation or cancellation proceedings or Causes of Action involving the Trademarks.

(c) Copyrights:

(i) Schedule 2.01(d) contains a complete and accurate list of all registered and applied for Copyrights owned by Seller, including title, registration number and registration date.

(ii) To the Knowledge of Seller, all of such registered Copyrights are in full force and effect.

(iii) To the Knowledge of Seller, there are no pending or, to the Knowledge of Seller, threatened oppositions, invalidation or cancellation proceedings or Causes of Action involving the Copyrights.

(d) To the Knowledge of Seller, all registered or issued Purchased Intellectual Property is valid and enforceable, and all the filing, examination, issuance, post-registration, maintenance, renewal, and other fees that have become due prior to the Closing Date have been paid, in each case except as would not be material to the Business, taken as a whole.

(e) To the Knowledge of Seller, no third party is infringing, misappropriating, or otherwise violating any Purchased Intellectual Property.

(f) To the Knowledge of Seller, neither the Intellectual Property included in the Purchased Assets, nor the conduct or operation of the Business, infringes, misappropriates or otherwise violates any Intellectual Property rights of any third party. There is no pending dispute, including any pending claim or, to the Knowledge of Seller, threatened claim, with respect to the Purchased Intellectual Property challenging the ownership, use, validity or enforceability of any such Intellectual Property.

(g) Schedule 3.08(g) contains a listing of all Contracts to which Seller is a party and pursuant to which any third party is granted a right to use any Purchased Intellectual Property. Schedule 3.08(g) also contains a listing of all executory Contracts to which Seller is a party covering the settlement of any claims related to the Purchased Intellectual Property (such as a coexistence agreement). To the Knowledge of Seller, the Contracts listed on Schedule 3.08(g) remain valid and binding on Seller and, to the Knowledge of Seller, the other parties thereto and/or any successor or assignees. Except in connection with the Chapter 11 Cases, there is no pending dispute, including any claim or, to the Knowledge of Seller, threatened claim indicating that Seller or any other party thereto is in material breach or default of any terms or conditions of such Contracts which would be reasonably likely to result in material Liability.

SECTION 3.09 *Taxes.*

(a) Seller has timely filed all income or other material Tax Returns required to be filed with the appropriate Governmental Authorities, and all such Tax Returns are true, correct and complete in all material respects. All income and other material Taxes due and payable by Seller with respect to the Business whether or not shown to be payable on such Tax Returns, have been timely paid. No claim has been made in writing within the last three (3) taxable years by a Governmental Authority in a jurisdiction where Seller does not file Tax Returns that Seller or the Business is or may be subject to taxation by that jurisdiction.

(b) There are no Encumbrances on any of the Purchased Assets that arose in connection with any failure (or alleged failure) of Seller to pay any Tax, other than Encumbrances for Taxes not yet due and payable.

SECTION 3.10 *Assumed Contracts.* Schedule 2.05(a) sets forth a complete list, as of the date hereof, of each Assumed Contract and the Cure Costs with respect thereto. Except as set forth on Schedule 3.10, Seller has not assigned, delegated or otherwise transferred to any third party any of its rights or obligations with respect to any such Contract. Each Assumed Contract is in full force

and effect and is a valid and binding obligation of Seller in accordance with its terms and conditions, in each case except as such enforceability may be limited by the Bankruptcy and Equity Exception. Upon entry of the Sale Order and Buyer's payment of the Cure Costs, (a) Seller will not be in breach or default of its obligations under any Assumed Contract, (b) no condition exists that (either with or without notice or lapse of time or both) would constitute a default by Seller under any Assumed Contract and (c) to the Knowledge of Seller, no other party to any Assumed Contract is in breach or default thereunder. The Cure Cost amounts calculated by Seller with respect to each of the Assumed Contract and set forth on Schedule 2.05(a) are, to the Knowledge of Seller, true and correct.

SECTION 3.11 *No Other Representations or Warranties.* Buyer acknowledges that, except for the representations and warranties expressly set forth in this Article 3, neither Seller nor any other Person or representative acting on behalf of Seller or otherwise makes any express or implied representation or warranty with respect to Seller or with respect to any information provided by or on behalf of Seller to Buyer.

ARTICLE 4

REPRESENTATIONS AND WARRANTIES OF BUYER

Buyer represents and warrants to Seller as of the date of this Agreement as follows:

SECTION 4.01 *Corporate Existence and Power.* Buyer is a limited liability company duly formed, validly existing and in good standing under the laws of the State of Delaware and has all power and authority to carry on its business as presently conducted.

SECTION 4.02 *Corporate Authorization.* The execution, delivery and performance by Buyer of this Agreement and all other Transaction Documents to which Buyer is or will be a party and the consummation of the transactions contemplated hereby and thereby are within the corporate powers of Buyer and have been duly authorized by all necessary corporate action on the part of Buyer.

SECTION 4.03 *Execution and Delivery; Enforceability.* This Agreement and all other Transaction Documents to which Buyer is or will be a party have been duly and validly executed and delivered by Buyer, and constitute the valid and binding obligation of Buyer, enforceable against Buyer in accordance with its terms subject to the Bankruptcy and Equity Exception.

SECTION 4.04 *No Conflicts.* The execution, delivery and performance by Buyer of this Agreement and the other Transaction Documents to which it is or will be a party and the consummation by Buyer of the transactions contemplated hereby and thereby do not and will not (a) conflict with or violate any of the organizational documents of Buyer; (b) conflict with or violate any Law applicable to Buyer; (c) except as set forth on Schedule 4.04, result in any breach of, constitute a default (or an event that, with notice or lapse of time or both, would become a default) under or require any consent of any Person pursuant to, any note, bond, mortgage, indenture, agreement, lease, license, permit, franchise, instrument, obligation or other contract to which Buyer is a party; or (d) require any consent or approval of, registration or filing with, or notice to any Governmental Authority, except for such consents or approvals that would not, individually or in

the aggregate, reasonably be expected to have a materially adverse effect on Buyer's ability to consummate the transactions contemplated by this Agreement.

SECTION 4.05 *Availability of Funds; Solvency.* Buyer has and will have through the Closing unrestricted cash in immediately available funds sufficient to pay all of the Cash Consideration and any other costs, fees and expenses which may be required to be paid by or on behalf of Buyer under this Agreement and the other Transaction Documents. Notwithstanding anything to the contrary contained herein, Buyer acknowledges and agrees that its obligations to consummate the transactions contemplated hereby are not contingent upon its ability to obtain any third party financing. As of the Closing and immediately after consummating the transactions contemplated by this Agreement and the other transactions contemplated by the Transaction Documents, Buyer and its subsidiaries (taken as a whole) will not, (a) be insolvent (either because their financial condition is such that the sum of their debts is greater than the fair value of their assets or because the present fair value of their assets will be less than the amount required to pay their Liability (calculated as the amount that would reasonably be expected to become an actual and matured Liability) on their debts as they become absolute and matured); (b) have unreasonably small capital with which to engage in their respective businesses; or (c) have incurred or plan to incur debts beyond their ability to repay such debts as they become absolute and matured.

SECTION 4.06 *Litigation.* There are no Actions to which Buyer is a party pending, or, to the knowledge of Buyer, threatened (a) to restrain or prevent the transactions contemplated by this Agreement or any other Transaction Documents, or (b) that would affect in any material respect Buyer's ability to perform its obligations under this Agreement or any other Transaction Documents or to consummate the transactions contemplated hereby or thereby.

SECTION 4.07 *Buyer's Knowledge.* As of the date hereof, Buyer is not aware of (a) any default or breach by Seller under or related to Buyer's License, or (b) any infringement, misappropriation or other violation by any third party related to, or arising from, Buyer's License.

SECTION 4.08 *Brokers.* No broker, finder or agent will have any claim against Seller for any fees or commissions in connection with the transactions contemplated by this Agreement or any other Transaction Document based on arrangements made by or on behalf of Buyer.

SECTION 4.09 *Condition of Purchased Assets; Representations.* **BUYER HAS CONDUCTED ITS OWN INDEPENDENT REVIEW AND ANALYSIS OF SELLER AND THE BUSINESS, INCLUDING THE OPERATIONS, ASSETS, LIABILITIES, RESULTS OF OPERATIONS, FINANCIAL CONDITION, SOFTWARE, TECHNOLOGY AND PROSPECTS OF SELLER AND ITS BUSINESS, AND ACKNOWLEDGES THAT IT HAS BEEN PROVIDED ACCESS TO THE PERSONNEL, PROPERTIES, PREMISES AND RECORDS OF SELLER FOR SUCH PURPOSE. IN ENTERING INTO THIS AGREEMENT, BUYER HAS RELIED SOLELY UPON ITS OWN INVESTIGATION AND ANALYSIS, AND SELLER'S REPRESENTATIONS AND WARRANTIES SET FORTH IN ARTICLE 3 AND: (A) ACKNOWLEDGES THAT NEITHER SELLER NOR ANY OF ITS AFFILIATES OR REPRESENTATIVES MAKES OR HAS MADE ANY REPRESENTATION OR WARRANTY, EITHER EXPRESS OR IMPLIED, AS TO THE ACCURACY OR COMPLETENESS OF ANY OF THE INFORMATION PROVIDED OR MADE AVAILABLE TO BUYER OR ITS REPRESENTATIVES (INCLUDING ANY**

INFORMATION PROVIDED OR MADE AVAILABLE TO BUYER IN ANY “DATA ROOM”, EXCEPT AS EXPRESSLY PROVIDED IN ARTICLE 3). EXCEPT AS SPECIFICALLY SET FORTH IN ARTICLE 3, (I) SELLER MAKES NO REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, AT LAW OR IN EQUITY, IN RESPECT OF OR OTHERWISE IN ANY WAY RELATING TO SELLER OR ITS LIABILITIES OR OPERATIONS, OR ITS BUSINESS, INCLUDING WITH RESPECT TO VALUE, CONDITION (INCLUDING ENVIRONMENTAL CONDITION) OR PERFORMANCE OR MERCHANTABILITY, NONINFRINGEMENT OR FITNESS FOR ANY PURPOSE (BOTH GENERALLY OR FOR ANY PARTICULAR PURPOSE) AND WITH RESPECT TO FUTURE REVENUE, PROFITABILITY OR THE SUCCESS OF SELLER AND ITS BUSINESS AND (II) ANY SUCH OTHER REPRESENTATIONS OR WARRANTIES ARE HEREBY EXPRESSLY DISCLAIMED. BUYER ACKNOWLEDGES THAT, SHOULD THE CLOSING OCCUR, BUYER SHALL ACQUIRE THE PURCHASED ASSETS, THE ASSUMED LIABILITIES AND THE BUSINESS WITHOUT ANY WARRANTY AS TO MERCHANTABILITY OR FITNESS THEREOF FOR ANY PARTICULAR PURPOSE, IN AN “AS IS” CONDITION AND ON A “WHERE IS” BASIS.

ARTICLE 5

COVENANTS OF SELLER

SECTION 5.01 *Conduct of the Business.*

(a) Except (t) as may be reasonably advisable to carry out any of the transactions contemplated by the Transaction Documents or as set forth on Schedule 5.01, (u) as may be reasonably advisable to satisfy the cure requirements of any of the Assumed Contracts (in consultation with Buyer), (v) as consented to by Buyer (which consent shall not be unreasonably withheld, conditioned or delayed), (w) as expressly permitted pursuant to the Bid Procedures Motion, Bid Procedures Order, and Bid Procedures or this Agreement, (x) as required or approved by the Bankruptcy Code or any Orders entered by the Bankruptcy Court in the Chapter 11 Cases, including, without limitation, any debtor-in-possession financing order or any order permitting the use of cash collateral, (y) as otherwise necessary to comply with applicable Law, or (z) for any actions taken in good faith as reasonably necessary to respond to COVID-19 (provided, that prior to taking (or abstaining from taking) any action pursuant to this clause (z), Seller shall use commercially reasonable efforts to provide reasonable advance notice to Buyer and consult in good faith with Buyer with respect to the appropriateness of such action or inaction), from the date hereof until the Closing Date, Seller shall use commercially reasonable efforts to conduct the Business in the ordinary course of business. In addition, except as otherwise contemplated by the immediately precedent sentence (but excluding clause (z) thereof), without the prior written consent of Buyer (which consent shall not be unreasonably withheld, conditioned or delayed), Seller shall not:

(i) sell, lease, license or otherwise encumber or dispose of any Purchased Assets other than pursuant to the Assumed Contracts in effect as of the date hereof or as properly modified, amended, or extended in accordance with this Section 5.01;

(ii) make any modification, amendment, or extension to, or terminate or reject, or grant or agree to any renewal of, any Assumed Contract;

(iii) sell, transfer, assign, pledge, lease, license, covenant not to sue, or grant any other right to any Purchased Intellectual Property, including agreeing to amend any licenses to Purchased Intellectual Property contained in any Contracts, other than pursuant to the Assumed Contracts in effect as of the date hereof or as properly modified, amended, or extended in accordance with this Section 5.01;

(iv) cancel, abandon, or allow to lapse or expire any Purchased Intellectual Property, other than in response to expiration following the applicable statutory period for protection of registered Intellectual Property in the ordinary course of business, provided that Seller shall take all commercially reasonable steps, such as payment of fees, to prevent such cancellation, abandonment or allowance to lapse or expire;

(v) waive, cancel, compromise or release any accounts receivable or other payables, or release any rights or claims of value, in each case, relating to or arising under the Assumed Contracts that is in excess of \$50,000;

(vi) take any action to waive or compromise any material Claims which are included in the Purchased Assets; or

(vii) agree or commit to do any of the foregoing.

SECTION 5.02 *Access to Information.*

(a) From the date of the execution of this Agreement until the Closing Date, Seller will use commercially reasonable efforts, subject to the terms of the Confidentiality Agreement, (i) to give, on reasonable prior written notice and during normal business hours, Buyer, its counsel, and financial advisors, reasonable access to the offices, properties, books and records of such Seller relating (and solely to the extent relating) to the Purchased Assets and (ii) to furnish to Buyer, its counsel, financial advisors, auditors and other authorized representatives such financial and operating data and other information relating (and solely to the extent relating) to the Purchased Assets as such Persons may reasonably request. Buyer agrees that any investigation undertaken pursuant to the access granted under this Section 5.02(a) shall be conducted in such a manner as not to unreasonably interfere with the operation of Seller's business. Notwithstanding anything to the contrary in this Agreement, Seller shall not be required to provide access to, or otherwise furnish, any information if Seller determines, in its reasonable discretion, that (i) such access would be reasonably likely to jeopardize any attorney-client or other similar privilege, (ii) such access would contravene any applicable Laws, fiduciary duty or binding agreement entered into prior to the date of this Agreement, (iii) the information to be accessed is pertinent to any existing or potential litigation between Seller or any of their Affiliates, on the one hand, and Buyer or any of its Affiliates, on the other hand or (iv) any information, guidance or advice received by the Company and its Affiliates related to the transactions contemplated by this Agreement. Notwithstanding anything in this Section 5.02 to the contrary, Seller shall not be required to grant Buyer access to its Tax Returns for any reason.

(b) All requests for access or information by or on behalf of Buyer shall be submitted to Stifel, Nicolaus & Co. or such other person(s) as Seller may designate in writing, and none of Buyer or any of its Affiliates or representatives shall communicate with any other employees or officers of Seller without the prior written consent of Seller. For the avoidance of doubt, and notwithstanding anything contained herein to the contrary, Buyer shall not have access to personnel records of Seller relating to individual performance or evaluation records, medical histories or other information related to employees of Seller.

(c) At and following the Closing, Seller may retain copies of the books and records or any other materials included, in the Purchased Assets to the extent Seller determines, in its sole discretion, that Seller (i) should retain them to comply with applicable Law or (ii) may require such copies for Tax purposes.

SECTION 5.03 *Update of Disclosure Schedules.* Until the Closing Date, Seller may deliver any new schedules or supplement or amend the Disclosure Schedules with respect to any matter that, if existing, occurring or known as of the date hereof, would have been required to be set forth or described in the Disclosure Schedules; provided, that any supplement or amendment to Schedule 2.05(a) shall be limited to actions with respect to Assumed Contracts taken in compliance with the terms of this Agreement. Any such supplement or amendment shall be deemed to modify the Disclosure Schedules for purposes of this Agreement (a) solely to the extent it relates to matters arising after the date of this Agreement and (b) except to the extent that, absent such modification(s) to the Disclosure Schedules, Seller would then be in breach of the representations, warranties, covenants or other agreements contained herein such that the condition to Closing set forth in Section 8.02(a) would not then be satisfied; provided, however, that if the matter being disclosed in such supplement or amendment relates to Buyer's License, and Buyer had knowledge of such matter as of the date of this Agreement, such supplement or amendment shall modify the Disclosure Schedules for all purposes of this Agreement.

SECTION 5.04 *Use of Name.* After the Closing, Seller shall not, and shall cause its Affiliates not to, use, authorize the use, register, or attempt to register the name "Joe's Jeans" or any confusingly similar variations thereof (including "Joe" or "Joe's") as a Trademark, Domain Name, or any other form of Intellectual Property. Notwithstanding the foregoing, Buyer agrees and acknowledges that this Section 5.04 shall not restrict Seller's (or its Affiliates') use or registration of the name "Caribbean Joe."

SECTION 5.05 *Notices of Certain Events.* Seller shall promptly (and in any event within five (5) Business Days) notify Buyer in writing (which notice shall include, to the extent reasonably practicable, any relevant details and information in Seller's possession or control) of (a) the occurrence of any change, effect, event, circumstance, occurrence or state of facts of which it is or becomes aware, which does, or which could be reasonably be expected to, cause any condition set forth in Article 8 to fail to be satisfied or which would otherwise prevent, delay or impede the Closing, (b) any written notice or other communication from any Governmental Authority (other than the Bankruptcy Court) related to or in connection with the transactions contemplated by this Agreement and (c) the receipt of any notice or other communication from any Person alleging that the consent of such Person is or may be required in connection with the transactions contemplated by this Agreement. Any required to provide notice to be provided under this Section 5.05 may be

fully satisfied by providing notice to counsel to Buyer at the email address for such counsel as set forth in Section 11.01.

ARTICLE 6

COVENANTS OF BUYER

SECTION 6.01 *Confidentiality*. Buyer acknowledges and agrees that at any time prior to the Closing Date and after any termination of this Agreement, the Confidentiality Agreement shall remain in full force and effect and Buyer and its Affiliates shall remain bound thereby during such periods.

SECTION 6.02 *Notices of Certain Events*. Buyer shall promptly (and in any event within five (5) Business Days) notify Seller in writing (which notice shall include, to the extent reasonably practicable, any relevant details and information in Buyer's possession or control) of (a) the occurrence of any change, effect, event, circumstance, occurrence or state of facts of which it is or becomes aware, which does, or which could be reasonably be expected to, cause any condition set forth in Article 8 to fail to be satisfied or which would otherwise prevent, delay or impede the Closing, (b) any written notice or other communication from any Governmental Authority (other than in or related to the Bankruptcy Court) related to or in connection with the transactions contemplated by this Agreement and (c) the receipt of any notice or other communication from any Person alleging that the consent of such Person is or may be required in connection with the transactions contemplated by this Agreement. Any requirement to provide notice under this Section 6.02 may be fully satisfied by provided notice to counsel to Seller at the email address for such counsel as set forth in Section 11.01.

SECTION 6.03 *Preservation of Books and Records*. After the Closing Date, Buyer shall provide to Seller and its Affiliates and representatives (without charge to Seller other than the costs of copying, if any) reasonable access to, including the right to make copies of, all books and records included in and otherwise related to the Purchased Assets, to the extent necessary to permit Seller to determine any matter relating to their respective rights and obligations hereunder or to any period ending on or before the Closing Date (for example, for purposes of any Tax or accounting audit or any claim or litigation matter) or otherwise related to the Excluded Assets, for periods prior to the Closing and shall preserve such books and records until the latest of (a) such period as shall be consistent with Buyer's records retention policy in effect from time to time, (b) the retention period required by applicable Law, (c) the conclusion of all bankruptcy proceedings relating to the Chapter 11 Cases, including the closing of the Chapter 11 Cases and (d) in the case of books and records relating to Taxes, the expiration of the statute of limitations applicable to such Taxes. Such access shall include access to any information in electronic form to the extent reasonably available. Buyer acknowledges that Seller has the right to retain originals or copies of all of books and records included in or related to the Purchased Assets for periods prior to the Closing.

SECTION 6.04 *Insurance*. From and after the Closing, the Business, the Purchased Assets, the Assumed Liabilities, and the operations and assets and Liabilities in respect thereof, shall cease to be insured by Seller's or its Affiliates' insurance policies or by any of their self-insured programs, and neither Buyer nor its Affiliates (including their respective businesses) shall have any access, right, title or interest to or in any such insurance policies (including to all claims

and rights to make claims and all rights to proceeds) to cover the business of Seller (as acquired and operated by Buyer and its Affiliates after the Closing), the Purchased Assets, the Assumed Liabilities, or the operations or assets or Liabilities in respect thereof. Prior to, on or after the Closing, Seller or its Affiliates may amend any insurance policies in the manner they deem appropriate to give effect to this Section 6.04. From and after the Closing, Buyer shall be responsible for securing all insurance it considers appropriate for the Business, the Purchased Assets, the Assumed Liabilities, and the operations and assets and Liabilities in respect thereof.

SECTION 6.05 *Communication*. On and after the date hereof and through the Closing Date, Buyer shall not (and shall not permit any of Buyer's representatives or Affiliates to) contact or communicate with the employees, licensees, customers, service providers and vendors of Seller without the prior consultation with and written approval of Seller; provided, that this Section 6.05 shall not prohibit ordinary course communications, subject to Section 6.01, that are unrelated to this Agreement or the transactions contemplated hereby.

SECTION 6.06 *Release*. Effective as of the Closing, Buyer, on its own behalf and on behalf of its direct and indirect Affiliates, hereby absolutely, irrevocably and unconditionally releases and forever discharges Seller and its direct and indirect Affiliates from, and agrees not to assert any cause of action or proceeding with respect to, any losses or Liabilities whatsoever, of any kind or nature, whether at law or in equity, which have been or could have been asserted against Seller or its Affiliates, which Buyer or its Affiliates has or ever had, which arises out of or in any way relates to events, circumstances or actions occurring, existing or taken prior to or as of the Closing Date in respect of Buyer's License; provided, that the foregoing release shall not cover any losses or Liabilities arising out of or related to this Agreement or the Transaction Documents.

SECTION 6.07 *Buyer's Knowledge*. Notwithstanding anything herein to the contrary, Buyer acknowledges and agrees that, in the event that Buyer has entered into this Agreement with any knowledge by Buyer or any Affiliate of Buyer of any breach by Seller of any representation, warranty or covenant in this Agreement relating to Buyer's License, Buyer shall not have any claim or recourse against Seller or any of its Affiliates with respect to such breach under this Agreement, including under Article 8 and Article 10.

ARTICLE 7

COVENANTS OF BUYER AND SELLER

SECTION 7.01 *Further Assurances*.

(a) At and after the Closing, and without further consideration therefor, Seller and Buyer shall execute and deliver such further instruments and certificates (including deeds, bills of sale, instruments of conveyance, powers of attorney, assignments, assumptions and assurances) and use commercially reasonable efforts to take, or cause to be taken, all actions, and do or cause to be done all things as may be reasonably necessary, to effectuate the purposes and intent of and consummate the transactions contemplated by this Agreement and the other Transaction Documents. Without limiting the foregoing, as reasonably requested by Buyer and at Buyer's sole cost and expense, Seller shall use commercially reasonable efforts to take all actions and execute all required paperwork as reasonably required to assign, transfer, and convey all Purchased Assets,

including, but not limited to, all Purchased Intellectual Property, to Buyer as of the Closing. Subject to Section 2.05(c), to the extent that any Purchased Intellectual Property has not been assigned, transferred or otherwise conveyed to Buyer as of the Closing, at Buyer's sole cost and expense, Seller shall use its commercially reasonable efforts to execute and deliver such instruments and take such action as Seller and Buyer mutually reasonably determine is necessary to transfer, convey, and assign such assets to Buyer and to confirm Buyer's title to or interest in the Purchased Intellectual Property, to confirm Buyer's ownership over the Purchased Intellectual Property, and put Buyer in actual possession and control thereof and to assist Buyer in exercising all rights with respect thereto.

(b) The Parties agree to (and shall cause each of their respective Affiliates to) provide each other with such information and assistance as is reasonably necessary for the preparation of any Tax Returns or for the defense of any Tax claim or assessment, whether in connection with an audit or otherwise, including the furnishing or making available on a timely basis of records, personnel (as reasonably required), books of account, or other necessary materials.

SECTION 7.02 *Certain Filings.* Seller and Buyer shall use their commercially reasonable efforts to take, or cause to be taken, all actions and to do, or cause to be done, all things necessary under applicable Law to consummate and make effective the transactions contemplated by this Agreement, including furnishing all information required by applicable Law in connection with approvals of or filings with any Governmental Authority, and filing, or causing to be filed, as promptly as practicable, any required notification and report forms under other applicable competition Laws with the applicable Governmental Authority.

SECTION 7.03 *Public Announcements.* On and after the date hereof and through the Closing Date, the Parties shall consult with each other before issuing any press release or otherwise making any public statements with respect to this Agreement or the transactions contemplated hereby, and neither Party shall issue any press release or make any public statement prior to obtaining, with respect to Seller, Buyer's, and with respect to Buyer, Seller's, prior written consent (which consent, in each case, shall not be unreasonably withheld, conditioned or delayed); provided, however, that that no such prior consultation or consent shall be required for disclosure by either Party (a) to its current, former or prospective lenders and their respective representatives, provided that the recipient of such information is subject to a customary confidentiality obligation, (b) in earnings releases or earnings calls or as otherwise advised by accountants, or (c) as required by applicable Law or applicable securities exchange rules.

SECTION 7.04 *Tax Matters.*

(a) Allocation of Straddle Period Taxes.

(i) For purposes of this Agreement, in order to apportion appropriately any Taxes relating to a taxable period beginning before and ending after the day immediately prior to the Closing Date (a "**Straddle Period**"), the amount of Taxes that are allocable to the portion of the Straddle Period ending on and including the day immediately prior to the Closing Date shall be:

(A) in the case of Taxes imposed on a periodic basis with respect to the business or assets of a Seller (such as ad valorem and property Taxes) and exemptions, allowances or deductions that are calculated on an annual basis, such as depreciation, the amount of such Taxes, exemptions, allowances or deductions for the entire Straddle Period multiplied by a fraction, the numerator of which is the number of calendar days in the portion of the Straddle Period ending on and including the Closing Date, and the denominator of which is the number of calendar days in the entire Straddle Period (provided that any Tax exemption or allowance with respect to an annual period shall be pro-rated on an equal daily basis between the pre-Closing Tax period and the remainder of the Straddle Period); and

(B) in the case of all other Taxes, determined on a “closing of the books basis” as if the taxable period ended on the Closing Date.

(b) Tax Cooperation. The Parties shall furnish or cause to be furnished to each other, upon request, and at the sole cost of the requesting Party, as promptly as practicable, such information and assistance relating to the Purchased Assets as is reasonably necessary for the filing of Tax Returns and the preparation for, or the prosecution or defense of, any audit, claim, demand, proposed adjustment or deficiency relating to Taxes, and any other matter or proceeding relating to Taxes.

(c) Transfer Taxes. To the extent Seller is required by applicable Law to pay Transfer Taxes, Buyer shall reimburse Seller the amount of such Transfer Taxes at least five Business Days prior to the applicable due date for such Transfer Taxes, and Seller shall provide timely payment thereof (if any payment is due) to the applicable Governmental Authority and promptly provide a copy of such Tax Return to Buyer. Further, each Party hereto agrees to timely sign and deliver (or to cause to be timely signed and delivered) such certificates or forms as may be necessary or appropriate and otherwise to cooperate to establish any available exemption from (or otherwise reduce) such Transfer Taxes. Closing. The Parties hereto shall cooperate in good faith to establish any available exemption from (or reduction of) any Transfer Taxes.

SECTION 7.05 *Misallocated Assets*. If, following the Closing, Buyer or its Affiliates own or hold any Excluded Asset, Buyer shall transfer, or shall cause its Affiliate to transfer, at no cost to Seller, such Excluded Asset as soon as practicable to Seller. If, following the Closing, Seller or any of its Affiliates owns any Purchased Asset, Seller shall transfer, or shall cause their respective Affiliates to transfer, such Purchased Asset as soon as practicable to Buyer or an Affiliate designated by Buyer.

SECTION 7.06 *Pre-Closing Accounts Receivables; Payments after Closing*.

(a) The Parties hereby acknowledge and agree that, during the period commencing on the date hereof and ending on the day immediately prior to the Closing Date, in the event that Seller receives any payment from a third party (other than Buyer or any of its Affiliates) that constitutes an account receivable or other receivable of the Business (each, a “**Pre-Closing A/R Payment**”), such Pre-Closing A/R Payment will be credited to Buyer’s account (and shall reduce the Cash Consideration payable by Buyer at the Closing on a dollar for dollar basis), until the aggregate amount of the Pre-Closing A/R Payments is equal to \$268,598 (the “**Pre-Closing A/R**”).

Threshold”). At the Closing, solely to the extent that the aggregate amount of the Pre-Closing A/R Payments is less than the Pre-Closing A/R Threshold (such shortfall amount, the “**A/R Shortfall Amount**”), the Parties hereby agree that the Purchase Price shall be reduced by the A/R Shortfall Amount.

(b) In the event that Seller receives any payment from a third party (other than Buyer or any of its Affiliates) after the Closing Date pursuant to any of the Assumed Contracts (or with respect to the operation by Buyer of the Business or any Purchased Asset after the Closing) and to the extent such payment is not made in connection with an Excluded Asset or an Excluded Liability, Seller shall forward such payment, as promptly as practicable but in any event within thirty (30) days after such receipt, to Buyer (or other entity nominated by Buyer in writing to Seller) and notify such third party to remit all future payments (in each case, to the extent such payment is in respect of any post-Closing period with respect to the Business and is not in respect of an Excluded Asset or an Excluded Liability) pursuant to the Assumed Contracts to Buyer (or such other entity). Notwithstanding anything to the contrary in this Agreement, in the event that Buyer or any of its Affiliates receives any payment from a third party after the Closing on account of, or in connection with, any Excluded Asset (which includes, for the avoidance of doubt, any accounts receivables and other receivables of the Business with respect to any pre-Closing period), Buyer shall forward such payment, as promptly as practicable but in any event within thirty (30) days after such receipt, to the Company (or other entity nominated by the Company in writing to Buyer) and notify such third party to remit all future payments on account of or in connection with the Excluded Assets to the Company (or such other entity as the Company may designate).

(c) For the avoidance of doubt, following the Closing, any fees, payments or other amounts payable to the Seller by the Buyer in its capacity as licensee under Buyer’s License that relate to the provision of any license thereunder prior to the Closing and that remain unpaid as of the Closing shall be paid by Buyer to the Seller as promptly as practicable.

SECTION 7.07 *Bulk Transfer Laws*. The Parties intend that pursuant to section 363(f) of the Bankruptcy Code, the transfer of the Purchased Assets shall be free and clear of any security interests in the Purchased Assets, including any liens or claims arising out of the bulk transfer Laws, and the Parties shall take such steps as may be necessary or appropriate to so provide in the Sale Order. In furtherance of the foregoing, each Party hereby waives compliance by the other Parties with the “bulk sales,” “bulk transfers” or similar Laws and all other similar Laws in all applicable jurisdictions in respect of the transactions contemplated by this Agreement.

SECTION 7.08 *Bankruptcy Court Approval*.

(a) The Debtors shall file the Bid Procedures Motion with the Bankruptcy Court no later than two (2) Business Days after the commencement of the Chapter 11 Cases (the “**Petition Date**”).

(b) The Parties shall use their respective commercially reasonable efforts to have (i) the Bankruptcy Court enter the Bid Procedures Order as promptly as practicable after the filing of the Bid Procedures Motion and (ii) the Bankruptcy Court enter the Sale Order as promptly as practicable after the completion of the Auction but, in any event, in each case in compliance with the Milestones. Debtors and Buyer shall cooperate in good faith to obtain the Bankruptcy Court’s

entry of the Bid Procedures Order, the Sale Order, and any other Order reasonably necessary in connection with the transactions contemplated by this Agreement, including furnishing affidavits, nonconfidential financial information, or other documents or information for filing with the Bankruptcy Court and making such advisors of Debtors and Buyer and their respective Affiliates available to testify before the Bankruptcy Court for the purposes of, among other things, providing adequate assurances of performance by Buyer as required under Section 365 of the Bankruptcy Code, and demonstrating that Buyer is a “good faith” purchaser under Section 363(m) of the Bankruptcy Code. Buyer agrees that it will promptly take such actions as are reasonably requested by Seller to assist in obtaining entry of the Bid Procedures Order, the Sale Order, and any other Order reasonably necessary, consistent with the above.

(c) The Debtors shall give notice under the Bankruptcy Code and the Bankruptcy Rules of the request for the relief specified in the Bid Procedures and Sale Motion to all Persons entitled to such notice, including all Persons that have asserted Encumbrances on the Purchased Assets and all non-debtor parties to the Assumed Contracts, and other appropriate notice as required by the Bankruptcy Rules and the local rules of the Bankruptcy Court, 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 or the transactions contemplated hereby. Debtors shall be responsible for making all appropriate filings relating to this Agreement with the Bankruptcy Court, and shall use commercially reasonable efforts to submit such filings to Buyer no less than two Business Days prior to their filing with the Bankruptcy Court for Buyer’s prior review and comment, which comments the Debtors shall consider and attempt to incorporate in good faith, in consultation with Buyer.

(d) In the event the entry of the Bid Procedures Order, the Sale Order or any other Orders of the Bankruptcy Court relating to this Agreement or the transactions contemplated hereby shall be appealed by any Person (or if any petition for certiorari or motion for reconsideration, amendment, clarification, modification, vacation, stay, rehearing or reargument shall be filed with respect to the Bid Procedures Order, the Sale Order or other such Order), Debtors shall use commercially reasonable efforts to defend such appeal.

(e) The Debtors and Buyer acknowledge that this Agreement and the transactions contemplated hereby are subject to (i) entry of, as applicable, the Bid Procedures Order and the Sale Order and (ii) the consideration by the Debtors and Seller of higher or better competing bids (whether through any and all types of consideration, including, without limitation, cash, assumed liabilities or credit bid) in respect of a sale, reorganization, or other disposition of the Debtors or Seller, the Business or the Purchased Assets. In the event of any discrepancy between this Agreement and the Bid Procedures Order and the Sale Order, the Bid Procedures Order and the Sale Order shall govern; provided, however, that nothing in this Section 7.08(e) shall limit the rights of Buyer hereunder in the event that any Bid Procedures Order or any Sale Order does not comply with the terms of this Agreement.

(f) During the period commencing on the date hereof and ending on the earlier of (i) the date of entry of the Bid Procedures Order or (ii) the date this Agreement is terminated as provided in Article 10, Seller will not, nor will it permit any of its Affiliates or anyone acting on behalf of any of them to, solicit, negotiate or enter into any discussions or negotiations with any

Person (other than Buyer or its representatives) in connection with any Alternative Transaction; provided that Seller shall be permitted to furnish or cause to be furnished to any Person any information concerning the Purchased Assets or the Business. Seller shall, immediately upon the execution of this Agreement, cease any and all ongoing discussions with any other potential purchaser of all or any portion of the Purchased Assets and/or the Business and shall cause its representatives and Affiliates and their respective representatives to do the same. Notwithstanding anything to the contrary herein, from the date of entry of the Bid Procedures Order and until the transactions contemplated hereby are consummated, Buyer agrees and acknowledges that Seller, Debtors and their Affiliates, including through their representatives, are and may continue soliciting and/or responding to inquiries, proposals or offers from third parties in connection with any Alternative Transaction, including, without limitation, inquiries, proposals or offers related to the Purchased Assets, and may facilitate (and perform any and all other acts related thereto), including, without limitation, furnishing any information (subject to entering into a customary confidentiality agreement) with respect to, any effort or attempt by any Person to seek to do any of the foregoing in connection with an Alternative Transaction. Seller shall promptly notify Buyer of receipt by Debtors or any of their representatives of any such inquiries, proposals or offers; provided that, as to any inquiries, proposals or offers received prior to entry of the Bid Procedures Order, Seller shall provide Buyer with a copy of any such inquiries, proposals or offers within two (2) Business Days of receipt by the Debtors or their representatives.

(g) The Sale Order 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, (B) the sale of the Purchased Assets to Buyer on the terms set forth herein and free and clear of all Encumbrances (other than Encumbrances included in the Assumed Liabilities and Permitted Encumbrances), and (C) the performance by Debtors of their respective obligations under this Agreement; (ii) authorize and empower Seller to assume and assign to Buyer the Assumed Contracts; (iii) find that Buyer is a “good faith” buyer within the meaning of section 363(m) of the Bankruptcy Code, find that Buyer is not a successor to any Seller, and grant Buyer the protections of section 363(m) of the Bankruptcy Code; (iv) find that Buyer shall have no Liability or responsibility for any Liability or other obligation of Seller arising under or related to the Purchased Assets other than as expressly set forth in this Agreement, including successor or vicarious Liabilities of any kind or character, including any theory of antitrust, successor, or transferee Liability, labor law, de facto merger, or substantial continuity; (v) find that Buyer has provided adequate assurance (as that term is used in section 365 of the Bankruptcy Code) of future performance in connection with the assumption of the Assumed Contracts; and (vi) find that Buyer shall have no Liability for any Excluded Liability.

(h) Debtors shall comply with the Milestones.

(i) If an Auction is conducted, and Buyer is not the Successful Bidder at the Auction but is the next highest bidder after the Successful Bidder at the Auction, Buyer shall serve as a Backup Bidder and keep its bid to consummate the transactions contemplated by this Agreement on the terms and conditions set forth in this Agreement (as the same may be improved upon in the Auction) open and irrevocable, notwithstanding any right of Buyer to otherwise terminate this Agreement pursuant to Article 10 hereof, until the earlier of (i) the Backup Bid Expiration Date (as defined in the Bid Procedures) or (ii) the first Business Day after the closing of a transaction with a Successful Bidder for the Purchased Assets that is not Buyer; provided, however, that if

prior to the Backup Bid Expiration Date, a Successful Bidder for the Purchased Assets that is not Buyer fails to consummate its transaction as a result of a breach or failure to perform on the part of such Successful Bidder, or because a condition in such Successful Bidder's purchase agreement cannot otherwise be met, and the purchase agreement with such Successful Bidder is terminated, Buyer (as the Backup Bidder) will be deemed to have the new prevailing bid, and Seller will be authorized, without further order of the Bankruptcy Court, to, and Buyer (as the Backup Bidder) shall, subject to the terms and conditions of this Agreement, consummate the transactions contemplated by this Agreement by the later of (x) ten (10) days of becoming the Successful Bidder and (ii) the Backup Bid Expiration Date, on the terms and conditions set forth in this Agreement (as the same may be improved upon in the Auction).

SECTION 7.09 *Bidding Protections.*

(a) If this Agreement is terminated by Buyer or Seller pursuant to (i) Section 10.01(c), (ii) Section 10.01(e), (iii) Section 10.01(i), (iv) Section 10.01(j) or (v) Section 10.01(k), then, in each case, Seller shall (or shall cause the Debtors to), without the requirement of any notice or demand by Buyer, pay to Buyer the Expense Reimbursement, such payment to be made upon the earlier of (x) the consummation of an Alternative Transaction, (y) the consummation of a sale to the "Successful Bidder" or "Next Highest Bidder" at the Auction or (z) the date that is forty-five (45) days following such termination by wire transfer(s) in immediately available funds to one or more bank accounts of Buyer (or any of its Affiliates) designated in writing by Buyer to Seller.

(b) The Parties acknowledge and agree that (i) the Parties have expressly negotiated the provisions of this Section 7.09 and the payment of the Expense Reimbursement is an integral part of this Agreement, (ii) in the absence of Seller's obligations to make these payments, Buyer would not have entered into this Agreement, and (iii) subject to approval by the Bankruptcy Court, the Expense Reimbursement shall constitute allowed superpriority Administrative Expense Claims pursuant to sections 105(a), 503(b), and 507(a)(2) of the Bankruptcy Code with priority over all other administrative expenses of the kind specified in section 503(b) of the Bankruptcy Code. Seller shall seek the approval of the Expense Reimbursement as set forth in this Section 7.09 and this Agreement in the Bid Procedures Order. Notwithstanding the foregoing, nothing set forth herein shall limit or restrict Buyer's rights to pursue a grant of specific performance pursuant to Section 11.08 prior to any termination of this Agreement by Buyer.

SECTION 7.10 *Buyer's License.* The Parties hereby acknowledge and agree that notwithstanding any provision of Buyer's License to the contrary, Buyer's License will continue in full force and effect as of the commencement of the Chapter 11 Cases, be an Assumed Contract hereunder and shall be assigned to Buyer as an Assumed Contract hereunder upon the Closing, subject to the terms and conditions of this Agreement; provided, that to the extent this Agreement is terminated in accordance with Article 10 hereof, the Parties' rights with respect to the impact of the commencement of the Chapter 11 Cases on Buyer's License as of the date of termination of this Agreement are reserved, and nothing in this Agreement shall be considered a waiver of any rights, claims, arguments and defenses with respect thereto.

ARTICLE 8

CONDITIONS TO CLOSING

SECTION 8.01 *Conditions to Obligations of Buyer and Seller.* The obligations of each of Buyer and Seller to consummate the Closing are subject to the satisfaction or valid waiver at or prior to the Closing of the following conditions:

- (a) no provision of any applicable Law and no judgment, injunction or Order shall then be in effect prohibiting or making illegal the consummation of the Closing;
- (b) the Bankruptcy Court shall have entered the Bid Procedures Order and the Bid Procedures Order shall be a Final Order; and
- (c) the Bankruptcy Court shall have entered the Sale Order in form and substance reasonably acceptable to Buyer and Seller and the Sale Order shall be a Final Order.

SECTION 8.02 *Conditions to Obligation of Buyer.* The obligation of Buyer to consummate the Closing is subject to the satisfaction (or valid waiver) at or prior to the Closing of the following further conditions:

- (a) (i) each of the representations and warranties of Seller contained in Section 3.01, Section 3.02, Section 3.03, and Section 3.07 shall be true and correct in all respects (except for any failure to be so true and correct that is de minimis in nature) on and as of the date hereof and on and as of the Closing Date with the same effect as though such representations and warranties had been made on and as of the Closing Date (provided that representations and warranties which speak to a specified date shall speak only as of such date) and (ii) each other representation and warranty of Seller contained in Article 3 shall be true and correct on and as of the date hereof and as of Closing Date with the same effect as though such representations and warranties had been made on and as of the Closing Date (provided that representations and warranties which speak to a specified date shall speak only as of such date) except where the failure to be so true and correct (without giving effect to any limitation or qualification as to “materiality” (including the word “material”) or “Material Adverse Effect” or other similar term set forth therein) would not, individually or in the aggregate, have a Material Adverse Effect and Buyer shall have received a certificate of the Company certifying as to the matters set forth in this Section 8.02(a) signed by a duly authorized representative of the Company;
- (b) the material covenants and agreements that Seller are required to perform or to comply with pursuant to this Agreement at or prior to the Closing shall have been performed and complied with in all material respects and Buyer shall have received a certificate of the Company to such effect signed by a duly authorized representative of the Company; and
- (c) From the date hereof, there shall not have occurred any Material Adverse Effect.

SECTION 8.03 *Conditions to Obligation of Seller.* The obligation of Seller to consummate the Closing is subject to the satisfaction (or valid waiver) at or prior to the Closing of the following further conditions:

(a) the representations and warranties of Buyer contained in Article 4 shall be true and correct on and as of the Closing Date with the same effect as though such representations and warranties had been made on and as of the Closing Date (provided that representations and warranties which speak to a specified date shall speak only as of such date) except where the failure to be so true and correct (without giving effect to any limitation or qualification as to “materiality” (including the word “material”) or similar term set forth therein) would not, individually or in the aggregate, prevent, materially impede or delay the consummation of the Closing in accordance with its terms and Seller shall have received a certificate of Buyer to such effect signed by a duly authorized officer of Buyer; and

(b) the material covenants and agreements that Buyer is required to perform or to comply with pursuant to this Agreement at or prior to the Closing shall have been performed and complied with in all material respects and Seller shall have received a certificate of Buyer to such effect signed by a duly authorized officer of Buyer.

ARTICLE 9

SURVIVAL

SECTION 9.01 *Survival*. The Parties, intending to modify any applicable statute of limitations, agree that (a) (i) the representations and warranties in this Agreement and in any certificate delivered pursuant hereto and (ii) the covenants in this Agreement only requiring performance prior to the Closing shall, in each case, terminate and be of no further force and effect effective as of the Closing and shall not survive the Closing for any purpose, and thereafter there shall be no Liability on the part of, nor shall any claim be made by or on behalf of, any Party or any Party’s Affiliates in respect thereof and (b) the covenants in this Agreement that contemplate performance at or after the Closing or expressly by their terms survive the Closing shall survive the Closing in accordance with their respective terms (the “**Surviving Post-Closing Covenants**”). Except with respect to the Surviving Post-Closing Covenants, no other remedy shall be asserted or sought by Buyer, and Buyer shall cause its Affiliates not to assert or seek any other remedy, against Seller or any of its Affiliates under any contract, misrepresentation, tort, strict liability, or statutory or regulatory Law or theory or otherwise, all such remedies being hereby knowingly and expressly waived and relinquished to the fullest extent permitted under applicable law.

ARTICLE 10

TERMINATION

SECTION 10.01 *Grounds for Termination*. This Agreement may be terminated at any time prior to the Closing:

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

(b) by either Seller or Buyer, if the Closing shall not have been consummated on or before November 30, 2021 (the “**End Date**”); provided, however, that the right to terminate this Agreement pursuant to this Section 10.01(b) shall not be available to a Party whose breach of any

of its representations, warranties, covenants or agreements contained herein has been the primary cause of the failure of the Closing to occur on or before the End Date;

(c) by either Seller or Buyer, if at the end of the Auction for the Purchased Assets (if any), Buyer is not determined by the Debtors to be either the “Successful Bidder” or “Next-Highest Bidder” (each as defined in the Bid Procedures Order);

(d) by Seller, if Seller is not then in material breach of its obligations under this Agreement and Buyer breaches or fails to perform any of its representations, warranties, covenants or agreements contained in this Agreement and such breach or failure to perform (i) would prevent the satisfaction of a condition set forth in Section 8.01 or Section 8.03, (ii) cannot be, or has not been, cured within ten (10) Business Days following delivery of written notice to Buyer of such breach or failure to perform and (iii) has not been waived by Seller;

(e) by Buyer, if Buyer is not then in material breach of its obligations under this Agreement and Seller breaches or fails to perform any of its representations, warranties, covenants or agreements contained in this Agreement and such breach or failure to perform (i) would prevent the satisfaction of a condition set forth in Section 8.01 or Section 8.02, (ii) cannot be, or has not been, cured within ten (10) Business Days following delivery of written notice to the Company of such breach or failure to perform and (iii) has not been waived by Buyer;

(f) by either Seller or Buyer upon the conversion of any of Seller’s Chapter 11 Cases to cases under Chapter 7 of the Bankruptcy Code, the dismissal of any of Seller’s Chapter 11 Cases, or if a trustee or examiner with expanded powers to operate or manage the financial affairs of Seller is appointed;

(g) by either Seller or Buyer, if the Bankruptcy Court enters a final, non-appealable order that precludes the consummation of the transactions contemplated hereby on the terms and conditions set forth in this Agreement;

(h) by either Seller or Buyer, if any court of competent jurisdiction or other competent Governmental Authority shall have enacted or issued a Law or decree or taken any other action permanently restraining, enjoining or otherwise prohibiting the consummation of the transactions contemplated by this Agreement and such Law or decree or other action shall have become final and non-appealable; provided, however, that the right to terminate this Agreement under this Section 10.01(h) shall not be available to a Party if the failure to consummate the Closing because of such action by a Governmental Authority shall be due to the failure of such Party to have fulfilled, in any material respect, any of its obligations under this Agreement;

(i) by either Seller or Buyer, if the Bankruptcy Court enters an order approving an Alternative Transaction with one or more Persons other than Buyer;

(j) by Buyer, if any of the Milestones are not met; or

(k) by Seller, if Seller or its board of directors (or similar governing body), based on the advice of counsel, 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 applicable law.

The Party desiring to terminate this Agreement pursuant to this Section 10.01 (other than pursuant to Section 10.01(a)) shall give written notice of such termination to the other Party in accordance with Section 11.01.

SECTION 10.02 *Effect of Termination.*

(a) If this Agreement is terminated as permitted by Section 10.01, (i) this Agreement shall become null and void and of no further force and effect, except for the provisions of Sections 2.09, 6.01, 7.09, 10.03, Article 11 and this Section 10.02, which shall survive such termination of this Agreement and (ii) no Party (nor any stockholder, director, officer, employee, agent, consultant or representative of any such Party) shall thereafter have any Liability hereunder; provided, nothing in this Section 10.02 shall be deemed to release any Party from any Liability (x) for any breach of any covenants contained in this Agreement occurring prior to its termination and (y) that may otherwise be provided in, or contemplated by, the provisions of Section 2.09 or 10.02(b).

(b) If this Agreement is terminated pursuant to Section 10.01(d), the Good Faith Deposit (together with any interest accrued thereon) shall be retained by Debtors for their own account as damages, and the Parties acknowledge and agree that such payment of the Good Faith Deposit to Debtors shall constitute liquidated damages (and not a penalty) and shall be the sole and exclusive remedy of Seller and any other Person against Buyer and its Affiliates arising under this Agreement in connection with any such termination, and upon payment of the Good Faith Deposit to the Debtors, neither seller nor any other Person shall be entitled to bring or maintain any other Action against Buyer or any of its Affiliates and neither Buyer nor any of its Affiliates shall have any further liability or obligation to Seller arising out of this Agreement, the transactions contemplated by this Agreement or any matters forming the basis of such termination. The Parties acknowledge and agree that (i) the agreements contained in this Section 10.01(b) are an integral part of this Agreement and the transactions contemplated hereby and (ii) in light of the difficulty of accurately determining actual damages with respect to the foregoing, the right to any such receipt of the Good Faith Deposit constitutes a reasonable estimate of the damages that will compensate Seller in the circumstances in which such fee is payable for the efforts and resources expended and the opportunities forgone while negotiating this Agreement and in reliance on this Agreement and on the expectation of the consummation of the transactions contemplated hereby. If this Agreement is terminated pursuant to any provision of Section 10.01 (other than Section 10.01(d)), Debtors shall promptly (but in any event within two (2) Business Days of such termination) return the Good Faith Deposit (together with any interest accrued thereon) to Buyer by wire transfer of immediately available funds.

SECTION 10.03 *Costs and Expenses.* Except as otherwise expressly provided in this Agreement, including as set forth in Section 10.02(b) whether or not the transactions contemplated by this Agreement are consummated, all costs and expenses incurred in connection with this Agreement shall be paid by the Party incurring such cost or expense; provided, however, that all Cure Costs shall be paid by Buyer.

ARTICLE 11

MISCELLANEOUS

SECTION 11.01 *Notices*. All notices, requests and other communications to any Party hereunder shall be in writing and shall be delivered to the addresses set forth below (or pursuant to such other address(es) as may be designated in writing by the Party to receive such notice):

if to Buyer:

Centric Brands LLC
350 Fifth Avenue
New York, NY 10118
Attention: Lori Nembirkow, General Counsel
Email: LNembirkow@centricbrands.com

with a copy, which shall not constitute notice, to:

Akin Gump Strauss Hauer & Feld LLP
One Bryant Park
New York, NY 10036
Attention: Daniel I. Fisher and Brad Kahn
Email: dfisher@akingump.com
bkahn@akingump.com

if to Seller, to:

Sequential Brands Group, Inc.
1407 Broadway
38th Floor
New York, NY 10018
Attention: Eric Gul
Email: EGul@sbg-ny.com

with a copy, which shall not constitute notice, to:

Gibson, Dunn & Crutcher LLP
200 Park Avenue
New York, New York 10166
Attention: Joshua Brody, Lilit Voskanyan, Jason Zachary Goldstein
Email: jbrody@gibsondunn.com
lvoskanyan@gibsondunn.com
jgoldstein@gibsondunn.com

All such notices, requests and other communications shall be deemed received (a) if delivered prior to 5:00 p.m. New York time on a day which is a Business Day, then on such date of delivery if delivered personally, or, if by e-mail, upon written confirmation of delivery by e-mail (which

may be electronic), and if delivered after 5:00 p.m. New York time (whether personally or by email) then on the next succeeding Business Day, (b) on the first (1st) Business Day following the date of dispatch if delivered utilizing a next-day service by a recognized next-day courier or (c) on the earlier of confirmed receipt or the fifth (5th) Business Day following the date of mailing if delivered by registered or certified mail, return receipt requested, postage prepaid.

SECTION 11.02 *Amendments and Waivers.*

(a) Any provision of this Agreement may be amended or waived if, but only if, such amendment or waiver is in writing and is signed by each of Buyer and Seller.

(b) No failure or delay by any Party in exercising any right, power or privilege hereunder shall operate as a waiver thereof nor shall any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any other right, power or privilege. The rights and remedies herein provided shall be cumulative and not exclusive of any rights or remedies provided by Law.

SECTION 11.03 *Successors and Assigns.* The provisions of this Agreement shall be binding upon and inure to the benefit of the Parties and their respective successors and assigns. Buyer, on the one hand, may not assign, delegate or otherwise transfer any of its rights or obligations under this Agreement without the prior written consent of Seller, and Seller, on the other hand, may not assign, delegate or otherwise transfer any of their respective rights or obligations under this Agreement without the prior written consent of Buyer; provided, however, that Buyer may assign any or all of its rights and obligations under this Agreement (including the right to receive the Purchased Assets) without the prior written consent of Seller to (a) one or more subsidiaries of Buyer or (b) subject to the delivery to Seller of documentation reasonably establishing the creditworthiness of the applicable entity, to WH BUYER, LLC (or any Affiliate thereof) or any joint venture between WH BUYER, LLC (or any Affiliate thereof) and Buyer (or any subsidiary thereof); provided, further, that no such assignment will relieve Buyer of its obligations hereunder. Any attempted assignment in violation of this Section 11.03 shall be null and void, *ab initio*.

SECTION 11.04 *Governing Law.* This Agreement shall be governed by and construed in accordance with the Laws of the State of Delaware, without regard to the conflicts of law rules of such State.

SECTION 11.05 *Jurisdiction.* Without limiting any Party's right to appeal any order of the Bankruptcy Court, (i) the Bankruptcy Court will retain exclusive jurisdiction to enforce the terms of this Agreement and to decide any claims or disputes which may arise or result from, or be connected with, this Agreement, any breach or default hereunder, or the transactions contemplated hereby, and (ii) any and all proceedings related to the foregoing will 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 for such purposes and will receive notices at such locations as indicated in Section 11.01; provided, however, that if the Chapter 11 Cases have been closed pursuant to Section 350 of the Bankruptcy Code, the Parties agree to unconditionally and irrevocably submit to the exclusive jurisdiction of the United States District Court for the Southern District of New York, or in the event (but only in the event) that such court does not have subject matter jurisdiction

over such Action, in the Supreme Court of the State of New York, New York County, for the resolution of any such claim or dispute. The Parties hereby irrevocably waive, to the fullest extent permitted by applicable Law, any objection which they may now or hereafter have to the laying of venue of any such Action brought in such court or any defense of inconvenient forum for the maintenance of such dispute. Each of the Parties agrees that a judgment in any such dispute may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by Law. Process in any such Action may be served on any party anywhere in the world, whether within or without the jurisdiction of the Bankruptcy Court, the United States District Court for the District of New York or any state court of the State of New York. Without limiting the foregoing, each Party agrees that service of process on such Party as provided in Section 11.01 shall be deemed effective service of process on such Party.

SECTION 11.06 *WAIVER OF JURY TRIAL*. TO THE EXTENT NOT PROHIBITED BY APPLICABLE LAW THAT CANNOT BE WAIVED, EACH PARTY HEREBY WAIVES, AND COVENANTS THAT IT WILL NOT ASSERT (WHETHER AS PLAINTIFF, DEFENDANT OR OTHERWISE), ANY RIGHT TO TRIAL BY JURY IN ANY FORUM IN RESPECT OF ANY ISSUE, CLAIM, DEMAND, ACTION OR CAUSES OF ACTION ARISING IN WHOLE OR IN PART UNDER, RELATED TO, BASED ON OR IN CONNECTION WITH THIS AGREEMENT OR ANY ANCILLARY DOCUMENT OR THE SUBJECT MATTER HEREOF OR THEREOF, WHETHER NOW EXISTING OR HEREAFTER ARISING AND WHETHER SOUNDING IN TORT OR CONTRACT OR OTHERWISE. ANY PARTY HERETO MAY FILE AN ORIGINAL COUNTERPART OR A COPY OF THIS SECTION 11.06 WITH ANY COURT AS WRITTEN EVIDENCE OF THE CONSENT OF EACH SUCH PARTY TO THE WAIVER OF ITS RIGHT TO TRIAL BY JURY.

SECTION 11.07 *Counterparts; Third Party Beneficiaries*. This Agreement may be signed in any number of counterparts, each of which shall be an original, with the same effect as if the signatures thereto and hereto were upon the same instrument. This Agreement shall become effective when each Party shall have received a counterpart hereof signed by the other Party. Delivery of a .pdf version of one or more signatures to this Agreement shall be deemed adequate delivery for purposes of this Agreement. No provision of this Agreement is intended to confer upon any Person other than the Parties any rights, benefits, Causes of Action or remedies hereunder.

SECTION 11.08 *Specific Performance*. It is understood and agreed by the Parties that money damages (even if available) would not be a sufficient remedy for any breach of this Agreement by Seller or Buyer and as a consequence thereof, Seller and Buyer shall each be entitled to seek specific performance and injunctive or other equitable relief as a remedy for any such breach or threatened breach in addition to any other remedy to which such Party may be entitled in Law or in equity, including an Order of the Bankruptcy Court or other court of competent jurisdiction requiring Buyer or Seller, as may be applicable, to comply promptly with any of their obligations hereunder. Each of the Parties agrees that it will not oppose the granting of an injunction, specific performance and other equitable relief on the basis that the other Party has an adequate remedy at Law or that any award of specific performance is not an appropriate remedy for any reason at Law or in equity. Any Party seeking an injunction or injunctions to prevent breaches of this Agreement and to enforce specifically the terms and provisions of this Agreement shall not be required to provide any bond or other security in connection with such Order.

SECTION 11.09 *Entire Agreement*. This Agreement and the other Transaction Documents (together with the Schedules and Exhibits hereto and thereto), and the Confidentiality Agreement, constitutes the entire agreement between the Parties with respect to the subject matter hereof and thereof and supersede all prior agreements and understandings, both oral and written, between the Parties with respect to such subject matter. No Party to this Agreement shall be liable or bound to any other Party in any manner by any representations, warranties, covenants or agreements relating to such subject matter except as specifically set forth herein and therein. In the event an ambiguity or question of intent or interpretation arises with respect to this Agreement, the terms and provisions of the execution version of this Agreement will control and prior drafts of this Agreement and the documents referenced herein will not be considered or analyzed for any purpose (including in support of parol evidence proffered by any Person in connection with this Agreement), will be deemed not to provide any evidence as to the meaning of the provisions hereof or the intent of the Parties with respect hereto and will be deemed joint work product of the Parties.

SECTION 11.10 *No Strict Construction*. Buyer, on the one hand, and Seller, on the other hand, participated jointly in the negotiation and drafting of this Agreement, and, in the event an ambiguity or question of intent or interpretation arises, this Agreement shall be construed as jointly drafted by Buyer, on the one hand, and Seller, on the other hand, and no presumption or burden of proof shall arise favoring or disfavoring any Party by virtue of the authorship of any provision of this Agreement. Without limitation as to the foregoing, no rule of strict construction construing ambiguities against the draftsman shall be applied against any Person with respect to this Agreement.

SECTION 11.11 *Severability*. If any term, provision, covenant or restriction of this Agreement is held by a court of competent jurisdiction or other authority to be invalid, void or unenforceable, the remainder of the terms, provisions, covenants and restrictions of this Agreement shall remain in full force and effect and shall in no way be affected, impaired or invalidated so long as the economic or legal substance of the transactions contemplated hereby is not affected in any manner materially adverse to any Party. Upon such a determination, the Parties shall negotiate in good faith to modify this Agreement so as to effect the original intent of the Parties as closely as possible in a mutually acceptable manner in order that the transaction contemplated hereby be consummated as originally contemplated to the fullest extent possible.


SECTION 11.12 *Disclosure Schedules*. The representations and warranties of Seller set forth in this Agreement are made and given subject to the disclosures in the Disclosure Schedules. Where a reference is made only to a particular disclosed document, the full contents of the document are deemed to be disclosed. Inclusion of information in the Disclosure Schedules will not be construed as an admission that such information is material to the business, operations or condition (financial or otherwise) of Seller or their respective businesses, in whole or in part, or as an admission of Liability or obligation of Seller to any third Person. The specific disclosures set forth in the Disclosure Schedules have been organized to correspond to section references in this Agreement to which the disclosure is most likely to relate, together with appropriate cross-references when disclosure is applicable to other sections of this Agreement; provided, however, that any disclosure in any section of the Disclosure Schedules will apply to and will be deemed to be disclosed in any other section of the Disclosure Schedules, so long as the applicability of such disclosure is reasonably apparent on its face. It is understood and agreed that the specification of any dollar amount in the representations and warranties or covenants contained in this Agreement

or the inclusion of any specific item in the Disclosure Schedules is not intended to imply that such amounts or higher or lower amounts, or the items so included or other items, are or are not material, and no Party or other Person shall use the fact of the setting of such amounts or the fact of the inclusion of any such item in the Disclosure Schedules in any dispute or controversy as to whether any obligation, item or matter not described in this Agreement or included in the Disclosure Schedules is or is not material for purposes of this Agreement. Nothing in this Agreement (including the Disclosure Schedules) shall be deemed an admission by either Party or any of its Affiliates, in any Causes of Action, that such Party or any such Affiliate, or any third party, is or is not in breach or violation of, or in default in, the performance or observance of any term or provisions of any Contract or Law.

[Signature Pages Follow.]

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

JOE'S HOLDINGS LLC

By: 
Name: Lorraine DiSanto
Title: Chief Financial Officer

CENTRIC BRANDS LLC

By: _____
Name:
Title:

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

JOE'S HOLDINGS LLC

By: _____
Name:
Title:

CENTRIC BRANDS LLC

By: 
Name: Joseph Falizza
Title: Chief Strategy Officer & President, Business Development of Centric Brands LLC

Exhibit 2

Assumed Contracts Exhibit

ASSUMED CONTRACTS AND CURE COSTS

1. Sportswear and Jeanswear License Agreement, between Sequential Brands Group, Inc. and Centric West LLC (as successor via assignment), dated as of September 11, 2015, as amended on September 26, 2016, December 13, 2016, November 17, 2017, and February 16, 2021.

Cure Costs: Estimated at \$618,078.00¹

2. License Agreement between Joe's Holdings, LLC and International Design Group, dated as of January 1, 2017, as amended on March 3, 2020.

Cure Costs: \$0

3. Trademark Agreement between Sequential Brands Group, Inc. and Star Denim Sales, LLC, dated as of March 24, 2017, as amended on October 16, 2017 and August 11, 2020 and Guaranty issued by 5 Star Apparel LLC in favor of Sequential Brands Group, Inc. dated March 24, 2017.

Cure Costs: \$0

4. License Agreement by and among Brixton, LLC, Joe's Jeans, Inc. and Joe's Jeans Subsidiary, Inc., dated as of October 11, 2020.

Cure Costs: \$0

5. License Agreement by and between Joe's Holdings, LLC and Bellevue Brands, Inc., dated as of November 1, 2018.

Cure Costs: \$0

6. License Agreement by and between Joe's Holdings, LLC and Bespoke Fashion LLC, dated as of July 25, 2018.

Cure Costs: \$0

7. License Agreement by and between Joe's Holdings, LLC and ACI International, dated as of September 1, 2016, as amended on November 29, 2018, and Settlement Agreement and Mutual General Release and Amendment to License Agreement by and Joe's Holdings, LLC and ACI International, dated as of June 29, 2021.²

Cure Costs: \$0

8. Exclusive License Agreement between Joe's Holdings, LLC and Burma Bibas LLC, dated as of January 30, 2018.³

Cure Costs: \$0

¹ This number is based in part on estimated amounts. Debtors and Centric West LLC continue to discuss and both parties reserve all rights with respect thereto. Such amount to be automatically reduced by any amounts credited to the buyer at Closing pursuant to Section 7.06(a).

² This agreement was terminated as of June 29, 2021. The Licensee has outstanding sell off rights thereunder until December 31, 2021.

³ This agreement was terminated as of June 30, 2021. The Licensee has outstanding sell off rights thereunder for a period of 120 days from the expiration date.

9. License Agreement by and between Joe's Holdings, LLC and BMG Import Exports Inc., dated as of January 2, 2018.⁴

Cure Costs: \$0

⁴ This agreement was terminated as of June 30, 2021. The Licensee has outstanding sell off rights thereunder for a period of 90 days from the expiration date.

Exhibit 2A:

Redline comparison of Proposed Sale Order re: Centric Brands, LLC

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

In re: : Chapter 11
: Case No. 21-11194 (JTD)
Sequential Brands Group, Inc., et al.,¹ : (Jointly Administered)
:
Debtors. :
:

**ORDER (I) AUTHORIZING THE SALE OF CERTAIN ASSETS OF
THE DEBTORS TO CENTRIC BRANDS LLC FREE AND CLEAR OF ALL LIENS,
CLAIMS, INTERESTS AND ENCUMBRANCES, (II) AUTHORIZING THE
ASSUMPTION AND ASSIGNMENT OF CERTAIN EXECUTORY CONTRACTS IN
CONNECTION THEREWITH, AND (III) GRANTING RELATED RELIEF**

Upon the motion, dated August 31, 2021 (the “Motion”),² of Sequential Brands Group, Inc., Joe’s Holdings LLC (the “Seller”) and certain of their affiliates, as debtors and debtors in possession in the above-captioned cases (each, a “Debtor” and collectively, the “Debtors”), pursuant to Bankruptcy Code sections 105(a), 363 and 365 of title 11 of the United States Code (the “Bankruptcy Code”) and 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”), seeking entry of, among other things, (i) an order (the “Bidding Procedures Order”) (a) approving the bidding procedures (the “Bidding

¹ The Debtors, along with the last four digits of each Debtor’s tax identification number, are: Sequential Brands Group, Inc. (2789), SQBG, Inc. (9546), Sequential Licensing, Inc. (7108), William Rast Licensing, LLC (4304), Heeling Sports Limited (0479), Brand Matter, LLC (1258), SBG FM, LLC (8013), Galaxy Brands LLC (9583), The Basketball Marketing Company, Inc. (7003), American Sporting Goods Corporation (1696), LNT Brands LLC (3923), Joe’s Holdings LLC (3085), Gaiam Brand Holdco, LLC (1581), Gaiam Americas, Inc. (8894), SBGGaiam Holdings, LLC (8923), SBG Universe Brands, LLC (4322), and GBT Promotions LLC (7003). The Debtors’ corporate headquarters and the mailing address for each Debtor is 1407 Broadway, 38th Floor, New York, NY 10018.

² Capitalized terms used but not defined herein shall have the meaning ascribed to them in the Motion or the Centric APA (as defined herein), as applicable.

Procedures”) in connection with the sale or disposition (each, a “Sale”) of all or substantially all of the Debtors assets (including the Purchased Assets (as defined the Centric APA, as defined below)), (b) authorizing the Debtors to enter into one or more stalking horse agreements and to provide bidding protections thereunder, (c) scheduling an auction (the “Auction”) and approving the form and manner of notice thereof, (d) approving procedures for the assumption and assignment of certain executory contracts, (e) scheduling a sale hearing (the “Sale Hearing”) to approve the Sale and approving the form and manner of notice thereof; and (ii) an order (a) approving the Sale and other transactions contemplated by the Centric APA free and clear of all liens, Claims (as defined below), liabilities, rights, Interests (as defined below) and Encumbrances (as defined in the Centric APA) (other than Permitted Encumbrances, as defined in the Centric APA) in accordance with the terms of the Centric APA, (b) approving the assumption and assignment of certain executory contracts and unexpired leases, and (c) granting certain related relief; and the Debtors having executed that certain Asset Purchase Agreement by and among Centric Brands LLC, as Buyer, and Joe’s Holdings LLC, as Seller, dated as of August 31, 2021 (as may be amended from time to time in accordance with the terms thereof and this Order, the “Centric APA”), attached hereto as **Exhibit 1**, contemplating the sale of the Purchased Assets to Centric Brands LLC (“Centric” or “Buyer”) or Assignee (as defined below) free and clear of any Claims, Interests, or Encumbrances (other than any Permitted Encumbrances) (the “Sale Transaction”); [and, in accordance with and pursuant to, section 11.03 of the Centric APA, Centric having assigned all of Centric’s rights, interests, and obligations under the Centric APA to JJWHP, LLC \(the “Assignee”\);](#) and the Court having entered the Bidding Procedures Order on September 24, 2021 [Docket No. 138] approving the Centric Expense Reimbursement (as defined in the Motion [Docket No. 19]); and the Auction having

been ~~held~~~~cancelled~~ in accordance with the Bidding Procedures; and the Sale Hearing having been held on ~~●~~[November 4](#), 2021; and the Court having reviewed and considered the relief sought in the Motion, the Centric APA, all objections to the Motion, and the arguments of counsel made, and the evidence proffered or adduced at the Sale Hearing; and all parties in interest having been heard or having had the opportunity to be heard regarding the Sale Transaction and the relief requested in this Order; and due and sufficient notice of the Sale Hearing and the relief sought therein having been given under the particular circumstances of these chapter 11 cases and in accordance with the Bidding Procedures Order; and it appearing that no other or further notice need be provided; and it appearing that the relief requested in the Motion is in the best interests of the Debtors, their estates, their creditors and all other parties in interest; and it appearing that the Court has jurisdiction over this matter; and it further appearing that the legal and factual bases set forth in the Motion and the Herbert Declaration [Docket No. ~~●~~[134](#)] and at the Sale Hearing establish just cause for the relief granted herein; and after due deliberation thereon,

THE COURT HEREBY FINDS THAT:³

Jurisdiction and Venue

A. This Court has jurisdiction to hear and determine the Motion pursuant to 28 U.S.C. §§ 157 and 1334, the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware dated as of February 29, 2012, and this matter is a core proceeding pursuant to 28 U.S.C. § 157(b). Venue of these cases and proceedings is proper

³ The findings and conclusions set forth herein constitute this 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.

in this District and this Court under 28 U.S.C. §§ 1408 and 1409.

Statutory Predicates

B. The statutory predicates for the relief requested in the Motion are Bankruptcy Code sections 105, 363 and 365. Such relief is also warranted pursuant to Bankruptcy Rules 2002, 6004, 6006, 9007, 9008 and 9014 and Local Rules 2002-1 and 6004-1.

Final Order

C. This Order constitutes a final and appealable order within the meaning of 28 U.S.C. § 158(a).

Notice of the Centric APA, Assumption and Assignment of Assumed Contracts, Sale Transaction, Sale Hearing and Bidding Procedures Order

D. On August 31, 2021 (the "Petition Date"), the Debtors commenced these chapter 11 cases (the "Chapter 11 Cases") by filing a voluntary petition for relief under chapter 11 of the Bankruptcy Code. Since the Petition Date, the Debtors have continued to operate and manage their businesses as debtors-in-possession pursuant to Bankruptcy Code sections 1107(a) and 1108.

E. The Debtors gave due and proper notice of the Sale on [\[redacted\] September 24, 2021](#) [Docket No. [\[redacted\]139](#)] (the "Sale Notice"). The Sale Notice constituted good, sufficient, and appropriate notice of the Sale under the particular circumstances and no further notice need be given with respect to the proposed Sale. As provided by the Sale Notice, a reasonable opportunity to object or be heard regarding the requested relief has been afforded to all interested persons and entities. Other parties interested in bidding on the Purchased Assets were provided, pursuant to the Bidding Procedures Order, sufficient information to make an informed judgment on whether to bid.

F. The Debtors also gave due and proper notice of the potential assumption and

assignment of each executory contract or unexpired lease available to be assumed by the Debtors and assigned to the Buyer to each non-debtor party under each such executory contract or unexpired lease as reflected on the ~~notice~~notices of assumption, sale and assignment of the Assumed Contracts (as defined in the Centric APA) filed on ~~{}September 29,~~September 29, 2021 [Docket No. ~~{}148,~~148, October 8, 2021 [Docket No. 175], and October 20, 2021 [Docket No. 225]] (the “Assumption Notice”). Such notice was good, sufficient, and appropriate under the particular circumstances, and the counterparties to the Assumed Contracts are hereby deemed to consent to the relief granted herein unless otherwise provided in this Order.

G. As evidenced by the affidavits of service [Docket Nos. ~~{}151, 152, 178, 179,~~151, 152, 178, 179, 181, 188, 247, 254, 260, 262] and publication [Docket ~~Nos~~No. ~~{}147~~147] previously filed with this Court, and based on the representations of counsel at the Sale Hearing, due, proper, timely, adequate and sufficient notice of the Motion, the Bidding Procedures Order, the Auction, the Sale Hearing, the assumption and assignment of the Assumed Contracts, the Centric APA, this Order and the Sale Transaction has been provided in accordance with Bankruptcy Code sections 102(1) and 363, Bankruptcy Rules 2002, 9007, 9008 and 9014, and Local Rules 2002-1 and 6004-1. The Debtors have complied with all obligations to provide notice of the Motion, the Bidding Procedures Order, the Auction, the Sale Hearing, the assumption and assignment of the Assumed Contracts, the Centric APA, this Order and the Sale Transaction as required by the Bidding Procedures Order. The aforementioned notices are good, sufficient and appropriate under the circumstances, and no other or further notice of the Motion, the Bidding Procedures Order, the Auction, the Sale Hearing, the assumption and assignment of the Assumed Contracts, the Centric APA, this Order or the Sale Transaction is or shall be required.

H. A reasonable opportunity to object or be heard regarding the relief requested in the Motion and provided in this Order was afforded to all parties in interest.

Compliance with the Bidding Procedures Order

I. As demonstrated by the evidence proffered or adduced at the Sale Hearing and the representations of counsel at the Sale Hearing, the Debtors have complied in all material respects with the Bidding Procedures Order. The Debtors and their professionals have adequately and appropriately marketed the Purchased Assets in compliance with the Bidding Procedures and the Bidding Procedures Order, and in accordance with the Debtors' fiduciary duties. Based upon the record of these proceedings, creditors, other parties in interest and prospective purchasers were afforded a reasonable and fair opportunity to bid for the Purchased Assets.

J. The Bidding Procedures were substantively and procedurally fair to all parties and all potential bidders and afforded notice and a full, fair and reasonable opportunity for any person to make a higher or otherwise better offer to purchase the Purchased Assets. The Debtors conducted the sale process without collusion and in accordance with the Bidding Procedures.

K. The Bidding Procedures Order is incorporated herein by reference.

L. The Buyer is the Successful Bidder, and the Centric APA is the Successful Bid, for the Purchased Assets in accordance with the Bidding Procedures Order. The Buyer has complied in all respects with the Bidding Procedures Order and all other applicable orders of this Court in negotiating and entering into the Centric APA, and the Sale Transaction and the Centric APA likewise comply with the Bidding Procedures Order and all other applicable orders of this Court.

Business Judgment

M. The Centric APA, including the form and total consideration to be realized by the Debtors under the Centric APA, (i) constitutes the highest and best offer received by the Debtors

for the Purchased Assets; (ii) is fair and reasonable; and (iii) is in the best interests of the Debtors, their estates, their creditors and all other parties in interest.

N. The Debtors' determination that the consideration provided by the Buyer under the Centric APA constitutes the highest and best offer for the Purchased Assets constitutes a valid and sound exercise of the Debtors' business judgment.

O. Consistent with their fiduciary duties, the Debtors have demonstrated good, sufficient and sound business reasons and justifications for entering into the Sale Transaction and the performance of their obligations under the Centric APA, including, but not limited to, the fact that (i) the consideration provided by the Buyer under the Centric APA will provide a greater recovery for the Debtors' estates than would be provided by any other available alternative, including a separate liquidation of the Purchased Assets; and (ii) unless the Sale Transaction is concluded expeditiously as provided for in the Motion and pursuant to the Centric APA, recoveries of creditors will be diminished.

Corporate Authority

P. Subject to entry of this Order, the Debtors (i) have full corporate power and authority to execute and deliver the Centric APA and all other documents contemplated thereby, (ii) have all of the necessary corporate power and authority to consummate the transactions contemplated by the Centric APA, including, without limitation, the Sale Transaction and the assumption and assignment of the Assumed Contracts, (iii) have taken all corporate action necessary to authorize and approve the Centric APA and the consummation by the Debtors of the transactions contemplated thereby, including, without limitation, the Sale Transaction and the assumption and assignment of the Assumed Contracts, and (iv) subject to entry of this Order, need no consents or approvals, including any consents or approvals from any non-Debtor

entities, other than those expressly set forth in the Centric APA or this Order, to consummate the transactions contemplated thereby, including, without limitation, the Sale Transaction and the assumption and assignment of the Assumed Contracts.

Good Faith

Q. The sales process engaged in by the Debtors and the Buyer, including, without limitation, the Auction, which was conducted in accordance with the Bidding Procedures and the Bidding Procedures Order, and the negotiation of the Centric APA, was at arm's length, non-collusive, in good faith, and substantively and procedurally fair to all parties in interest. None of the Debtors or the Buyer has engaged in any conduct that would cause or permit the Centric APA or the Sale Transaction to be avoided, or costs or damages to be imposed, under Bankruptcy Code section 363(n).

R. The Debtors and the Buyer have complied, in good faith, in all respects with the Bidding Procedures Order and the Bidding Procedures. The Debtors and the Seller, and their respective management, board of directors, board of managers (or comparable governing authority), employees, agents, and representatives, and the Buyer and its employees, agents, advisors and representatives, each actively participated in the bidding process and in the Auction, and each acted in good faith and without collusion or fraud of any kind. Buyer subjected its bid to competitive bidding in accordance with the Bidding Procedures and was designated the Successful Bidder for the Purchased Assets in accordance with the Bidding Procedures and the Bidding Procedures Order.

S. The Buyer is a good faith buyer within the meaning of Bankruptcy Code section 363(m), and is therefore entitled to the full protection of that provision in respect of the Sale Transaction, each term of the Centric APA (and any ancillary documents executed in connection

therewith) and each term of this Order, and otherwise has proceeded in good faith in all respects in connection with this proceeding. None of the Debtors or the Buyer has engaged in any conduct that would prevent the application of Bankruptcy Code section 363(m). The Debtors were free to deal with any other party interested in buying or selling some or all of the Purchased Assets on behalf of the Debtors' estates. The protections afforded by Bankruptcy Code section 363(m) are integral to the Sale Transaction and the Buyer would not consummate the Sale Transaction without such protections.

T. The form and total consideration to be realized by the Debtors under the Centric APA constitutes fair value, fair, full and adequate consideration, reasonably equivalent value and reasonable market value for the Purchased Assets.

U. Neither the Buyer nor any of its affiliates, officers, directors, managers, shareholders, members or any of their respective successors or assigns is an "insider" of any of the Debtors, as that term is defined under Bankruptcy Code section 101(31). No common identity of directors, managers, controlling shareholders, or members exists between the Debtors and the Buyer.

No Fraudulent Transfer

V. The consideration provided by the Buyer for the Purchased Assets pursuant to the Centric APA (i) is fair and reasonable, (ii) is the highest and best offer for the Purchased Assets, (iii) will provide a greater recovery for the Debtors' creditors and estates than would be provided by any other practical available alternative, and (iv) constitutes reasonably equivalent value and fair consideration under the Bankruptcy Code and under the laws of the United States, and each state, territory, possession and the District of Columbia.

W. The Centric APA was not entered into, and none of the Debtors or the Buyer has entered into the Centric APA or proposes to consummate the Sale Transaction, for the purpose of (i) escaping liability for any of the Debtors' debts or (ii) hindering, delaying or defrauding the Debtors' present or future creditors, for the purpose of statutory and common law fraudulent conveyance and fraudulent transfer claims whether under the Bankruptcy Code or under the laws of the United States, any state, territory, possession thereof or the District of Columbia or any other applicable jurisdiction with laws substantially similar to the foregoing.

Free and Clear

X. The transfer of the Purchased Assets to the Buyer will be legal, valid, and effective transfers of the Purchased Assets, and will vest the Buyer with all right, title, and interest of the Seller to the Purchased Assets free and clear of all claims, liens (including, without limitation, any statutory lien on real and personal property and any and all "liens" as that term is defined and used in the Bankruptcy Code, including section 101(37) thereof), liabilities, interests, rights and encumbrances, including, without limitation, the following: all mortgages, restrictions (including, without limitation, any restriction on the use, voting rights, transfer rights, claims for receipt of income or other exercise of any attributes of ownership), hypothecations, charges, indentures, loan agreements, instruments, leases, licenses, sublicenses, options, deeds of trust, security interests, equity interests, conditional sale rights or other title retention agreements, pledges, judgments, demands, rights of first refusal, consent rights, offsets, contract rights, rights of setoff, recoupment rights, rights of recovery, reimbursement rights, contribution claims, indemnity rights, exoneration rights, product liability claims, alter-ego claims, environmental rights and claims (including, without limitation, toxic tort claims), labor rights and claims, employment rights and claims, pension rights and claims, tax claims, regulatory violations by

any governmental entity, decrees of any court or foreign or domestic governmental entity, charges of any kind or nature, debts arising in any way in connection with any agreements, acts, or failures to act, reclamation claims, obligation claims, demands, guaranties, option rights or claims, rights, contractual or other commitment rights and claims, and all other matters of any kind and nature, whether known or unknown, choate or inchoate, filed or unfiled, scheduled or unscheduled, noticed or unnoticed, recorded or unrecorded, perfected or unperfected, allowed or disallowed, contingent or non-contingent, liquidated or unliquidated, matured or unmatured, material or non-material, disputed or undisputed, whether arising prior to or subsequent to the commencement of the Chapter 11 Cases, and whether imposed by agreement, understanding, law, equity or otherwise, including claims otherwise arising under any theory, law or doctrine of successor or transferee liability or related theories (all of the foregoing, including, without limitation, liens and liabilities, but excluding Assumed Liabilities, collectively being referred to in this Order as “Claims” and, as used in this Order, the term “Claims” includes, without limitation, any and all “claims” as that term is defined and used in the Bankruptcy Code, including section 101(5) thereof); provided, however, that such transfer shall not be free and clear of any Permitted Encumbrances.

Y. The Debtors, to the extent permitted by applicable law, may transfer the Purchased Assets free and clear of all Claims, other interests of any kind or nature whatsoever (“Interests”), and Encumbrances, other than any Permitted Encumbrances, including, without limitation, rights or claims based on any successor or transferee liability, because, in each case, one or more of the standards set forth in Bankruptcy Code section 363(f)(1)-(5) has been satisfied.

Z. Those (a) holders of Claims and (b) non-Debtor parties to the Assumed Contracts, who did not object or who withdrew their objections to the Motion, are deemed to have consented pursuant to section Bankruptcy Code 363(f)(2). Those (i) holders of Claims and (ii) non-Debtor parties to the Assumed Contracts who did object, fall within one or more of the other subsections of Bankruptcy Code section 363(f).

AA. Each of (i) the DIP Parties and (ii) the Prepetition Secured Parties (each as defined in the DIP Orders) has consented to the sale of the Purchased Assets to the Buyer pursuant to the Centric APA free and clear of any Claims, Interests, or Encumbrances (other than the Permitted Encumbrances) of the DIP Parties and the Prepetition Secured Parties against the Purchased Assets (the "Secured Lenders' Liens"), and any reference herein to Claims, Interests, or Encumbrances shall include the Secured Lenders' Liens.

BB. The Debtors have, to the extent necessary, satisfied the requirements of section 363(b)(1) of the Bankruptcy Code.

CC. The Buyer would not have entered into the Centric APA and would not consummate the transactions contemplated thereby, including, without limitation, the Sale Transaction and the assumption and assignment of the Assumed Contracts, (i) if the transfer of the Purchased Assets were not free and clear of all Claims, Interests, and Encumbrances (other than any Permitted Encumbrances), or (ii) if the Buyer would, or in the future could, be liable for any such Claims (other than any Permitted Encumbrances). The Buyer will not consummate the transactions contemplated by the Centric APA, including, without limitation, the Sale Transaction and the assumption and assignment of the Assumed Contracts, unless this Court expressly orders that none of the Buyer, its respective affiliates, its respective present or contemplated members or shareholders, or the Purchased Assets will have any liability

whatsoever (other than any Permitted Encumbrances) with respect to, or be required to satisfy in any manner, whether at law or equity, or by payment, setoff, or otherwise, directly or indirectly, any Claims.

DD. Not transferring the Purchased Assets free and clear of all Claims, Interests, and Encumbrances (other than any Permitted Encumbrances) would adversely impact the Debtors' efforts to maximize the value of their estates, and the transfer of the Purchased Assets other than pursuant to a transfer that is free and clear of all Claims, Interests, and Encumbrances (other than any Permitted Encumbrances) would be of substantially less benefit to the Debtors' estates.

EE. Neither the Buyer nor any of its affiliates are a mere continuation of the Debtors or their estates, there is no continuity or common identity between the Buyer, any of its affiliates and any of the Debtors, and there is no continuity of enterprise between the Buyer, any of its affiliates and any of the Debtors. Neither the Buyer nor any of its affiliates are holding themselves out to the public as a continuation of any of the Debtors. Neither the Buyer nor any of its affiliates are a successor to any of the Debtors or their estates and none of the transactions contemplated by the Centric APA, including, without limitation, the Sale Transaction and the assumption and assignment of the Assumed Contracts amounts to a consolidation, merger, or *de facto* merger of the Buyer or any of its affiliates with or into any of the Debtors.

FF. Without limiting the generality of the foregoing, and other than as may be set forth in the Centric APA, none of the Buyer, its affiliates, its and their respective present or contemplated members or shareholders, or the Purchased Assets will have any liability whatsoever with respect to, or be required to satisfy in any manner, whether at law or equity, or by payment, setoff, or otherwise, directly or indirectly, any Claims relating to any U.S. federal, state or local income tax liabilities, that the Debtors may incur in connection with consummation

of the transactions contemplated by the Centric APA, including, without limitation, the Sale Transaction and the assumption and assignment of the Assumed Contracts, or that the Debtors have otherwise incurred prior to the consummation of the transactions contemplated by the Centric APA.

Validity of Transfer

GG. The consummation of the transactions contemplated by the Centric APA, including, without limitation, the Sale Transaction and the assumption and assignment of the Assumed Contracts is legal, valid and properly authorized under all applicable provisions of the Bankruptcy Code, including, without limitation, Bankruptcy Code sections 105(a), 363(b), 363(f), 363(m), 365(b) and 365(f), and all of the applicable requirements of such sections have been complied with in respect of the transactions contemplated under the Centric APA.

HH. The Purchased Assets constitute property of the Debtors' estates and good title to the Purchased Assets of the Debtors is vested in the Debtors' estates within the meaning of Bankruptcy Code section 541(a). The Debtors are the sole and lawful owners of the Purchased Assets, and no other person has any ownership right, title, or interest therein.

II. The Centric APA has been duly and validly executed and delivered by the Debtors and, subject to the terms of the Centric APA, shall constitute a valid and binding obligation of the Debtors, enforceable against the Debtors in accordance with its terms. The Centric APA, the Sale Transaction, and the consummation thereof shall be specifically enforceable against and binding upon (without posting any bond) the Debtors and any chapter 7 or chapter 11 trustee appointed in these chapter 11 cases, and shall not be subject to rejection or avoidance by the foregoing parties or any other person.

JJ. The sale, conveyance, assignment and transfer of any personally identifiable information pursuant to the terms of the Centric APA and this Order complies with the terms of the Debtors' policy regarding the transfer of such personally identifiable information as of the Petition Date and, as a result, consummation of the Sale Transaction is permitted pursuant to section 363(b)(1)(A) of the Bankruptcy Code. Accordingly, appointment of a consumer privacy ombudsman in accordance with sections 363(b)(1) or 332 of the Bankruptcy Code is not required with respect to the Sale Transaction.

Assumed Contracts

KK. The assumption and assignment of the Assumed Contracts pursuant to the Assumption Notice, the terms of this Order and the Centric APA is integral to the transactions contemplated by the Centric APA and is in the best interests of the Debtors, their estates and creditors, and all other parties in interest, and represents a reasonable exercise of the Debtors' sound and prudent business judgment.

LL. Pursuant to the terms of the Centric APA and this Order, on or before the Closing Date, as applicable pursuant to the terms of this Order, the Debtors or the Buyer, as applicable, shall have, except as otherwise provided in the Centric APA or this Order, or as otherwise expressly agreed to between the Debtors or the Buyer, as applicable, and such counterparty: (i) cured, or provided adequate assurance of cure of, any monetary default existing as of and including the Closing Date under any of the Assumed Contracts, within the meaning of Bankruptcy Code section 365(b)(1)(A), (ii) provided compensation, or adequate assurance of compensation, to any party for actual pecuniary loss to such party resulting from a monetary default existing as of and including the Closing Date under any of the Assumed Contracts, within the meaning of Bankruptcy Code section 365(b)(1)(B), and (iii) provided adequate assurance of

future performance under the Assumed Contracts within the meaning of Bankruptcy Code sections 365(b)(1)(C), 365(b)(3) (to the extent applicable) and 365(f)(2)(B).

MM. The Buyer's License has continued in full force and effect, including following commencement of the Chapter 11 Cases, and will be an Assumed Contract upon consummation of the Sale Transaction, subject to the terms and conditions of the Centric APA.

Application of Proceeds

NN. Pursuant to the interim and final orders authorizing and approving the Debtors' debtor in possession financing and use of cash collateral [Docket Nos. 70 and 110] (together, the "DIP Orders"), the Purchased Assets constitute Cash Collateral, Prepetition Collateral and DIP Collateral (each as defined in the DIP Orders) and are subject to the Adequate Protection Liens, Prepetition Liens and DIP Liens (each as defined in the DIP Orders). Subject to the "Payment in Full" (as defined in the DIP Orders) of the Prepetition BAML Obligations (as defined in the DIP Orders), pursuant to DIP Orders and the DIP Loan Documents (as defined in the DIP Orders), the Debtors are required to apply all consideration received from the sale of the Purchased Assets as follows: first, to the holders of the DIP Obligations as of the date of the initial funding under the DIP Credit Facility (as defined in the DIP Orders) (or as otherwise agreed to between the Buyer and such holders of the DIP Obligations) until such time as such DIP Obligations are paid in full in cash (or as otherwise agreed by the DIP Agent as directed by the Required DIP Lenders (as defined in the DIP Loan Documents)) and all commitments to lend under the DIP Loan Documents have been terminated, and second, to the Prepetition Term B Agent (as defined in the DIP Orders) for distribution to the holders of the Prepetition Term B Obligations as of the Petition Date (or as otherwise agreed to between the Buyer and such holders of the Prepetition Term B Obligations) in accordance with the Prepetition Term B Credit Agreement (as defined in the DIP Orders) until the Prepetition Term B Obligations (as defined in the DIP Orders) have been paid in full in cash (or as otherwise agreed by the Prepetition Term B Agent (as defined in the DIP Orders) as directed by the Required Lenders (as defined in the Prepetition Term B Loan Documents)). The application of the consideration from the sale of the Purchased Assets pursuant to the immediately preceding sentence complies with the requirements of the DIP Orders and the DIP Loan Documents and is supported by good, sufficient and sound business

reasons.

Compelling Circumstances for an Immediate Sale

OO. To maximize the value of the Purchased Assets, it is essential that the transactions contemplated by the Centric APA, including, without limitation, the Sale Transaction and the assumption and assignment of the Assumed Contracts, occur within the time constraints set forth in the Centric APA. Time is of the essence in consummating the transactions contemplated by the Centric APA, including, without limitation, the Sale Transaction and the assumption and assignment of the Assumed Contracts. Accordingly, there is cause to waive the stays contemplated by Bankruptcy Rules 6004 and 6006.

PP. The Debtors have demonstrated compelling circumstances and a good, sufficient, and sound business purpose and justification for the immediate approval and consummation of the transactions contemplated by the Centric APA, including, without limitation, the Sale Transaction and the assumption and assignment of the Assumed Contracts prior to, and outside of, a chapter 11 plan because, among other things, the Debtors' estates will suffer irreparable harm if the relief requested in the Motion is not granted on an expedited basis. The transactions contemplated by the Centric APA, including, without limitation, the Sale Transaction and the assumption and assignment of the Assumed Contracts, neither impermissibly restructure the rights of the Debtors' creditors nor impermissibly dictates the terms of a chapter 11 plan for the Debtors, and therefore, do not constitute a *sub rosa* plan.

QQ. The legal and factual bases set forth in the Motion and the Herbert Declaration filed in support thereof, and presented at the Sale Hearing establish just cause for the relief granted herein.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED THAT:

General Provisions

1. The Motion is granted as provided herein, and entry into and performance under, and in respect of, the Centric APA attached hereto as **Exhibit 1** and the consummation of the transactions contemplated thereby, including, without limitation, the Sale Transaction and the assumption and assignment of the Assumed Contracts is authorized and approved.

2. Any objections and responses to the Motion or the relief requested therein that have not been withdrawn, waived, settled, or resolved, and all reservation of rights included in such objections and responses, are overruled on the merits and denied with prejudice. All persons and entities given notice of the Motion that failed to timely object thereto are deemed to consent to the relief granted herein, including for purposes of sections 363(f)(2), 365(c)(1), and 365(e)(2) of the Bankruptcy Code.

Approval of the Centric APA

3. The Centric APA, all ancillary documents, the transactions contemplated thereby, including, without limitation, the Sale Transaction and the assumption and assignment of the Assumed Contracts (but subject to the Buyer's rights with respect thereto pursuant to the Centric APA) and all the terms and conditions thereof, are approved. The failure specifically to include any particular provision of the Centric APA in this Order shall not diminish or impair the effectiveness of such provision, it being the intent of the Court that the Centric APA be authorized and approved in its entirety.

4. The Debtors and their respective officers, employees and agents are authorized and directed to take any and all actions necessary, appropriate or reasonably requested by the Buyer to perform, consummate, implement and close the Sale Transaction, including, without limitation, (a) the sale to the Buyer of all Purchased Assets, in accordance with the terms and

conditions set forth in the Centric APA and this Order; and (b) execution, acknowledgment and delivery of such deeds, assignments, conveyances and other assurance, documents and instruments of transfer and any action for purposes of assigning, transferring, granting, conveying and confirming to the Buyer, or reducing to possession, the Purchased Assets, all without further order of this Court. The Debtors are further authorized to pay, without further order of this Court, whether before, at or after the Closing Date, any expenses or costs that are required to be paid by the Debtors under the Centric APA, this Order or the Bidding Procedures Order, in order to consummate the Sale Transaction or perform their obligations under the Centric APA, including payment of the Centric Expense Reimbursement to the extent provided by the Centric APA and the Bidding Procedures Order.

5. All persons and entities, including, without limitation, the Debtors, the Debtors' estates, all debt security holders, equity security holders, governmental tax and regulatory authorities, lenders, customers, vendors, employees, former employees, litigation claimants, trustees, trade creditors, and any other creditors (or agent of any of the foregoing) who may or do hold Claims (whether legal or equitable, secured or unsecured, matured or unmatured, contingent or noncontingent, senior or subordinated) against the Debtors or the Purchased Assets owned by the Debtors, arising under or out of, in connection with, or in any way relating to, the Debtors, the Purchased Assets owned by the Debtors, the operation or ownership of the Purchased Assets by the Debtors prior to the Closing Date, or the Sale Transaction, are hereby prohibited, forever barred, estopped, and permanently enjoined from asserting or pursuing such Claims against Buyer, its affiliates, successors, assigns, its property or the Purchased Assets, including, without limitation, taking any of the following actions with respect to any Claims: (a) commencing or continuing in any manner any action, whether at law or in equity, in any judicial, administrative,

arbitral, or any other proceeding, against Buyer, its affiliates, successors, assigns, assets (including the Purchased Assets), and/or properties; (b) enforcing, attaching, collecting, or recovering in any manner any judgment, award, decree, or order against Buyer, its affiliates, successors, assigns, assets (including the Purchased Assets), and/or properties; (c) creating, perfecting, or enforcing any Claim against Buyer, its affiliates, any of their respective successors, assigns, assets (including the Purchased Assets), and/or properties; (d) asserting a Claim as a setoff, right of subrogation, or recoupment of any kind against any obligation due against Buyer, its affiliates or any of their respective successors or assigns; or (e) commencing or continuing any action in any manner or place that does not comply, or is inconsistent, with the provisions of this Order, the Centric APA, or the agreements or actions contemplated or taken in respect thereof, including the Debtors' ability to transfer the Purchased Assets to the Buyer in accordance with the terms of this Order and the Centric APA. No such Person shall assert or pursue against Buyer or its affiliates, successors or assigns any such Claim.

6. The sale of the Purchased Assets to the Buyer under the Centric APA constitutes a transfer for reasonably equivalent value and fair consideration under the Bankruptcy Code and laws of all applicable jurisdictions, including, without limitation, the laws of each jurisdiction in which the Purchased Assets are located, and the sale of the Purchased Assets to the Buyer may not be avoided under any statutory or common law fraudulent conveyance and fraudulent transfer theories whether under the Bankruptcy Code or under the laws of the United States, any state, territory, possession thereof or the District of Columbia or any other applicable jurisdiction with laws substantially similar to the foregoing.

7. In accordance with, and pursuant to, section 11.03 of the Centric APA, ~~at any time prior to the Closing Date,~~ Centric ~~may assign any or~~ assigned all of its rights and obligations

under the Centric APA (including the right to receive the Purchased Assets) ~~without~~to the ~~prior written consent of the Debtors and without further order of this Court to (a) one or more subsidiaries of Centric or (b) subject to the delivery to Seller of documentation reasonably establishing the creditworthiness of the applicable entity, to WH BUYER LLC (or any Affiliate (as defined in the Centric APA) thereof) or any joint venture between WH BUYER LLC (or any Affiliate thereof) and Centric (or any subsidiary thereof) (the “Assignee”).~~ Following such ~~assignment~~assignmentAccordingly, the Assignee shall have the benefit of all factual findings, orders, and other provisions of this Order related to the Buyer.

Transfer of the Purchased Assets Free and Clear

8. Pursuant to Bankruptcy Code sections 105(a) and 363(f), the Purchased Assets shall be sold free and clear of all Claims, Interests, and Encumbrances (other than any Permitted Encumbrances), including, for the avoidance of doubt, the Secured Lenders’ Liens, with all such Claims to attach to the proceeds of the Sale Transaction to be received by the Debtors with the same validity, force, priority and effect which they now have as against the Purchased Assets, subject to any claims and defenses the Debtors may possess with respect thereto; provided, however, that setoff rights will be extinguished to the extent there is no longer mutuality after the consummation of the Sale Transaction.

9. At Closing, all of the Debtors’ right, title and interest in and to, and possession of, the Purchased Assets shall be immediately vested in the Buyer pursuant to Bankruptcy Code sections 105(a), 363(b), and 363(f) free and clear of any and all Claims, Interests, and Encumbrances (other than any Permitted Encumbrances). Such transfer shall constitute a legal, valid, binding and effective transfer of, and shall vest the Buyer with good and marketable title to, the Purchased Assets. All person or entities, presently or on or after the Closing Date, in

possession of some or all of the Purchased Assets are directed to surrender possession of the Purchased Assets to the Buyer or its designees on the Closing Date or at such time thereafter as the Buyer may request.

10. This Order is and shall be binding upon and govern the acts of all entities, including, without limitation, all filing agents, filing officers, title agents, title companies, recorders of mortgages, recorders of deeds, registrars of deeds, registrars of patents, trademarks or other intellectual property, administrative agencies, governmental departments, secretaries of state, federal and local officials and all other persons and entities who may be required by operation of law, the duties of their office or contract, to accept, file, register or otherwise record or release any documents or instruments; and each of the foregoing persons and entities is hereby authorized to accept for filing any and all of the documents and instruments necessary and appropriate to consummate the Sale Transaction contemplated by the Centric APA.

11. Except as otherwise expressly provided in the Centric APA or this Order, all persons and entities (and their respective successors and assigns), including, but not limited to, all debt security holders, equity security holders, affiliates, foreign, federal, state and local governmental, tax and regulatory authorities, lenders, customers, vendors, employees, trade creditors, litigation claimants and other creditors holding Claims against the Debtors or the Purchased Assets arising under or out of, in connection with, or in any way relating to, the Debtors, the Debtors' predecessors or affiliates, the Purchased Assets, the ownership, sale or operation of the Purchased Assets prior to Closing or the transfer of the Purchased Assets to the Buyer, are hereby forever barred, estopped and permanently enjoined from asserting or prosecuting any cause of action or any process or other act or seeking to collect, offset, or recover on account of any Claims against the Buyer, its successors or assigns, their property or

the Purchased Assets. Following the Closing, no holder of any Claim or Encumbrance (other than Permitted Encumbrances) shall interfere with the Buyer's title to or use and enjoyment of the Purchased Assets based on or related to any such Claim or Encumbrance (other than Permitted Encumbrances), or based on any action or omission of the Debtors, including any action or omission the Debtors may take in the Chapter 11 Cases.

12. The Debtors are authorized and directed to execute such documents as may be necessary to release any Claims, Interests, or Encumbrances (other than Permitted Encumbrances) of any kind against the Purchased Assets as such Claims, Interests, or Encumbrances (other than Permitted Encumbrances) may have been recorded or may otherwise exist. If any person or entity that has filed financing statements, lis pendens or other documents or agreements evidencing Claims, Interests, or Encumbrances (other than Permitted Encumbrances) against or in the Purchased Assets shall not have delivered to the Debtors prior to the Closing of the Sale Transaction, in proper form for filing and executed by the appropriate parties, termination statements, instruments of satisfaction, releases of all Claims, Interests, or Encumbrances (other than Permitted Encumbrances) that the person or entity has with respect to the Purchased Assets, (a) the Debtors are hereby authorized and directed to execute and file such statements, instruments, releases and other documents on behalf of the person or entity with respect to the Purchased Assets; (b) the Buyer is hereby authorized to file, register or otherwise record a certified copy of this Order, which, once filed, registered or otherwise recorded, shall constitute conclusive evidence of the release of all such Claims, Interests, or Encumbrances (other than Permitted Encumbrances) against the Buyer and the applicable Purchased Assets; (c) the Debtors' creditors and the holders of any Claims, Interests, or Encumbrances (other than Permitted Encumbrances) are authorized and directed to execute such documents and take all

other actions as may be necessary to terminate, discharge or release their Claims, Interests, or Encumbrances (other than Permitted Encumbrances) in the Purchased Assets and (d) the Buyer may seek in this Court or any other court to compel appropriate parties to execute termination statements, instruments of satisfaction and releases of all such Claims, Interests, or Encumbrances (other than Permitted Encumbrances) with respect to the Purchased Assets. This Order is deemed to be in recordable form sufficient to be placed in the filing or recording system of each and every federal, state, or local government agency, department or office, and such agencies, departments and offices are authorized and directed to accept this Order for filing or recording. Notwithstanding the foregoing, the provisions of this Order authorizing the sale and assignment of the Purchased Assets free and clear of Claims, Interests, and Encumbrances (other than any Permitted Encumbrances) shall be self-executing, and none of the Debtors or the Buyer shall be required to execute or file releases, termination statements, assignments, consents or other instruments in order to effectuate, consummate and implement the provisions of this Order.

13. To the maximum extent permitted under applicable law, the Buyer shall be authorized, as of the Closing Date, to operate under any license, permit, registration and governmental authorization or approval of the Debtors with respect to the Purchased Assets, and all such licenses, permits, registrations and governmental authorizations and approvals are deemed to have been, and hereby are, directed to be transferred to the Buyer with respect to the Purchased Assets as of the Closing Date. To the extent the Buyer cannot operate under any such license, permit, registration and governmental authorization or approval in accordance with the previous sentence, such licenses, permits, registrations and governmental authorizations and approvals shall be in effect while the Buyer, with assistance from the Debtors (and at the Buyer's sole cost and expense), works promptly and diligently to apply for and secure all necessary

government approvals for new issuance of such licenses, permits, registrations and governmental authorizations and approvals to the Buyer.

14. No governmental unit (as defined in Bankruptcy Code section 101(27)) or any representative thereof may deny, revoke, suspend or refuse to renew any permit, license or similar grant relating to the operation of the Purchased Assets on account of the filing or pendency of the Chapter 11 Cases or the consummation of the Sale Transaction to the extent that any such action by a governmental unit or any representative thereof would violate Bankruptcy Code section 525.

No Successor or Transferee Liability

15. Upon the Closing Date, except as provided in the Centric APA, the entrance of this Order and the Centric APA shall mean that the Buyer (and any of its affiliates, successors, or assigns), as a result of any action taken in connection with the Centric APA, the consummation of the transactions contemplated by the Centric APA, including, without limitation, the Sale Transaction and the assumption and assignment of the Assumed Contracts, or the transfer or operation of the Purchased Assets, shall not be deemed to: (a) be a legal successor or successor employer to the Debtors, or otherwise be deemed a successor to the Debtors, and shall instead be, and be deemed to be, a new employer with respect to all federal or state unemployment laws, including any unemployment compensation or tax laws, or any other similar federal or state laws; (b) have, *de facto*, or otherwise, merged or consolidated with or into the Debtors; or (c) be an alter ego or a mere continuation or substantial continuation of the Debtors or the enterprise(s) of the Debtors, including, in the case of each of (a)-(c), without limitation, (x) within the meaning of any foreign, federal, state or local revenue law, pension law, the Employee Retirement Income Security Act, the Consolidated Omnibus Budget Reconciliation Act, the WARN Act (29 U.S.C. §§ 2101 et seq.) (“WARN”), Comprehensive Environmental Response Compensation and Liability Act (“CERCLA”), the Fair Labor Standard Act, Title VII of the Civil Rights Act of 1964 (as amended), the Age Discrimination and Employment Act of 1967 (as amended), the Federal Rehabilitation Act of 1973 (as amended), the National Labor Relations Act, 29 U.S.C. § 151, et seq. or (y) in respect of (i) any environmental liabilities, debts, claims or obligations arising from conditions first existing on or prior to the Closing Date (including, without limitation, the presence of hazardous, toxic, polluting, or contaminating substances or wastes), which may be asserted on any basis, including, without limitation, under CERCLA, (ii) any liabilities, penalties, costs, debts or obligations of or required to be paid by the Debtors for

any taxes of any kind for any period, labor, employment, or other law, rule or regulation (including, without limitation, filing requirements under any such laws, rules or regulations), or (iii) any products liability law or doctrine with respect to the Debtors' liability under such law, rule or regulation or doctrine.

16. Without limiting the generality of the foregoing, and except as otherwise provided in the Centric APA and this Order, neither the Buyer nor any of its affiliates shall have any responsibility for (a) any liability or other obligation of the Debtors related to the Purchased Assets or (b) any Claims against the Debtors or any of their predecessors or affiliates. By virtue of the Buyer's purchase of the Purchased Assets, neither the Buyer nor any of its affiliates shall have any liability whatsoever with respect to the Debtors' (or their predecessors' or affiliates') respective businesses or operations or any of the Debtors' (or their predecessors' or affiliates') obligations based, in whole or part, directly or indirectly, on any theory of successor or vicarious liability of any kind or character, or based upon any theory of antitrust, environmental (including, but not limited to CERCLA), successor or transferee liability, *de facto* merger or substantial continuity, labor and employment (including, but not limited to, WARN) or products liability law, whether known or unknown as of the Closing, now existing or hereafter arising, asserted or unasserted, fixed or contingent, liquidated or unliquidated, including any liabilities or non-monetary obligations on account of any settlement or injunction or any liabilities on account of any taxes arising, accruing or payable under, out of, in connection with, or in any way relating to the operation of the Purchased Assets prior to the Closing or such later time as Buyer is assigned and assumes any Assumed Contract (collectively, with the potential claims set forth in paragraph 15, "Successor or Transferee Liability"). The Buyer would not have acquired the Purchased Assets but for the foregoing protections against Successor or Transferee Liability.

17. None of the Buyer or its affiliates, successors, assigns, equity holders, employees or professionals shall have or incur any liability to, or be subject to any action by any of the Debtors or any of their estates, predecessors, successors or assigns, arising out of the negotiation, investigation, preparation, execution, delivery of the Centric APA and the entry into and consummation of the sale of the Purchased Assets, except as expressly provided in the Centric APA and this Order.

18. Nothing in this Order or the Centric APA shall require the Buyer or any of its affiliates to (a) continue or maintain in effect, or assume any liability in respect of any employee, collective bargaining agreement, pension, welfare, fringe benefit or any other benefit plan, trust arrangement or other agreements to which the Debtors are a party or have any responsibility therefor including, without limitation, medical, welfare and pension benefits payable after retirement or other termination of employment; or (b) assume any responsibility as a fiduciary, plan sponsor or otherwise, for making any contribution to, or in respect of the funding, investment or administration of any employee benefit plan, arrangement or agreement (including but not limited to pension plans) or the termination of any such plan, arrangement or agreement.

19. No bulk sales law or similar law of any state or other jurisdiction shall apply in any way to the transactions with the Debtors that are approved by this Order, including, without limitation, the Centric APA and the Sale Transaction.

Good Faith; Arm's Length Sale

20. The Centric APA has been negotiated and executed, and the transactions contemplated thereby, including, without limitation, the Sale Transaction, the assumption and assignment of the Assumed Contracts, are and have been undertaken, by Debtors, the Buyer and their respective representatives at arm's length, without collusion and in "good faith," as that term is defined in Bankruptcy Code section 363(m). Accordingly, the reversal or modification on appeal of the authorization provided herein to consummate the Sale Transaction shall not affect the validity of the Sale Transaction or any term of the Centric APA, and shall not permit the unwinding of the Sale Transaction. The Buyer is a good faith purchaser within the meaning of Bankruptcy Code section 363(m) and, as such, is entitled to the full protections of Bankruptcy Code section 363(m).

21. None of the Debtors or the Buyer has engaged in any conduct that would cause or permit the Centric APA or the transactions contemplated thereby, including, without limitation, the Sale Transaction, the assumption and assignment of the Assumed Contracts, to be avoided or costs, or damages or costs, to be imposed, under Bankruptcy Code section 363(n). The consideration provided by the Buyer for the Purchased Assets under the Centric APA is fair and reasonable, and the Sale Transaction may not be avoided under Bankruptcy Code section 363(n).

Assumption and Assignment of the Assumed Contracts

22. Except as otherwise expressly provided in the Centric APA or this Order, upon the Closing Date, pursuant to Bankruptcy Code sections 105(a), 363, and 365, the Debtors are authorized to (a) assume each of the Assumed Contracts and assign the Assumed Contracts, set forth in **Exhibit 2** (the "Assumed Contracts Exhibit") attached hereto, which may be subsequently modified at any time prior to the date that is twenty-one (21) days prior to the

Closing Date and upon Buyer's delivery of written notice to the Debtors, to add or remove certain contracts pursuant to the terms of the Centric APA, to the Buyer free and clear of all Claims, Interests, and Encumbrances (other than any Permitted Encumbrances) and (b) execute and deliver to the Buyer such documents or other instruments as may be reasonably requested by Buyer to assign and transfer the Assumed Contracts to the Buyer.

23. The Cure Costs (as defined in the Centric APA) listed on the Assumption Notice and Assumed Contracts Exhibit are the sole amounts necessary to be paid upon assumption of the Assumed Contracts under Bankruptcy Code sections 365(b)(1)(A) and (B) and 365(f)(2)(A). All Cure Costs, if any, shall be paid by the Buyer. Upon the payment of the Cure Costs, if any, by the Buyer, the Assumed Contracts shall remain in full force and effect, and no default shall exist under the Assumed Contracts nor shall there exist any event or condition which, with the passage of time or giving of notice, or both, would constitute such a default. The Cure Costs shall not be subject to further dispute or audit, including, without limitation, any based on performance prior to the Closing Date, irrespective of whether such Assumed Contract contains an audit clause. After the payment of the Cure Costs by the Buyer, none of the Debtors or the Buyer shall have any further liabilities to the counterparties to the Assumed Contracts other than the Debtors' obligations under the Assumed Contracts that accrue and become due and payable on or after the Closing Date.

24. In the event of a dispute as of, or after, the Closing Date regarding assumption and assignment or Cure Cost of any executory contract or unexpired lease proposed to be an Assumed Contract, the assumption and assignment of such executory contract or unexpired lease, and payment of any applicable Cure Costs, shall be made following the entry of an order of the Court resolving any such dispute (or upon the consensual resolution of such dispute as

may be agreed by the Buyer and such counterparty and, solely with respect to disputes regarding Cure Costs, the Debtors). Upon an election of the Buyer to designate an executory contract or unexpired lease as an Excluded Contract, the Buyer shall have no liability whatsoever to the counterparty to such executory contract or unexpired lease or the Debtors.

25. To the extent any non-Debtor counterparty to an Assumed Contract has failed to timely object to a proposed Cure Cost, such Cure Cost has been and shall be deemed to be finally determined as the Cure Cost listed on the Assumption Notice and Assumed Contracts Exhibit and any such non-Debtor counterparty shall be prohibited from challenging, objecting to, or denying the validity and finality of the Cure Cost at any time. The non-Debtor counterparty to an Assumed Contract is forever bound by the applicable Cure Cost and, upon payment of the Cure Costs as provided herein and in the Centric APA, is hereby enjoined from taking any action against Buyer with respect to any claim for cure under the Assumed Contract.

26. Any provisions in any Assumed Contract that prohibit or condition the assignment of such Assumed Contract or allow the party to such Assumed Contract to terminate, recapture, impose any penalty, condition on renewal or extension or modify any term or condition upon assignment of such Assumed Contract, constitute unenforceable anti-assignment provisions that are void and of no force and effect.

27. Any party that may have had the right to consent to the assignment of an Assumed Contract is deemed to have consented to such assignment, including for purposes of Bankruptcy Code sections 365(c)(1)(B) and 365(e)(2)(A)(ii) and otherwise, if such party failed to object to the assumption and assignment of such Assumed Contract.

28. Each Assumed Contract constitutes an executory contract or unexpired lease under the Bankruptcy Code and all requirements and conditions under Bankruptcy Code sections

363 and 365 for the assumption by the Debtors and assignment to the Buyer of the Assumed Contracts have been, or will be, satisfied. Upon the Buyer's assumption of the Assumed Contracts in accordance with the terms hereof, in accordance with Bankruptcy Code sections 363 and 365, (a) the Buyer shall be fully and irrevocably vested with all rights, title and interest of the Debtors under the Assumed Contracts, (b) the Buyer shall be deemed to be substituted for the Debtors as a party to the applicable Assumed Contracts, and (c) the Debtors shall be relieved, pursuant to Bankruptcy Code section 365(k), from any further liability under the Assumed Contracts.

29. The Buyer has demonstrated adequate assurance of future performance under the relevant Assumed Contracts within the meaning of Bankruptcy Code sections 365(b)(1)(C) and 365(f)(2)(B).

30. There shall be no rent accelerations, assignment fees, increases or any other fees charged to the Debtors or the Buyer as a result of the assumption, assignment and sale of the Assumed Contracts. Subject to the terms of the Centric APA, the validity of the transactions contemplated by the Centric APA, including, without limitation, the Sale Transaction and the assumption and assignment of the Assumed Contracts, shall not be affected by any dispute between any of the Debtors or their affiliates, and another party to an Assumed Contract regarding the payment of any amount. Upon assignment to the Buyer, the Assumed Contracts shall be valid and binding, in full force and effect and enforceable by the Buyer in accordance with their respective terms.

31. Pursuant to Bankruptcy Code sections 105(a), 363, and 365, all counterparties to the Assumed Contracts are forever barred and permanently enjoined from raising or asserting against the Debtors or the Buyer any assignment fee, default, breach or claim of pecuniary loss,

or condition to assignment, arising under or related to the Assumed Contracts existing as of and including the Closing Date under the Centric APA or arising by reason of the consummation of transactions contemplated by the Centric APA, including, without limitation, the Sale Transaction, the assumption and assignment of the Assumed Contracts.

32. All counterparties to the Assumed Contracts shall cooperate and expeditiously execute and deliver, upon the reasonable requests of the Buyer, and shall not charge the Debtors or the Buyer for any instruments, applications, consents or other documents which may be required or requested by any public or quasi-public authority or other party or entity to effectuate the applicable transfers in connection with the Sale of the Purchased Assets.

Application of Proceeds

33. Subject to the “Payment in Full” of the Prepetition BAML Obligations, the Debtors are authorized and directed to distribute the consideration received by the Debtors from the sale of the Purchased Assets as follows: first, to the holders of the DIP Obligations as of the date of the initial funding under the DIP Credit Facility (or as otherwise agreed to between the Buyer and such holders of the DIP Obligations) until such time as the DIP Obligations are paid in full in cash (or as otherwise agreed by the DIP Agent as directed by the Required Lenders) and all commitments to lend under the DIP Loan Documents have been terminated, and second, to the Prepetition Term B Agent for distribution to the holders of the Prepetition Term B Obligations as of the Petition Date (or as otherwise agreed to between the Buyer and such holders of the Prepetition Term B Obligations) in accordance with the Prepetition Term B Credit Agreement until the Prepetition Term B Obligations have been paid in full in cash (or as otherwise agreed by the Prepetition Term B Agent as directed by the Required Lenders). The application of the consideration from the sale of the ~~Transferred~~Purchased Assets pursuant to the

immediately preceding sentence complies with the requirements of the DIP Orders and the DIP Loan Documents and is supported by good, sufficient and sound business reasons.

Related Relief

34. Each and every federal, state and governmental agency or department, and any other person or entity, is hereby authorized to accept any and all documents and instruments in connection with or necessary to consummate the Sale Transaction contemplated by the Centric APA.

35. No governmental unit may revoke or suspend any right, license, copyright, patent, trademark or other permission relating to the use of the Purchased Assets sold, transferred or conveyed to the Buyer on account of the filing or pendency of these Chapter 11 Cases or the consummation of the sale of the Purchased Assets.

36. Except as expressly provided in the Centric APA, nothing in this Order shall be deemed to waive, release, extinguish or estop the Debtors or their estates from asserting, or otherwise impair or diminish, any right (including, without limitation, any right of recoupment), claim, cause of action, defense, offset or counterclaim in respect of any Excluded Asset.

37. All entities that are presently, or on the Closing Date may be, in possession of some or all of the Purchased Assets are hereby directed to surrender possession of the Purchased Assets to the Buyer on or prior to the Closing Date or such later date that such party and Buyer mutually agree.

38. To the extent this Order is inconsistent with any prior order or pleading filed in these Chapter 11 Cases related to the Motion, the terms of this Order shall govern. To the extent there is any inconsistency between the terms of this Order and the terms of the Centric APA, the terms of this Order shall govern.

39. This Order and the Centric APA shall be binding in all respects upon all pre-petition and post-petition creditors of the Debtors, all interest holders of the Debtors, all non-Debtor parties to the Assumed Contracts, any Court-appointed committee, all successors and assigns of the Debtors and their affiliates and subsidiaries, and any trustees, examiners, “responsible persons” or other fiduciaries appointed in these Chapter 11 Cases or upon a conversion of the Debtors’ cases to those under chapter 7 of the Bankruptcy Code, including a chapter 7 trustee, and the Centric APA and Sale Transaction shall not be subject to rejection or avoidance under any circumstances by any party. If any order under Bankruptcy Code section 1112 is entered, such order shall provide (in accordance with Bankruptcy Code sections 105 and 349) that this Order and the rights granted to the Buyer hereunder shall remain effective and, notwithstanding such dismissal, shall remain binding on parties in interest. For the avoidance of doubt, the Debtors’ inability to satisfy in full all administrative expense claims of the Debtors’ estates shall not be a basis for termination, rejection or avoidance (as applicable) of the Centric APA or the Sale Transaction.

40. This Court shall retain jurisdiction to, among other things, interpret, implement, and enforce the terms and provisions of this Order and the Centric APA, all amendments thereto and any waivers and consents thereunder and each of the agreements executed in connection therewith to which the Debtors are a party or which has been assigned by the Debtors to the Buyer, and to adjudicate, if necessary, any and all disputes concerning or relating in any way to the Sale Transaction, including any and all disputes with any counterparty to any executory contract or unexpired lease of the Debtors (including, without limitation, disputes with respect to assumption and assignment of any Assumed Contracts or any cure disputes) and any party that has, or asserts, possession, control or other rights in respect of any of the Purchased Assets;

provided, however, that, in the event the Court abstains from exercising or declines to exercise such jurisdiction with respect to the Centric APA, the Bidding Procedures Order, or this Order, such abstention, refusal, or lack of jurisdiction shall have no effect upon and shall not control, prohibit, or limit the exercise of jurisdiction of any other court having competent jurisdiction with respect to any such matter. This Court retains jurisdiction to compel delivery of the Purchased Assets, to protect the Debtor and its assets, including the Purchased Assets, against any Claims and successor and transferee liability and to enter orders, as appropriate, pursuant to Bankruptcy Code sections 105(a) or 363 (or other applicable provisions) necessary to transfer the Purchased Assets to the Buyer.

41. At any time prior to the Closing Date, the Buyer or the Debtors may terminate the Centric APA pursuant to the terms thereof without any penalty or liability to the Buyer or the Debtors (or their estates), except as set forth in the Centric APA.

42. The Centric APA and any related agreements, documents, or other instruments may be modified, amended or supplemented by the parties thereto and in accordance with the terms thereof, without further order of the Court.

43. This Order constitutes a final order within the meaning of 28 U.S.C. § 158(a). Notwithstanding any provision in the Bankruptcy Rules to the contrary, including but not limited to Bankruptcy Rules 6004(h) and 6006(d), the Court expressly finds there is no reason for delay in the implementation of this Order and, accordingly: (a) the terms of this Order shall be immediately effective and enforceable upon its entry; (b) the Debtors are not subject to any stay of this Order or in the implementation, enforcement or realization of the relief granted in this Order; and (c) the Debtors and the Buyer may, in their discretion and without further delay, take any action and perform any act authorized under this Order.

44. The Buyer shall not be required to seek or obtain relief from the automatic stay under Bankruptcy Code section 362, to give any notice permitted by the Centric APA or to enforce any of its remedies under the Centric APA or any other sale-related document. The automatic stay imposed by Bankruptcy Code section 362 is modified solely to the extent necessary to implement the preceding sentence; provided however, that this Court shall retain exclusive jurisdiction over any and all disputes with respect thereto.

45. The provisions of this Order are non-severable and mutually dependent.

46. Notwithstanding the provisions of Bankruptcy Rules 6004(h) and 6006(d) or any applicable provisions of the Local Rules, this Order shall not be stayed after the entry hereof, but shall be effective and enforceable immediately upon entry, and the 14-day stay provided in Bankruptcy Rules 6004(h) and 6006(d) is hereby expressly waived and shall not apply. Time is of the essence in closing the Sale Transaction and the Debtors and the Buyer intend to close the Sale Transaction as soon as practicable.

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

Exhibit 1

Centric APA

Exhibit 2

Assumed Contracts Exhibit

Exhibit 2B:

Redline comparison of APA re: Centric Brands, LLC

SECOND AMENDED AND RESTATED

ASSET PURCHASE AGREEMENT

by and among

CENTRIC BRANDS LLC,

as Buyer

and

JOE'S HOLDINGS LLC,

as Seller

~~September 23~~October 28, 2021

TABLE OF CONTENTS

		<u>PAGE</u>
ARTICLE 1 DEFINITIONS.....		1
SECTION 1.01	Definitions.....	1
SECTION 1.02	Construction.....	7
ARTICLE 2 PURCHASE AND SALE.....		8
SECTION 2.01	Purchase and Sale.....	8
SECTION 2.02	Assumed Liabilities.....	10
SECTION 2.03	Excluded Liabilities.....	10
SECTION 2.04	Excluded Assets.....	11
SECTION 2.05	Assignment of Contracts and Rights.....	11
SECTION 2.06	Purchase Price.....	12
SECTION 2.07	[Intentionally Omitted].....	12
SECTION 2.08	Purchase Price Allocation.....	12
SECTION 2.09	Good Faith Deposit.....	13
SECTION 2.10	Closing.....	13
ARTICLE 3 REPRESENTATIONS AND WARRANTIES OF SELLER.....		14
SECTION 3.01	Organization and Qualification.....	14
SECTION 3.02	Corporate Authorization.....	14 <u>15</u>
SECTION 3.03	Execution and Delivery; Enforceability.....	15
SECTION 3.04	Consents and Approvals.....	15
SECTION 3.05	No Conflicts.....	15
SECTION 3.06	Litigation.....	15
SECTION 3.07	Title to the Purchased Assets.....	16
SECTION 3.08	Intellectual Property.....	16
SECTION 3.09	Taxes.....	17
SECTION 3.10	Assumed Contracts.....	17
SECTION 3.11	No Other Representations or Warranties.....	18
ARTICLE 4 REPRESENTATIONS AND WARRANTIES OF BUYER.....		18
SECTION 4.01	Corporate Existence and Power.....	18
SECTION 4.02	Corporate Authorization.....	18
SECTION 4.03	Execution and Delivery; Enforceability.....	18
SECTION 4.04	No Conflicts.....	18
SECTION 4.05	Availability of Funds; Solvency.....	18 <u>19</u>
SECTION 4.06	Litigation.....	19
SECTION 4.07	Buyer's Knowledge.....	19
SECTION 4.08	Brokers.....	19
SECTION 4.09	Condition of Purchased Assets; Representations.....	19

ARTICLE 5 COVENANTS OF SELLER.....	20
SECTION 5.01 Conduct of the Business.....	20
SECTION 5.02 Access to Information.....	21
SECTION 5.03 Update of Disclosure Schedules.....	22
SECTION 5.04 Use of Name.....	22
SECTION 5.05 Notices of Certain Events.....	22
ARTICLE 6 COVENANTS OF BUYER.....	23
SECTION 6.01 Confidentiality.....	23
SECTION 6.02 Notices of Certain Events.....	23
SECTION 6.03 Preservation of Books and Records.....	23
SECTION 6.04 Insurance.....	23
SECTION 6.05 Communication.....	24
SECTION 6.06 Release.....	24
SECTION 6.07 Buyer’s Knowledge.....	24
ARTICLE 7 COVENANTS OF BUYER AND SELLER.....	24
SECTION 7.01 Further Assurances.....	24
SECTION 7.02 Certain Filings.....	25
SECTION 7.03 Public Announcements.....	25
SECTION 7.04 Tax Matters.....	25
SECTION 7.05 Misallocated Assets.....	26
SECTION 7.06 Pre-Closing Accounts Receivables; Payments after Closing.....	26
SECTION 7.07 Bulk Transfer Laws.....	27
SECTION 7.08 Bankruptcy Court Approval.....	27
SECTION 7.09 Bidding Protections.....	30
SECTION 7.10 Buyer’s License.....	30
ARTICLE 8 CONDITIONS TO CLOSING.....	30 <u>31</u>
SECTION 8.01 Conditions to Obligations of Buyer and Seller.....	30 <u>31</u>
SECTION 8.02 Conditions to Obligation of Buyer.....	31
SECTION 8.03 Conditions to Obligation of Seller.....	31
ARTICLE 9 SURVIVAL.....	32
SECTION 9.01 Survival.....	32
ARTICLE 10 TERMINATION.....	32
SECTION 10.01 Grounds for Termination.....	32
SECTION 10.02 Effect of Termination.....	33 <u>34</u>
SECTION 10.03 Costs and Expenses.....	34

ARTICLE 11 MISCELLANEOUS.....	3435
SECTION 11.01 Notices.....	3435
SECTION 11.02 Amendments and Waivers.....	3536
SECTION 11.03 Successors and Assigns.....	36
SECTION 11.04 Governing Law.....	36
SECTION 11.05 Jurisdiction.....	36
SECTION 11.06 WAIVER OF JURY TRIAL.....	37
SECTION 11.07 Counterparts; Third Party Beneficiaries.....	37
SECTION 11.08 Specific Performance.....	37
SECTION 11.09 Entire Agreement.....	3738
SECTION 11.10 No Strict Construction.....	38
SECTION 11.11 Severability.....	38
SECTION 11.12 Disclosure Schedules.....	38

EXHIBITS

Exhibit A	Form of Assignment and Assumption Agreements
Exhibit B	Form of Bills of Sale
Exhibit C	Form of Assignment of Trademarks
Exhibit D	Form of Assignment of Copyrights
Exhibit E	Form of Assignment of Domain Names
Exhibit F	Form of Assignment of Other Intellectual Property
Exhibit G	Milestones
Exhibit H	Bid Procedures Order

SCHEDULES

Schedule 1.01(a)	Knowledge of Seller
Schedule 2.01(a)	Trademarks
Schedule 2.01(c)	Domain Names, Websites and Social Media Handles
Schedule 2.01(d)	Copyrights
Schedule 2.05(a)	Assumed Contracts and Cure Costs
Schedule 3.04	Consents and Approvals
Schedule 3.06	Litigation
Schedule 3.08(g)	Certain Intellectual Property Contracts
Schedule 5.01	Conduct of the Business

SECOND AMENDED AND RESTATED ASSET PURCHASE AGREEMENT

THIS **SECOND** AMENDED AND RESTATED ASSET PURCHASE AGREEMENT dated as of ~~September 23~~October 28, 2021 (the “**Agreement**”), is made and entered into by and between Centric Brands LLC, a Delaware limited liability company (“**Buyer**”) and Joe’s Holdings LLC, a Delaware limited liability company (the “**Company**” or “**Seller**”). Seller and Buyer are sometimes referred to collectively herein as the “**Parties**” and individually as a “**Party**”. Capitalized terms used herein and not otherwise defined herein have the meanings set forth in Article 1.

W I T N E S E T H:

WHEREAS, on August 31, 2021, the Parties entered into that certain Asset Purchase Agreement (the “**Original Agreement**”);

WHEREAS, on September 23, 2021, the Parties entered into that certain Amended and Restated Asset Purchase Agreement (the “Amended and Restated Agreement”);

WHEREAS, the Parties wish to amend and restate the ~~Original~~Amended and Restated Agreement in its entirety as set forth herein;

WHEREAS, subject to the terms and conditions set forth in this Agreement, Seller desires to sell, assign, transfer, and convey to Buyer, and Buyer desires to, and shall, (i) purchase and acquire from Seller, all of Seller’s right, title and interest in and to the Purchased Assets (as defined below) and (ii) assume all of the Assumed Liabilities (as defined below); and

WHEREAS, Seller, and certain of its affiliates (the “**Debtors**”) intend to seek relief under Chapter 11 of Title 11, §§ 101-1330 of the United States Code (as amended, the “**Bankruptcy Code**”) by filing cases (the “**Chapter 11 Cases**”) in the United States Bankruptcy Court for the District of Delaware (the “**Bankruptcy Court**”) and to seek approval of the Bankruptcy Court to consummate the transactions contemplated by this Agreement.

NOW, THEREFORE, in consideration of the premises and the mutual promises herein made, and in consideration of the foregoing and of the representations, warranties, covenants, agreements and conditions herein contained, the receipt and sufficiency of which are hereby acknowledged, the Parties, intending to be legally bound hereby, agree as follows:

ARTICLE 1

DEFINITIONS

SECTION 1.01 *Definitions.*

(a) The following terms, as used herein, have the following meanings:

“**Action**” means any claim, action, suit, arbitration or proceeding by or before any Governmental Authority.

“**Affiliate**” means, with respect to any Person, another Person that, directly or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with, such Person, where “control” means the possession, directly or indirectly, of the power to direct the management and policies of a Person whether through the ownership of voting securities, by contract or otherwise. For the avoidance of doubt, ownership of more than fifty percent (50%) of the voting securities shall be deemed to be “control” for purposes of this definition.

“**Alternative Transaction**” means any reorganization, merger, transaction, consolidation, business combination, joint venture, partnership, sale of assets, financing (debt or equity), or restructuring or similar transaction of or by Seller involving any of the Purchased Assets; provided, however, that an Alternative Transaction shall not include (a) after the entry of the Bid Procedures Order, a sale for the Purchased Assets determined by the Debtors to be higher or otherwise better in accordance with the Bid Procedures (as defined in the Bid Procedures Order), or (b) pursuit of confirmation of a Chapter 11 plan of liquidation, confirmation of which plan shall take place solely following the Bankruptcy Court’s entry of the Sale Order, with the occurrence of any “effective date” or similar concept under such plan subject to the occurrence of the Closing Date.

“**Auction**” means any auction for the sale of Debtors’ assets conducted pursuant to the terms and conditions of the Bid Procedures and the Bid Procedures Order.

“**Backup Bidder**” has the meaning set forth in the Bid Procedures Order.

“**Bankruptcy Rules**” means the Federal Rules of Bankruptcy Procedure.

“**Bid Procedures**” means the bidding procedures for the solicitation and submission of bids for a sale, reorganization, or other disposition of the Debtors, any portion of, or all or substantially all of their assets approved by the Bankruptcy Court pursuant to the Bid Procedures Order.

“**Bid Procedures Motion**” means the motion seeking entry of the Bid Procedures Order and the Sale Order.

“**Bid Procedures Order**” means an order of the Bankruptcy Court in the form attached hereto as Exhibit H that, among other things, approves (a) the Bid Procedures, (b) bid protections granted to Buyer, including the Expense Reimbursement and provides that such bid protections shall constitute allowed administrative expenses of Debtors’ estates under section 503(b) of the Bankruptcy Code, (c) the form and manner of notice of auction(s), sale transaction(s), and hearing(s), (d) the procedures for assumption and assignment of the Assumed Contracts, and (e) the date for auction(s), if necessary; with any material changes thereto in form and substance reasonably acceptable to Buyer.

“**Brand**” means the Joe’s Jeans brand.

“**Business**” means all activities by Seller or any Affiliate of Seller associated with the ownership, licensing, and marketing of the Purchased Assets.

“**Business Day**” means a day other than Saturday, Sunday or other day on which commercial banks in New York, New York are authorized or required by law to close.

“**Buyer’s License**” means the Joe’s Jeans Sportswear and Jeanswear License between Sequential Brands Group, Inc. and Centric West LLC (as successor to GBG USA Inc.), dated as of September 1, 2015, as amended.

“**Causes of Action**” means any Claim, action, suit, arbitration or proceeding by or before any Governmental Authority.

“**Claim**” means a “claim” as defined in Section 101 of the Bankruptcy Code.

“**Closing Date**” means the date of the Closing.

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

“**Confidentiality Agreement**” means the Confidentiality and Nondisclosure Agreement, dated April 29, 2021 by and between Blackstone Alternative Credit Advisors LP and the Company.

“**Contract**” means any contract, agreement, license, sublicense, sales order, purchase order, instrument or other commitment, that is binding on any Person under applicable Law.

“**COVID-19**” means SARS-CoV-2 or COVID-19, and any evolutions thereof or related or associated epidemics, pandemic or disease outbreaks.

“**Cure Costs**” means with respect to any Assumed Contract, the Liabilities that must be paid or otherwise satisfied to cure all monetary defaults under such Assumed Contract to the extent required by Section 365(b) of the Bankruptcy Code.

“**Customer Information**” means all customer lists and other customer data primarily related to the Business (subject to any restrictions on the transfer of such information arising under privacy Laws or privacy policies of the Seller or without providing notice or obtaining the consent of the applicable customer; provided, that Buyer and Seller shall mutually agree upon a process for providing any such notices or obtaining such consents after the date of this Agreement, to the extent applicable).

“**Disclosure Schedules**” means the Disclosure Schedules attached hereto, as may be supplemented and amended pursuant to Section 5.03.

“**Encumbrance**” means any mortgage, lien, pledge, security interest, charge, easement, covenant, right of way, claim, title defect, or other survey defect.

“**Excluded Contract**” means any Contract of Seller that is not an Assumed Contract.

“**Expense Reimbursement**” means an amount in cash equal to the lesser of (a) \$200,000 and (b) all reasonable and documented out-of-pocket third-party expenses actually incurred by

Buyer in connection with the negotiation of this Agreement and the transactions contemplated hereby.

“**Final Order**” means a judgment or Order of the Bankruptcy Court (or any other court of competent jurisdiction) entered by the clerk of the Bankruptcy Court (or such other court) on the docket in the Chapter 11 Cases (or the docket of such other court), which has not been modified, amended, reversed, vacated or stayed (other than such modifications or amendments that are consented in writing to by Buyer); provided that the possibility that a motion under Rule 60 of the Federal Rules of Civil Procedures, or any analogous rule under the Federal Rules of Bankruptcy Procedure, may be filed relating to such Order, shall not cause an Order not to be a Final Order.

“**Governmental Authority**” means any (a) multinational, federal, state, municipal, local or other governmental or public department, court, tribunal, bureau, agency or instrumentality of government, domestic or foreign, (b) any subdivision or authority of any of the foregoing or (c) any regulatory or administrative authority.

“**Intellectual Property**” means any and all intellectual property of every kind, whether protected or arising under the Laws of the United States or any other jurisdiction, including all intellectual or industrial property rights in any of the following: (a) the Trademarks, Domain Names and Copyrights, and all rights under Contracts relating to the foregoing and (b) all other intellectual property owned by Seller as of the Closing Date that is used or held for use by Seller primarily in the conduct of the Business, including (i) any inventions (whether patentable or not and whether reduced to practice or not), (ii) patents, (iii) patent applications, and (iv) copies of all advertising, marketing, proof of sales, and creative and promotional material, in each case, to the extent the intellectual property described in this definition is primarily related to the Business; provided, however, for the avoidance of doubt, that the intellectual property described in the foregoing clause (b) shall be limited to such intellectual property that is owned by Seller as of the Closing Date (all such intellectual property described in the foregoing clause (b), the “**Other Intellectual Property**”).

“**Knowledge of Seller**” means the actual knowledge of the individuals set forth on Schedule 1.01(a) hereto.

“**Law**” means any law, treaty, statute, ordinance, code, decree, Order, rule or regulation of any Governmental Authority.

“**Liability**” means any and all debts, liabilities, commitments and obligations of any kind, whether fixed, contingent or absolute, matured or unmatured, liquidated or unliquidated, accrued or not accrued, asserted or not asserted, known or unknown, determined, determinable or otherwise, whenever or however arising (including, whether arising out of any Contract or tort based on negligence or strict liability) and whether or not the same would be required to be reflected in financial statements or disclosed in the notes thereto.

“**Material Adverse Effect**” means any change, effect, event, circumstance, occurrence or state of facts that, individually or in the aggregate, (a) would be reasonably likely to prevent or materially delay or materially impair the ability of Seller to consummate the transactions

contemplated by this Agreement, or (b) has had or would reasonably be expected to have a material adverse effect on the Purchased Assets, taken as a whole, excluding, however, for purposes of clause (b) only, any change, effect, event, circumstance, occurrence or state of facts that results from or arises out of: (i) the execution and delivery of this Agreement or the announcement thereof or the pendency or consummation of the transactions contemplated by this Agreement and the other Transaction Documents; (ii) general changes or developments in global or national political, economic, business, monetary, financial or capital or credit market conditions or trends; (iii) general political, economic, business, monetary, financial or capital or credit market conditions or trends (including interest rates); (iv) geopolitical conditions or any outbreak or escalation of hostilities, acts of terrorism or war, civil unrest, epidemic, pandemic, disease outbreak or other health crisis or public health event (including COVID-19), regional, national or international emergency, earthquakes, floods, hurricanes, tornadoes, wildfires, natural disasters or any other acts of God or similar force majeure events, or any escalation or worsening of the foregoing; (v) the failure of the financial or operating performance of Seller or its business to meet internal, Buyer or analyst or other external projections, forecasts or budgets for any period (it being understood that the underlying cause of such failure to meet such projections and forecasts may be taken into account in determining whether a Material Adverse Effect has occurred); (vi) any action taken or omitted to be taken after the date hereof by or at the written request of Buyer, or in compliance with the express covenants and agreements contained in this Agreement; (vii) changes in (or proposals to change) Laws or accounting regulations or principles; (viii) any existing event, occurrence or circumstance that relates to Buyer's License and of which Buyer has knowledge as of the date hereof; or (ix) the Chapter 11 Cases, including the Auction and any announced liquidation of Seller or any of its assets; provided, that any change, effect, event, circumstance, occurrence or state of facts described in clauses (ii), (iii), (iv) and (vii) shall be taken into account in determining whether a Material Adverse Effect has occurred or would reasonably be expected to occur to the extent that such change, effect, event, circumstance, occurrence or state of facts has a materially disproportionate effect on the Purchased Assets, taken as a whole, as compared to the effects on other participants in the same industry as Seller.

"Milestones" means the milestones set forth on Exhibit G.

"Order" means any award, writ, injunction, judgment, order, ruling, decision, subpoena, precept, directive, consent, approval, award, decree or similar determination or finding entered, issued, made or rendered by any Governmental Authority.

"Permitted Encumbrances" means the following Encumbrances: (a) Encumbrances for Taxes, assessments or other governmental charges or levies that are not yet due or payable or that are being contested in good faith by appropriate Causes of Action; (b) Encumbrances that will be released at the Closing with no Liability to Buyer or its Affiliates; (c) Encumbrances incurred by or at the written direction of Buyer at the Closing; and (d) outbound Intellectual Property licenses, covenants not to sue and similar rights that are subject to Section 365(n) of the Bankruptcy Code or other outbound non-exclusive licenses to Intellectual Property entered into in the ordinary course of business that are in each case Assumed Contracts hereunder.

"Person" means any individual, corporation (including any non-profit corporation), partnership, limited liability company, joint venture, unincorporated organization, estate, trust,

association, organization or other legal entity or group (as defined in Section 13(d)(3) of the Securities Exchange Act of 1934, as amended) or Governmental Authority.

“Pre-Closing Tax Period” means any taxable period ending on or before the Closing Date and, with respect to any Straddle Period, the portion of such taxable period ending on and including the Closing Date.

“Sale Order” means an Order by the Bankruptcy Court, in form and substance reasonably acceptable to Buyer and Seller, among other things, (a) approving this Agreement, (b) authorizing the sale of the Purchased Assets to Buyer pursuant to section 363 of the Bankruptcy Code, pursuant to the terms and conditions set forth herein, free and clear of any Encumbrances (other than Permitted Encumbrances), (c) authorizing the assumption and assignment to Buyer of the Assumed Contracts and the Assumed Liabilities pursuant to section 365 of the Bankruptcy Code and (d) authorizing the other transactions contemplated by this Agreement.

“Successful Bidder” has the meaning set forth in the Bid Procedures Order.

“Tax” means (a) all federal, state, local or foreign income, gross receipts, franchise, estimated, alternative minimum, add-on minimum, sales, use, transfer, real property gains, registration, value added, excise, natural resources, severance, stamp, occupation, premium, windfall profit, environmental, customs, duties, real property, special assessment, personal property, capital stock, social security, unemployment, disability, payroll, license, employee or other withholding tax, or any other taxes, fees, assessments or charges of any kind whatsoever including any interest, penalties or additions to tax or additional amounts in respect of the foregoing; (b) any Liability for payment of amounts described in clause (a), whether as a result of transferee Liability, of being a member of an affiliated, consolidated, combined or unitary group for any period or otherwise through operation of law; and (c) any Liability for the payment of amounts described in clauses (a) or (b) as a result of any tax sharing, tax indemnity, tax receivable or tax allocation agreement or express or implied obligation (other than any such agreement or obligation entered into in the ordinary course of business that is not primarily related to Taxes).

“Tax Return” means any report, return, election, extension or similar document (including schedules or any related or supporting information) filed or required to be filed with respect to Taxes with any Governmental Authority or other authority in connection with the determination, assessment or collection of any Tax or the administration of any Laws or administrative requirements relating to any Tax, including any information return, claim for refund, amended return or declaration of estimated Taxes.

“Transaction Document” means this Agreement, Assignment Agreements, Bills of Sale, Assignment of Trademarks, Assignment of Copyrights, Assignment of Domain Names and any other agreements, instruments or documents entered into pursuant to, or as contemplated by, this Agreement.

“Transfer Taxes” means any sales, use, property transfer or gains, documentary, stamp, registration, intangible, conveyance, recording or similar Tax (including, for certainty, goods and services tax and harmonized sales tax) and any recording costs or fees, however styled or

designated, or other amounts in the nature of transfer Taxes payable in connection with the sale or transfer of the Purchased Assets, including the filing costs, attorneys' fees, and processing fees associated with the transfer and recordation of the Purchased Intellectual Property.

(b) Each of the following terms is defined in the Section set forth opposite such term:

<u>Term</u>	<u>Section</u>
Agreement	Preamble
Allocation Schedule	Section 2.08
Assignment of Trademarks	Section 2.10(a)(iv)
Assignment of Copyrights	Section 2.10(a)(iv)
Assignment of Domain Names	Section 2.10(a)(iv)
Assumed Contracts	Section 2.01(b)
Assumed Liabilities	Section 2.02
Assignment and Assumption Agreements	Section 2.10(a)(ii)
Assignment of Other Intellectual Property	Section 2.10(a)(iv)
Bankruptcy and Equity Exception	Section 3.03
Bankruptcy Code	Recitals
Bankruptcy Court	Recitals
Bills of Sale	Section 2.10(a)(iii)
Buyer	Preamble
Cash Consideration	Section 2.06
Chapter 11 Cases	Recitals
Closing	Section 2.10
Company	Preamble
Copyrights	Section 2.01(d)
Debtors	Preamble
Domain Names	Section 2.01(c)
End Date	Section 10.01(b)
Excluded Liabilities	Section 2.03
Excluded Records	Section 2.01(f)
Good Faith Deposit	Section 2.09(a)
Original Agreement	Recitals
Party or Parties	Preamble
Petition Date	Section 7.08(a)
Purchased Assets	Section 2.01
Purchased Intellectual Property	Section 3.08(a)
Purchase Price	Section 2.06
Seller	Preamble
Straddle Period	Section 7.04(a)(i)
Surviving Post-Closing Covenants	Section 9.01
Trademarks	Section 2.01(a)
William Rast APA	Section 2.06

SECTION 1.02 *Construction.* In construing this Agreement, including the Exhibits and Schedules hereto, the following principles shall be followed: (a) the terms “herein,” “hereof,” “hereby,” “hereunder” and other similar terms refer to this Agreement as a whole and not only to

the particular Article, Section or other subdivision in which any such terms may be employed unless otherwise specified; (b) except as otherwise set forth herein, references to Articles, Sections, Schedules and Exhibits refer to the Articles, Sections, Schedules and Exhibits of this Agreement, which are incorporated in and made a part of this Agreement; (c) a reference to any Person shall include such Person's successors and assigns; (d) the word "includes" and "including" and their syntactical variants mean "includes, but is not limited to" and "including, without limitation," and corresponding syntactical variant expressions; (e) a defined term has its defined meaning throughout this Agreement, regardless of whether it appears before or after the place in this Agreement where it is defined, including in any Schedule; (f) the word "dollar" and the symbol "\$" refer to the lawful currency of the United States of America; (g) unless the context of this Agreement clearly requires otherwise, words importing the masculine gender shall include the feminine and neutral genders and vice versa, (h) the words "to the extent" shall mean "the degree by which" and not "if"; (i) the word "will" will be construed to have the same meaning and effect as the word "shall," and the words "shall," "will," or "agree(s)" are mandatory, and "may" is permissive, (j) where a word is defined herein, references to the singular will include references to the plural and vice versa, (k) all references to a day or days will be deemed to refer to a calendar day or calendar days, as applicable, unless Business Days are expressly specified, (l) any reference to any agreement or Contract will be a reference to such agreement or Contract, as amended, modified, supplemented or waived; (m) any reference to any particular Code section or any Law will be interpreted to include any amendment to, revision of or successor to that section or Law regardless of how it is numbered or classified; provided that, for the purposes of the representations and warranties set forth herein, with respect to any violation of or non-compliance with, or alleged violation of or non-compliance, with any Code section or Law, the reference to such Code section or Law means such Code section or Law as in effect at the time of such violation or non-compliance or alleged violation or non-compliance; (n) references to "written" or "in writing" include in electronic form; (o) the headings contained in this Agreement and the other Transaction Documents are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement and the other Transaction Documents; (p) 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 shall be excluded and if the last day of such period is not a Business Day, the period shall end on the next succeeding Business Day; and (q) the word "or" shall not be exclusive.

ARTICLE 2

PURCHASE AND SALE

SECTION 2.01 *Purchase and Sale*. Subject to the entry of the Bid Procedures Order and the Sale Order and upon the terms and subject to the conditions of this Agreement and the Sale Order, on the Closing Date, Seller shall sell, transfer, assign, convey and deliver, or cause to be sold, transferred, assigned, conveyed and delivered, to Buyer, and Buyer shall purchase, acquire and accept from Seller, free and clear of all Encumbrances (other than Permitted Encumbrances), all of Seller's right, title and interest in the following assets, properties, interests and rights (collectively, the "**Purchased Assets**"), other than, for the avoidance of doubt, the Excluded Assets, which, notwithstanding the foregoing provisions of this Section 2.01 to the contrary, will remain, as applicable, the assets, properties, interests and rights of Seller:

(a) all trademarks and service marks owned by Seller and all registrations, renewals and applications therefor as set forth on Schedule 2.01(a) and, in each case, all worldwide rights, title and interest associated with the foregoing, together with the goodwill associated with any of the foregoing, in each case, that are primarily associated with the Brand (collectively, the “**Trademarks**”);

(b) all Contracts set forth on Schedule 2.05(b) (as described below), under the heading “Assumed Contracts” (collectively, the “**Assumed Contracts**”);

(c) the domain names, websites, and social media handles owned by Seller that are utilized in connection with the Business, including related passwords (collectively, the “**Domain Names**”), as set forth on Schedule 2.01(c);

(d) all copyrights (registered or unregistered), designs, patterns, sketches, works of authorship, creations or drawings owned by Seller and relating to products developed, manufactured, marketed or sold by Seller primarily in connection with the Trademarks or the Business, including the applications and registrations thereof set forth on Schedule 2.01(d) (collectively, the “**Copyrights**”);

(e) all Other Intellectual Property;

(f) subject to the first proviso in this Section 2.01(f), Seller’s books and records, to the extent exclusively related to the Business, including all corporate records, executed copies of the Assumed Contracts, all technical information and data, databases, computer files, schematics, all filings made with or records required to be kept by any Governmental Authority, all research and development reports, all financial and accounting records, all creative, promotional or advertising materials, and any other ledgers, files, documents, correspondence and business records relating to the foregoing; provided, however, in no event shall any books and records of any kind or medium, communications, corporate records, minute books, emails, correspondence or any other transmission, records or materials that, in each case, are related to the sale of the Business or the Purchased Assets by Seller, including, without limitation, the transactions contemplated by this Agreement, the negotiation thereof and hereof and the consummation of the transactions contemplated hereby, constitute Purchased Assets and shall instead constitute “Excluded Assets” (as defined below) (such excluded records, the “**Excluded Records**”); provided, further, that Seller shall be entitled to retain a copy of such books and records described in this Section 2.01(f) that constitute Purchased Assets for recordkeeping purposes, which such copies shall be kept confidential by Seller, except such obligation shall not apply (x) to any information that becomes generally available to the public or (y) to the extent disclosure of such information is required by Law or pursuant to any Order; provided, that Seller will provide Buyer with prior written notice of any disclosure required by Law or pursuant to any Order and, where applicable and reasonably requested by Buyer and at Buyer’s sole cost and expense, will use commercially reasonable efforts to cooperate with Buyer to obtain a protective order or other confidential treatment or otherwise limit the scope of information that is required to be disclosed, and Seller shall only disclose that portion of such information as Seller is legally required to disclose.

(g) other than as set forth in Section 2.01(i), all claims (including counterclaims), rights, causes of action, privileges, demands, indemnification rights, and defense rights of Seller, in each case, to the extent related to Buyer's ownership, licensing, and marketing of the Purchased Assets, whether arising or related to periods before, at or following the Closing;

(h) all associated income, royalties, damages, and payments due from or payable by any third party, in each case, solely to the extent arising (in whole or in part, but if in part, only to the extent of such part) after the Closing and exclusively related to Buyer's ownership, licensing, and marketing of the Purchased Assets, including under the Assumed Contracts, following the Closing;

(i) all accounts receivable and other receivables arising under or pursuant to any Assumed Contract solely to the extent arising (in whole or in part, but if in part, only to the extent of such part) after the Closing and exclusively related to Buyer's ownership, licensing, and marketing of the Purchased Assets following the Closing, it being understood and agreed that none of Seller's right to, interest in or entitlement to any fees, payments or any other amounts payable to Seller by Buyer in its capacity as a licensee under Buyer's License that relate to the provision of any license thereunder prior to the Closing and that remain unpaid as of the Closing shall be included in Purchased Assets or be offset or credited by Buyer against any amounts payable under Buyer's License following the Closing; and

(j) all Customer Information.

SECTION 2.02 *Assumed Liabilities.* Upon the terms and subject to the conditions of this Agreement, Buyer agrees, effective at the time of the Closing, to assume the following Liabilities of Seller (the "**Assumed Liabilities**"):

(a) all Liabilities of Seller relating to or arising out of the Assumed Contracts solely to the extent arising (in whole or in part, but if in part, only to the extent of such part) after the Closing;

(b) all Cure Costs related to the Assumed Contracts;

(c) all Liabilities relating to or arising out of the Purchased Assets solely to the extent arising (in whole or in part, but if in part, only to the extent of such part) after the Closing; and

(d) any and all Liabilities for Transfer Taxes, if any.

For the avoidance of doubt, the fact that a Liability may be excluded under one clause of this Section 2.02 does not imply that it is not intended to be included under another clause.

SECTION 2.03 *Excluded Liabilities.* Notwithstanding any provision in this Agreement to the contrary, Buyer shall not assume or be liable for hereunder any Liabilities of Seller other than the Assumed Liabilities, and Seller shall retain and be responsible for all other Liabilities of Seller (other than the Assumed Liabilities), including the following (collectively, the "**Excluded Liabilities**"):

(a) any and all Liabilities for Taxes (other than Transfer Taxes) (i) of or imposed on Seller (or any member or Affiliate of Seller) or (ii) related or attributable to (but solely to the extent related or attributable to) the Purchased Assets or the Business for any Pre-Closing Tax Period (including any Taxes with respect to a Straddle Period allocated to Seller pursuant to Section 7.04(a));

(b) any indebtedness for borrowed money, bank loans or facilities or any other debt instruments of Seller;

(c) all Liabilities related to any Action to the extent relating to the ownership or operation of the Purchased Assets or the Business prior to the Closing Date;

(d) all Liabilities under the Assumed Contracts arising prior to the Closing Date to the extent relating to the period prior to the Closing Date;

(e) all Liabilities arising under or relating to any Excluded Asset;

(f) any brokerage, commission, finders or similar fees, which is payable in connection with the transactions contemplated by this Agreement or otherwise, pursuant to any arrangement entered into by Seller or any Affiliate thereof; and

(g) all Liabilities relating to any employee or consultant of Seller or any of its Affiliates, whether arising before, on or following the Closing Date.

SECTION 2.04 *Excluded Assets.* Notwithstanding anything contained in Section 2.01 to the contrary, Seller is not selling, and Buyer is not purchasing, any assets other than those specifically listed or described in Section 2.01 (including the Excluded Contracts and the Excluded Records, such assets that are not Purchased Assets, the “**Excluded Assets**”). For the avoidance of doubt, all Intellectual Property of Seller that is not Purchased Intellectual Property is excluded from Purchased Assets.

SECTION 2.05 *Assignment of Contracts and Rights.*

(a) Schedule 2.05(a) sets forth a list of all Assumed Contracts to which Seller is party and that Buyer intends to have Seller assume and assign to Buyer on the Closing Date, together with the applicable Cure Costs, if any, for each such Assumed Contract as reasonably estimated in good faith by Seller. At any time prior to the date that is twenty-one (21) days prior to the Closing Date, Buyer may, by written notice to the Company, designate in writing any Contract related to the Business not designated as an Assumed Contract and, upon such designation, such Assumed Contract will constitute a Purchased Asset and will be conveyed to Buyer under, and in accordance with the terms of, this Agreement at Closing (and, if applicable, will cease to constitute an Excluded Asset). All Contracts of Seller which do not constitute Assumed Contracts or which otherwise cannot be assumed and assigned to Buyer shall not be considered Purchased Assets and shall automatically be deemed Excluded Contracts.

(b) Seller shall use its reasonable best efforts to assign, or cause to be assigned, the Assumed Contracts to Buyer so long as Buyer pays all Cure Costs associated with the assumption and assignment of such Assumed Contracts. If Buyer does not pay all Cure Costs

associated with the assignment and assumption of an Assumed Contract, it shall become an Excluded Contract. Notwithstanding anything to the contrary herein, Seller shall not be obligated to assume and assign any such Contract pursuant to this Section 2.05 with respect to which Buyer fails to pay any Cure Costs or to satisfy the Bankruptcy Court as to adequate assurance of future performance.

(c) Except as to Assumed Contracts assigned pursuant to Section 365 of the Bankruptcy Code, this Agreement shall not constitute an agreement to assign any Purchased Asset or any right thereunder if an attempted assignment, without the consent of a third party or Governmental Authority (each, a “**Transfer Consent**”), would constitute a breach or in any way adversely affect the rights of Buyer or Seller thereunder. If such Transfer Consent is not obtained or such assignment is not attainable pursuant to Section 365 of the Bankruptcy Code, to the extent permitted and subject to any approval of the Bankruptcy Court that may be required, Seller and Buyer will reasonably cooperate in a mutually agreeable arrangement (at Buyer’s sole cost and expense) under which Buyer would obtain the benefits and assume the obligations thereunder in accordance with this Agreement.

(d) At Closing, (i) Seller shall, pursuant to the Sale Order and the 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 and the consideration for which is included in the Purchase Price, (ii) Buyer shall pay promptly all Cure Costs in connection with such assumption and assignment, and (iii) Buyer shall assume and perform and discharge the Assumed Liabilities under the Assumed Contracts, pursuant to the Sale Order and the Assignment and Assumption Agreement.

(e) To the extent that Buyer makes a valid designation with respect to any Contract pursuant to Section 2.05(a), the applicable exhibits and schedules to this Agreement will be deemed to have automatically been updated (without action of any Party or Person) to reflect such designation. If Buyer exercises its rights in clause (a) above to designate a Contract as an Assumed Contract or an Excluded Contract, as applicable, then the Parties acknowledge and agree that there will be no reduction in, or increase to, the Purchase Price as a result of such designation or change in designation; provided, however, that such designation may increase or decrease (as applicable) the extent of the Assumed Liabilities, Purchased Assets and/or Excluded Contracts.

SECTION 2.06 *Purchase Price*. On the terms and subject to the conditions contained herein, including the terms of Section 7.06(a), the purchase price (the “**Purchase Price**”) for the Purchased Assets shall consist of (a) an amount in cash equal to \$45,000,000 that, when combined with the Cash Consideration as defined in, and payable under, that certain Asset Purchase Agreement, by and among JJWHP, LLC and William Rast Licensing, LLC, dated as of October 28, 2021 (the “William Rast APA”), equals \$48,500,000 (the “**Cash Consideration**”) and (b) the assumption of the Assumed Liabilities.

SECTION 2.07 *[Intentionally Omitted]*.

SECTION 2.08 *Purchase Price Allocation*. No later than thirty (30) days prior to the Closing Date, Buyer shall deliver to Seller a schedule allocating the Purchase Price (and any

adjustments thereto as determined for U.S. federal income tax purposes) among the Purchased Assets and Assumed Liabilities (the “**Allocation Schedule**”). The Allocation Schedule shall be prepared in accordance with Section 1060 of the Code. The Allocation Schedule shall be deemed final unless Seller notifies Buyer in writing that Seller objects to one or more items reflected in the Allocation Schedule within fifteen (15) Business Days after delivery of the Allocation Schedule to Seller. In the event of any such objection, Buyer and Seller shall negotiate in good faith to resolve such dispute. If Buyer and Seller reach an agreement regarding the Allocation Schedule, the Parties shall file all Tax Returns, including Form 8594 (Asset Acquisition Statement under Code Section 1060), in a manner consistent with the Allocation Schedule and shall not take any position inconsistent therewith upon examination of any Tax Return, in any Tax refund claim, in any Action related to Taxes, or otherwise unless otherwise required by applicable Law. If Buyer and Seller are unable to reach a timely resolution of any dispute regarding the Allocation Schedule, each of the Parties shall be entitled to adopt its own position regarding the Allocation Schedule and to report the federal, state and local income and other Tax consequences of the purchase and sale contemplated hereby in a manner consistent with its own position regarding the Allocation Schedule.

SECTION 2.09 *Good Faith Deposit.*

(a) No later than one (1) Business Day following the date of this Agreement, Buyer shall deposit (or cause to be deposited) in a trust account maintained on behalf of Seller (and to be designated by Seller prior to the date hereof) cash in ~~the an~~ amount ~~of \$4,500,000~~ that, when combined with the Good Faith Deposit as defined in, and payable under, the William Rast APA, equals \$4,850,000 (the “**Good Faith Deposit**”), to be held in escrow in accordance with the terms of this Agreement and to be released as provided in Section 2.09(b).

(b) If the Closing occurs, the Good Faith Deposit (and any interest accrued thereon) shall be transferred to and retained by Seller at the Closing as a credit against the Cash Consideration. If this Agreement is terminated in accordance with the terms hereof, the Good Faith Deposit (together with any interest accrued thereon) shall be treated in the manner set forth in Section 10.02(b).

SECTION 2.10 *Closing.* The closing (the “**Closing**”) of the purchase and sale of the Purchased Assets and the assumption of the Assumed Liabilities hereunder shall take place remotely by conference call and by exchange of signature pages by email or fax as soon as possible following entry of the Sale Order, but in no event later than three (3) Business Days, after satisfaction of the conditions set forth in Article 8, or at such other time or place as Buyer and the Company may agree in writing. At the Closing:

(a) Buyer shall deliver to Seller:

(i) the Cash Consideration (less the Good Faith Deposit as set forth in Section 2.09(b)) and the amounts pursuant to Section 7.06(a)) by wire transfer of immediately available funds, to the bank account(s) designated in writing by the Company at least three days prior to the Closing Date;

(ii) one or more assignment and assumption agreements, in the form attached hereto as Exhibit A (the “**Assignment and Assumption Agreements**”), duly executed by Buyer;

(iii) a Bill of Sale, in the form attached hereto as Exhibit B (the “**Bill of Sale**”), duly executed by Buyer;

(iv) instruments of assignment of Trademarks (the “**Assignment of Trademarks**”), Copyrights (the “**Assignment of Copyrights**”), Domain Names (the “**Assignment of Domain Names**”), and Other Intellectual Property (the “**Assignment of Other Intellectual Property**”) that are included in the Purchased Assets, if any, duly executed by Seller in a form appropriate for recordation with the appropriate Governmental Authorities in the form of Exhibits C, D, E and F, respectively, in each case duly executed by Buyer;

(v) each other Transaction Document to which Buyer is a party, duly executed by Buyer; and

(vi) such other assignments and other good and sufficient instruments of assumption and transfer, in form satisfactory to Buyer and Seller, as Seller may reasonably request to transfer and assign the Purchased Assets and Assumed Liabilities to Buyer.

(b) Seller shall deliver to Buyer:

(i) the Assignment and Assumption Agreements, duly executed by Seller;

(ii) the Bill of Sale, duly executed by Seller;

(iii) Assignment of Trademarks, Assignment of Copyrights and Assignment of Domain Names, in each case duly executed by Seller;

(iv) each other Transaction Document to which Seller is a party, duly executed by each applicable Seller;

(v) certificate of non-foreign status executed by Seller (or, if applicable, a direct or indirect owner of a Seller) for U.S. federal income tax purposes, prepared in accordance with Treasury Regulation Section 1.1445-2(b) and a properly executed IRS Form W-9;

(vi) a list of all usernames, passwords and other relevant login information needed to access all Domain Names; and

(vii) such other deeds, bills of sale, assignments and other good and sufficient instruments of conveyance and assignment, in form satisfactory to Buyer and Seller, as Buyer may reasonably request to vest in Buyer all right, title and interest in, to and under the Purchased Assets.

ARTICLE 3

REPRESENTATIONS AND WARRANTIES OF SELLER

Except as set forth in the Disclosure Schedules, Seller hereby represents and warrants to Buyer as of the date of this Agreement and the Closing Date as follows:

SECTION 3.01 *Organization and Qualification.* Seller has been duly organized and is validly existing and in good standing (where applicable) under the Laws of its jurisdiction of incorporation, with the requisite power and authority to own its properties and conduct its business as currently conducted, except for any failure to be in good standing as would not, individually or in the aggregate, have a Material Adverse Effect.

SECTION 3.02 *Corporate Authorization.* Subject to entry of the Sale Order, the execution, delivery and performance by Seller of this Agreement and the consummation of the transactions contemplated hereby have been, or prior to the Closing will be, duly authorized by all necessary corporate or other action on the part of Seller. Subject to entry of the Sale Order, Seller has all necessary power and authority to execute and deliver this Agreement and each agreement, certificate, document and instrument to be executed and delivered by it pursuant to this Agreement, as applicable, and to consummate the transactions contemplated hereby and thereby and to performs its obligations hereunder and thereunder.

SECTION 3.03 *Execution and Delivery; Enforceability.* This Agreement has been duly and validly executed and delivered by Seller and, subject to the Bankruptcy Court's entry of the Bid Procedures Order and the Sale Order and subject to the effect of any Laws relating to bankruptcy, reorganization, insolvency, moratorium, fraudulent conveyance or preferential transfers, or similar Laws relating to or affecting creditors' rights generally and subject, as to enforceability, to the effect of general principles of equity (regardless of whether such enforceability is considered in any Causes of Action in equity or at Law) (the "**Bankruptcy and Equity Exception**") will constitute the valid and binding obligation of Seller, enforceable against Seller in accordance with its terms.

SECTION 3.04 *Consents and Approvals.* No consent, approval, authorization or Order of or with any third party, or Governmental Authority having jurisdiction over Seller or any of its properties is required for the execution and delivery by Seller of this Agreement and performance of and compliance by Seller with all of the provisions hereof and the consummation of the transactions contemplated herein, except (a) for any Transfer Consents, the failure of which to obtain would not, individually or in the aggregate, be material to the Business or the Purchased Assets, taken as a whole, (b) as set forth on Schedule 3.04, (c) the entry of the Sale Order and the expiration, or waiver by the Bankruptcy Court, of the fourteen (14) day period set forth in Rules 6004(h) and 3020(e) of the Federal Rules of Bankruptcy Procedure, as applicable, (d) for notices, filings and consents required in connection with the Chapter 11 Cases; and (e) for such consents, approvals, authorizations and Orders, the failure of which to provide, make or obtain, would not, individually or in the aggregate, be material to the Business or the Purchased Assets, taken as a whole.

SECTION 3.05 *No Conflicts*. The execution, delivery and performance by Seller of this Agreement and the other Transaction Documents to which it is or will be a party and the consummation by Seller of the transactions contemplated hereby and thereby do not and will not (a) conflict with or violate any of the organizational documents of Seller; (b) conflict with or violate any Law applicable to Seller; (c) result in any breach of, constitute a default (or an event that, with notice or lapse of time or both, would become a default) under or require any consent of any Person pursuant to, any note, bond, mortgage, indenture, agreement, lease, license, permit, franchise, instrument, obligation or other contract to which Seller is a party; or (d) subject to entry of the Sale Order, require any consent or approval of, registration or filing with, or notice to any Governmental Authority, except, in the causes of clauses (b)-(d), as would not, individually or in the aggregate, be material to the Business or the Purchased Assets, taken as a whole, or to Seller.

SECTION 3.06 *Litigation*. Except as set forth on Schedule 3.06, as of the date hereof, there are no Causes of Action to which Seller is a party pending, or, to the Knowledge of Seller, threatened (a) to restrain or prevent the transactions contemplated by this Agreement, or (b) otherwise affecting the Purchased Assets, except as would not be material to the Business, taken as a whole. Except as set forth on Schedule 3.06, Seller is not a party to any outstanding Order relating to the Business.

SECTION 3.07 *Title to the Purchased Assets*. Seller has good and valid title to all of the Purchased Assets, and all of the Purchased Assets are free and clear of Encumbrances (other than Permitted Encumbrances). Upon delivery to Buyer on the Closing Date of the instruments of transfer contemplated by Section 2.10, and subject to the terms of the Sale Order, Seller will thereby transfer to Buyer, all of Seller's right, title and interest in and to the Purchased Assets free and clear of all Encumbrances (other than Permitted Encumbrances).

SECTION 3.08 *Intellectual Property*.

(a) Seller exclusively owns all right, title and interest in and to the Intellectual Property that constitute Purchased Assets (the "**Purchased Intellectual Property**"). Seller is listed in the applicable records of the appropriate federal, state, or foreign agency or registry as the sole owner of record for any registered Purchased Intellectual Property. The Purchased Intellectual Property constitutes all of the Intellectual Property owned by Seller and its Affiliates that is primarily used in the Business. Other than as set forth on Schedule 3.08(a), to the Knowledge of Seller, no third party Intellectual Property is material to the Business as currently conducted.

(b) Trademarks:

(i) Schedule 2.01(a) contains a complete and accurate list of all registered and applied for Trademarks, including for each the applicable trademark or service mark, application number, filing date, trademark registration number and registration date, as applicable, owned by Seller and its Affiliates that is primarily used in the Business.

(ii) To the Knowledge of Seller all of the registered Trademarks are subsisting and in full force and effect. All necessary maintenance and renewal documentation and fees in connection with the registered Trademarks have been timely filed with the

appropriate authorities and paid, except as would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

(iii) There are no pending or, to the Knowledge of Seller, threatened oppositions, invalidation or cancellation proceedings or Causes of Action involving the Trademarks.

(c) Copyrights:

(i) Schedule 2.01(d) contains a complete and accurate list of all registered and applied for Copyrights owned by Seller, including title, registration number and registration date.

(ii) To the Knowledge of Seller, all of such registered Copyrights are in full force and effect.

(iii) To the Knowledge of Seller, there are no pending or, to the Knowledge of Seller, threatened oppositions, invalidation or cancellation proceedings or Causes of Action involving the Copyrights.

(d) To the Knowledge of Seller, all registered or issued Purchased Intellectual Property is valid and enforceable, and all the filing, examination, issuance, post-registration, maintenance, renewal, and other fees that have become due prior to the Closing Date have been paid, in each case except as would not be material to the Business, taken as a whole.

(e) To the Knowledge of Seller, no third party is infringing, misappropriating, or otherwise violating any Purchased Intellectual Property.

(f) To the Knowledge of Seller, neither the Intellectual Property included in the Purchased Assets, nor the conduct or operation of the Business, infringes, misappropriates or otherwise violates any Intellectual Property rights of any third party. There is no pending dispute, including any pending claim or, to the Knowledge of Seller, threatened claim, with respect to the Purchased Intellectual Property challenging the ownership, use, validity or enforceability of any such Intellectual Property.

(g) Schedule 3.08(g) contains a listing of all Contracts to which Seller is a party and pursuant to which any third party is granted a right to use any Purchased Intellectual Property. Schedule 3.08(g) also contains a listing of all executory Contracts to which Seller is a party covering the settlement of any claims related to the Purchased Intellectual Property (such as a coexistence agreement). To the Knowledge of Seller, the Contracts listed on Schedule 3.08(g) remain valid and binding on Seller and, to the Knowledge of Seller, the other parties thereto and/or any successor or assignees. Except in connection with the Chapter 11 Cases, there is no pending dispute, including any claim or, to the Knowledge of Seller, threatened claim indicating that Seller or any other party thereto is in material breach or default of any terms or conditions of such Contracts which would be reasonably likely to result in material Liability.

SECTION 3.09 *Taxes.*

(a) Seller has timely filed all income or other material Tax Returns required to be filed with the appropriate Governmental Authorities, and all such Tax Returns are true, correct and complete in all material respects. All income and other material Taxes due and payable by Seller with respect to the Business whether or not shown to be payable on such Tax Returns, have been timely paid. No claim has been made in writing within the last three (3) taxable years by a Governmental Authority in a jurisdiction where Seller does not file Tax Returns that Seller or the Business is or may be subject to taxation by that jurisdiction.

(b) There are no Encumbrances on any of the Purchased Assets that arose in connection with any failure (or alleged failure) of Seller to pay any Tax, other than Encumbrances for Taxes not yet due and payable.

SECTION 3.10 *Assumed Contracts.* Schedule 2.05(a) sets forth a complete list, as of the date hereof, of each Assumed Contract and the Cure Costs with respect thereto. Except as set forth on Schedule 3.10, Seller has not assigned, delegated or otherwise transferred to any third party any of its rights or obligations with respect to any such Contract. Each Assumed Contract is in full force and effect and is a valid and binding obligation of Seller in accordance with its terms and conditions, in each case except as such enforceability may be limited by the Bankruptcy and Equity Exception. Upon entry of the Sale Order and Buyer's payment of the Cure Costs, (a) Seller will not be in breach or default of its obligations under any Assumed Contract, (b) no condition exists that (either with or without notice or lapse of time or both) would constitute a default by Seller under any Assumed Contract and (c) to the Knowledge of Seller, no other party to any Assumed Contract is in breach or default thereunder. The Cure Cost amounts calculated by Seller with respect to each of the Assumed Contract and set forth on Schedule 2.05(a) are, to the Knowledge of Seller, true and correct.

SECTION 3.11 *No Other Representations or Warranties.* Buyer acknowledges that, except for the representations and warranties expressly set forth in this Article 3, neither Seller nor any other Person or representative acting on behalf of Seller or otherwise makes any express or implied representation or warranty with respect to Seller or with respect to any information provided by or on behalf of Seller to Buyer.

ARTICLE 4

REPRESENTATIONS AND WARRANTIES OF BUYER

Buyer represents and warrants to Seller as of the date of this Agreement as follows:

SECTION 4.01 *Corporate Existence and Power.* Buyer is a limited liability company duly formed, validly existing and in good standing under the laws of the State of Delaware and has all power and authority to carry on its business as presently conducted.

SECTION 4.02 *Corporate Authorization.* The execution, delivery and performance by Buyer of this Agreement and all other Transaction Documents to which Buyer is or will be a party and the consummation of the transactions contemplated hereby and thereby are within the corporate powers of Buyer and have been duly authorized by all necessary corporate action on the part of Buyer.

SECTION 4.03 *Execution and Delivery; Enforceability.* This Agreement and all other Transaction Documents to which Buyer is or will be a party have been duly and validly executed and delivered by Buyer, and constitute the valid and binding obligation of Buyer, enforceable against Buyer in accordance with its terms subject to the Bankruptcy and Equity Exception.

SECTION 4.04 *No Conflicts.* The execution, delivery and performance by Buyer of this Agreement and the other Transaction Documents to which it is or will be a party and the consummation by Buyer of the transactions contemplated hereby and thereby do not and will not (a) conflict with or violate any of the organizational documents of Buyer; (b) conflict with or violate any Law applicable to Buyer; (c) except as set forth on Schedule 4.04, result in any breach of, constitute a default (or an event that, with notice or lapse of time or both, would become a default) under or require any consent of any Person pursuant to, any note, bond, mortgage, indenture, agreement, lease, license, permit, franchise, instrument, obligation or other contract to which Buyer is a party; or (d) require any consent or approval of, registration or filing with, or notice to any Governmental Authority, except for such consents or approvals that would not, individually or in the aggregate, reasonably be expected to have a materially adverse effect on Buyer's ability to consummate the transactions contemplated by this Agreement.

SECTION 4.05 *Availability of Funds; Solvency.* Buyer has and will have through the Closing unrestricted cash in immediately available funds sufficient to pay all of the Cash Consideration and any other costs, fees and expenses which may be required to be paid by or on behalf of Buyer under this Agreement and the other Transaction Documents. Notwithstanding anything to the contrary contained herein, Buyer acknowledges and agrees that its obligations to consummate the transactions contemplated hereby are not contingent upon its ability to obtain any third party financing. As of the Closing and immediately after consummating the transactions contemplated by this Agreement and the other transactions contemplated by the Transaction Documents, Buyer and its subsidiaries (taken as a whole) will not, (a) be insolvent (either because their financial condition is such that the sum of their debts is greater than the fair value of their assets or because the present fair value of their assets will be less than the amount required to pay their Liability (calculated as the amount that would reasonably be expected to become an actual and matured Liability) on their debts as they become absolute and matured); (b) have unreasonably small capital with which to engage in their respective businesses; or (c) have incurred or plan to incur debts beyond their ability to repay such debts as they become absolute and matured.

SECTION 4.06 *Litigation.* There are no Actions to which Buyer is a party pending, or, to the knowledge of Buyer, threatened (a) to restrain or prevent the transactions contemplated by this Agreement or any other Transaction Documents, or (b) that would affect in any material respect Buyer's ability to perform its obligations under this Agreement or any other Transaction Documents or to consummate the transactions contemplated hereby or thereby.

SECTION 4.07 *Buyer's Knowledge.* As of the date hereof, Buyer is not aware of (a) any default or breach by Seller under or related to Buyer's License, or (b) any infringement, misappropriation or other violation by any third party related to, or arising from, Buyer's License.

SECTION 4.08 *Brokers.* No broker, finder or agent will have any claim against Seller for any fees or commissions in connection with the transactions contemplated by this Agreement or any other Transaction Document based on arrangements made by or on behalf of Buyer.

SECTION 4.09 *Condition of Purchased Assets; Representations.* **BUYER HAS CONDUCTED ITS OWN INDEPENDENT REVIEW AND ANALYSIS OF SELLER AND THE BUSINESS, INCLUDING THE OPERATIONS, ASSETS, LIABILITIES, RESULTS OF OPERATIONS, FINANCIAL CONDITION, SOFTWARE, TECHNOLOGY AND PROSPECTS OF SELLER AND ITS BUSINESS, AND ACKNOWLEDGES THAT IT HAS BEEN PROVIDED ACCESS TO THE PERSONNEL, PROPERTIES, PREMISES AND RECORDS OF SELLER FOR SUCH PURPOSE. IN ENTERING INTO THIS AGREEMENT, BUYER HAS RELIED SOLELY UPON ITS OWN INVESTIGATION AND ANALYSIS, AND SELLER'S REPRESENTATIONS AND WARRANTIES SET FORTH IN ARTICLE 3 AND: (A) ACKNOWLEDGES THAT NEITHER SELLER NOR ANY OF ITS AFFILIATES OR REPRESENTATIVES MAKES OR HAS MADE ANY REPRESENTATION OR WARRANTY, EITHER EXPRESS OR IMPLIED, AS TO THE ACCURACY OR COMPLETENESS OF ANY OF THE INFORMATION PROVIDED OR MADE AVAILABLE TO BUYER OR ITS REPRESENTATIVES (INCLUDING ANY INFORMATION PROVIDED OR MADE AVAILABLE TO BUYER IN ANY "DATA ROOM", EXCEPT AS EXPRESSLY PROVIDED IN ARTICLE 3). EXCEPT AS SPECIFICALLY SET FORTH IN ARTICLE 3, (I) SELLER MAKES NO REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, AT LAW OR IN EQUITY, IN RESPECT OF OR OTHERWISE IN ANY WAY RELATING TO SELLER OR ITS LIABILITIES OR OPERATIONS, OR ITS BUSINESS, INCLUDING WITH RESPECT TO VALUE, CONDITION (INCLUDING ENVIRONMENTAL CONDITION) OR PERFORMANCE OR MERCHANTABILITY, NONINFRINGEMENT OR FITNESS FOR ANY PURPOSE (BOTH GENERALLY OR FOR ANY PARTICULAR PURPOSE) AND WITH RESPECT TO FUTURE REVENUE, PROFITABILITY OR THE SUCCESS OF SELLER AND ITS BUSINESS AND (II) ANY SUCH OTHER REPRESENTATIONS OR WARRANTIES ARE HEREBY EXPRESSLY DISCLAIMED. BUYER ACKNOWLEDGES THAT, SHOULD THE CLOSING OCCUR, BUYER SHALL ACQUIRE THE PURCHASED ASSETS, THE ASSUMED LIABILITIES AND THE BUSINESS WITHOUT ANY WARRANTY AS TO MERCHANTABILITY OR FITNESS THEREOF FOR ANY PARTICULAR PURPOSE, IN AN "AS IS" CONDITION AND ON A "WHERE IS" BASIS.**

ARTICLE 5

COVENANTS OF SELLER

SECTION 5.01 *Conduct of the Business.*

(a) Except (t) as may be reasonably advisable to carry out any of the transactions contemplated by the Transaction Documents or as set forth on Schedule 5.01, (u) as may be reasonably advisable to satisfy the cure requirements of any of the Assumed Contracts (in consultation with Buyer), (v) as consented to by Buyer (which consent shall not be unreasonably withheld, conditioned or delayed), (w) as expressly permitted pursuant to the Bid Procedures Motion, Bid Procedures Order, and Bid Procedures or this Agreement, (x) as required or approved by the Bankruptcy Code or any Orders entered by the Bankruptcy Court in the Chapter 11 Cases, including, without limitation, any debtor-in-possession financing order or any order permitting the use of cash collateral, (y) as otherwise necessary to comply with applicable Law, or (z) for any actions taken in good faith as reasonably necessary to respond to COVID-19 (provided, that prior to taking (or abstaining from taking) any action pursuant to this clause (z), Seller shall use commercially reasonable efforts to provide reasonable advance notice to Buyer and consult in good faith with Buyer with respect to the appropriateness of such action or inaction), from the date hereof until the Closing Date, Seller shall use commercially reasonable efforts to conduct the Business in the ordinary course of business. In addition, except as otherwise contemplated by the immediately precedent sentence (but excluding clause (z) thereof), without the prior written consent of Buyer (which consent shall not be unreasonably withheld, conditioned or delayed), Seller shall not:

(i) sell, lease, license or otherwise encumber or dispose of any Purchased Assets other than pursuant to the Assumed Contracts in effect as of the date hereof or as properly modified, amended, or extended in accordance with this Section 5.01;

(ii) make any modification, amendment, or extension to, or terminate or reject, or grant or agree to any renewal of, any Assumed Contract;

(iii) sell, transfer, assign, pledge, lease, license, covenant not to sue, or grant any other right to any Purchased Intellectual Property, including agreeing to amend any licenses to Purchased Intellectual Property contained in any Contracts, other than pursuant to the Assumed Contracts in effect as of the date hereof or as properly modified, amended, or extended in accordance with this Section 5.01;

(iv) cancel, abandon, or allow to lapse or expire any Purchased Intellectual Property, other than in response to expiration following the applicable statutory period for protection of registered Intellectual Property in the ordinary course of business, provided that Seller shall take all commercially reasonable steps, such as payment of fees, to prevent such cancellation, abandonment or allowance to lapse or expire;

(v) waive, cancel, compromise or release any accounts receivable or other payables, or release any rights or claims of value, in each case, relating to or arising under the Assumed Contracts that is in excess of \$50,000;

(vi) take any action to waive or compromise any material Claims which are included in the Purchased Assets; or

(vii) agree or commit to do any of the foregoing.

SECTION 5.02 *Access to Information.*

From the date of the execution of this Agreement until the Closing Date, Seller will use commercially reasonable efforts, subject to the terms of the Confidentiality Agreement, (i) to give, on reasonable prior written notice and during normal business hours, Buyer, its counsel, and financial advisors, reasonable access to the offices, properties, books and records of such Seller relating (and solely to the extent relating) to the Purchased Assets and (ii) to furnish to Buyer, its counsel, financial advisors, auditors and other authorized representatives such financial and operating data and other information relating (and solely to the extent relating) to the Purchased Assets as such Persons may reasonably request. Buyer agrees that any investigation undertaken pursuant to the access granted under this Section 5.02 shall be conducted in such a manner as not to unreasonably interfere with the operation of Seller's business. Notwithstanding anything to the contrary in this Agreement, Seller shall not be required to provide access to, or otherwise furnish, any information if Seller determines, in its reasonable discretion, that (i) such access would be reasonably likely to jeopardize any attorney-client or other similar privilege, (ii) such access would contravene any applicable Laws, fiduciary duty or binding agreement entered into prior to the date of this Agreement, (iii) the information to be accessed is pertinent to any existing or potential litigation between Seller or any of their Affiliates, on the one hand, and Buyer or any of its Affiliates, on the other hand or (iv) any information, guidance or advice received by the Company and its Affiliates related to the transactions contemplated by this Agreement. Notwithstanding anything in this Section 5.02 to the contrary, Seller shall not be required to grant Buyer access to its Tax Returns for any reason.

(a) All requests for access or information by or on behalf of Buyer shall be submitted to Stifel, Nicolaus & Co. or such other person(s) as Seller may designate in writing, and none of Buyer or any of its Affiliates or representatives shall communicate with any other employees or officers of Seller without the prior written consent of Seller. For the avoidance of doubt, and notwithstanding anything contained herein to the contrary, Buyer shall not have access to personnel records of Seller relating to individual performance or evaluation records, medical histories or other information related to employees of Seller.

(b) At and following the Closing, Seller may retain copies of the books and records or any other materials included, in the Purchased Assets to the extent Seller determines, in its sole discretion, that Seller (i) should retain them to comply with applicable Law or (ii) may require such copies for Tax purposes.

SECTION 5.03 *Update of Disclosure Schedules.* Until the Closing Date, Seller may deliver any new schedules or supplement or amend the Disclosure Schedules with respect to any matter that, if existing, occurring or known as of the date hereof, would have been required to be set forth or described in the Disclosure Schedules; provided, that any supplement or amendment to Schedule 2.05(a) shall be limited to actions with respect to Assumed Contracts taken in compliance with the terms of this Agreement. Any such supplement or amendment shall be deemed to modify the Disclosure Schedules for purposes of this Agreement (a) solely to the

extent it relates to matters arising after the date of this Agreement and (b) except to the extent that, absent such modification(s) to the Disclosure Schedules, Seller would then be in breach of the representations, warranties, covenants or other agreements contained herein such that the condition to Closing set forth in Section 8.02(a) would not then be satisfied; provided, however, that if the matter being disclosed in such supplement or amendment relates to Buyer's License, and Buyer had knowledge of such matter as of the date of this Agreement, such supplement or amendment shall modify the Disclosure Schedules for all purposes of this Agreement.

SECTION 5.04 *Use of Name.* After the Closing, Seller shall not, and shall cause its Affiliates not to, use, authorize the use, register, or attempt to register the name "Joe's Jeans" or any confusingly similar variations thereof (including "Joe" or "Joe's") as a Trademark, Domain Name, or any other form of Intellectual Property. Notwithstanding the foregoing, Buyer agrees and acknowledges that this Section 5.04 shall not restrict Seller's (or its Affiliates') use or registration of the name "Caribbean Joe."

SECTION 5.05 *Notices of Certain Events.* Seller shall promptly (and in any event within five (5) Business Days) notify Buyer in writing (which notice shall include, to the extent reasonably practicable, any relevant details and information in Seller's possession or control) of (a) the occurrence of any change, effect, event, circumstance, occurrence or state of facts of which it is or becomes aware, which does, or which could be reasonably be expected to, cause any condition set forth in Article 8 to fail to be satisfied or which would otherwise prevent, delay or impede the Closing, (b) any written notice or other communication from any Governmental Authority (other than the Bankruptcy Court) related to or in connection with the transactions contemplated by this Agreement and (c) the receipt of any notice or other communication from any Person alleging that the consent of such Person is or may be required in connection with the transactions contemplated by this Agreement. Any required to provide notice to be provided under this Section 5.05 may be fully satisfied by providing notice to counsel to Buyer at the email address for such counsel as set forth in Section 11.01.

ARTICLE 6

COVENANTS OF BUYER

SECTION 6.01 *Confidentiality.* Buyer acknowledges and agrees that at any time prior to the Closing Date and after any termination of this Agreement, the Confidentiality Agreement shall remain in full force and effect and Buyer and its Affiliates shall remain bound thereby during such periods.

SECTION 6.02 *Notices of Certain Events.* Buyer shall promptly (and in any event within five (5) Business Days) notify Seller in writing (which notice shall include, to the extent reasonably practicable, any relevant details and information in Buyer's possession or control) of (a) the occurrence of any change, effect, event, circumstance, occurrence or state of facts of which it is or becomes aware, which does, or which could be reasonably be expected to, cause any condition set forth in Article 8 to fail to be satisfied or which would otherwise prevent, delay or impede the Closing, (b) any written notice or other communication from any Governmental Authority (other than in or related to the Bankruptcy Court) related to or in connection with the transactions contemplated by this Agreement and (c) the receipt of any notice or other

communication from any Person alleging that the consent of such Person is or may be required in connection with the transactions contemplated by this Agreement. Any requirement to provide notice under this Section 6.02 may be fully satisfied by provided notice to counsel to Seller at the email address for such counsel as set forth in Section 11.01.

SECTION 6.03 *Preservation of Books and Records.* After the Closing Date, Buyer shall provide to Seller and its Affiliates and representatives (without charge to Seller other than the costs of copying, if any) reasonable access to, including the right to make copies of, all books and records included in and otherwise related to the Purchased Assets, to the extent necessary to permit Seller to determine any matter relating to their respective rights and obligations hereunder or to any period ending on or before the Closing Date (for example, for purposes of any Tax or accounting audit or any claim or litigation matter) or otherwise related to the Excluded Assets, for periods prior to the Closing and shall preserve such books and records until the latest of (a) such period as shall be consistent with Buyer's records retention policy in effect from time to time, (b) the retention period required by applicable Law, (c) the conclusion of all bankruptcy proceedings relating to the Chapter 11 Cases, including the closing of the Chapter 11 Cases and (d) in the case of books and records relating to Taxes, the expiration of the statute of limitations applicable to such Taxes. Such access shall include access to any information in electronic form to the extent reasonably available. Buyer acknowledges that Seller has the right to retain originals or copies of all of books and records included in or related to the Purchased Assets for periods prior to the Closing.

SECTION 6.04 *Insurance.* From and after the Closing, the Business, the Purchased Assets, the Assumed Liabilities, and the operations and assets and Liabilities in respect thereof, shall cease to be insured by Seller's or its Affiliates' insurance policies or by any of their self-insured programs, and neither Buyer nor its Affiliates (including their respective businesses) shall have any access, right, title or interest to or in any such insurance policies (including to all claims and rights to make claims and all rights to proceeds) to cover the business of Seller (as acquired and operated by Buyer and its Affiliates after the Closing), the Purchased Assets, the Assumed Liabilities, or the operations or assets or Liabilities in respect thereof. Prior to, on or after the Closing, Seller or its Affiliates may amend any insurance policies in the manner they deem appropriate to give effect to this Section 6.04. From and after the Closing, Buyer shall be responsible for securing all insurance it considers appropriate for the Business, the Purchased Assets, the Assumed Liabilities, and the operations and assets and Liabilities in respect thereof.

SECTION 6.05 *Communication.* On and after the date hereof and through the Closing Date, Buyer shall not (and shall not permit any of Buyer's representatives or Affiliates to) contact or communicate with the employees, licensees, customers, service providers and vendors of Seller without the prior consultation with and written approval of Seller; provided, that this Section 6.05 shall not prohibit ordinary course communications, subject to Section 6.01, that are unrelated to this Agreement or the transactions contemplated hereby.

SECTION 6.06 *Release.* Effective as of the Closing, Buyer, on its own behalf and on behalf of its direct and indirect Affiliates, hereby absolutely, irrevocably and unconditionally releases and forever discharges Seller and its direct and indirect Affiliates from, and agrees not to assert any cause of action or proceeding with respect to, any losses or Liabilities whatsoever, of any kind or nature, whether at law or in equity, which have been or could have been asserted

against Seller or its Affiliates, which Buyer or its Affiliates has or ever had, which arises out of or in any way relates to events, circumstances or actions occurring, existing or taken prior to or as of the Closing Date in respect of Buyer's License; provided, that the foregoing release shall not cover any losses or Liabilities arising out of or related to this Agreement or the Transaction Documents.

SECTION 6.07 *Buyer's Knowledge*. Notwithstanding anything herein to the contrary, Buyer acknowledges and agrees that, in the event that Buyer has entered into this Agreement with any knowledge by Buyer or any Affiliate of Buyer of any breach by Seller of any representation, warranty or covenant in this Agreement relating to Buyer's License, Buyer shall not have any claim or recourse against Seller or any of its Affiliates with respect to such breach under this Agreement, including under Article 8 and Article 10.

ARTICLE 7

COVENANTS OF BUYER AND SELLER

SECTION 7.01 *Further Assurances*.

(a) At and after the Closing, and without further consideration therefor, Seller and Buyer shall execute and deliver such further instruments and certificates (including deeds, bills of sale, instruments of conveyance, powers of attorney, assignments, assumptions and assurances) and use commercially reasonable efforts to take, or cause to be taken, all actions, and do or cause to be done all things as may be reasonably necessary, to effectuate the purposes and intent of and consummate the transactions contemplated by this Agreement and the other Transaction Documents. Without limiting the foregoing, as reasonably requested by Buyer and at Buyer's sole cost and expense, Seller shall use commercially reasonable efforts to take all actions and execute all required paperwork as reasonably required to assign, transfer, and convey all Purchased Assets, including, but not limited to, all Purchased Intellectual Property, to Buyer as of the Closing. Subject to Section 2.05(c), to the extent that any Purchased Intellectual Property has not been assigned, transferred or otherwise conveyed to Buyer as of the Closing, at Buyer's sole cost and expense, Seller shall use its commercially reasonable efforts to execute and deliver such instruments and take such action as Seller and Buyer mutually reasonably determine is necessary to transfer, convey, and assign such assets to Buyer and to confirm Buyer's title to or interest in the Purchased Intellectual Property, to confirm Buyer's ownership over the Purchased Intellectual Property, and put Buyer in actual possession and control thereof and to assist Buyer in exercising all rights with respect thereto.

(b) The Parties agree to (and shall cause each of their respective Affiliates to) provide each other with such information and assistance as is reasonably necessary for the preparation of any Tax Returns or for the defense of any Tax claim or assessment, whether in connection with an audit or otherwise, including the furnishing or making available on a timely basis of records, personnel (as reasonably required), books of account, or other necessary materials.

SECTION 7.02 *Certain Filings*. Seller and Buyer shall use their commercially reasonable efforts to take, or cause to be taken, all actions and to do, or cause to be done, all things necessary under applicable Law to consummate and make effective the transactions

contemplated by this Agreement, including furnishing all information required by applicable Law in connection with approvals of or filings with any Governmental Authority, and filing, or causing to be filed, as promptly as practicable, any required notification and report forms under other applicable competition Laws with the applicable Governmental Authority.

SECTION 7.03 *Public Announcements.* On and after the date hereof and through the Closing Date, the Parties shall consult with each other before issuing any press release or otherwise making any public statements with respect to this Agreement or the transactions contemplated hereby, and neither Party shall issue any press release or make any public statement prior to obtaining, with respect to Seller, Buyer's, and with respect to Buyer, Seller's, prior written consent (which consent, in each case, shall not be unreasonably withheld, conditioned or delayed); provided, however, that that no such prior consultation or consent shall be required for disclosure by either Party (a) to its current, former or prospective lenders and their respective representatives, provided that the recipient of such information is subject to a customary confidentiality obligation, (b) in earnings releases or earnings calls or as otherwise advised by accountants, or (c) as required by applicable Law or applicable securities exchange rules.

SECTION 7.04 *Tax Matters.*

(a) Allocation of Straddle Period Taxes.

(i) For purposes of this Agreement, in order to apportion appropriately any Taxes relating to a taxable period beginning before and ending after the day immediately prior to the Closing Date (a "**Straddle Period**"), the amount of Taxes that are allocable to the portion of the Straddle Period ending on and including the day immediately prior to the Closing Date shall be:

(A) in the case of Taxes imposed on a periodic basis with respect to the business or assets of a Seller (such as ad valorem and property Taxes) and exemptions, allowances or deductions that are calculated on an annual basis, such as depreciation, the amount of such Taxes, exemptions, allowances or deductions for the entire Straddle Period multiplied by a fraction, the numerator of which is the number of calendar days in the portion of the Straddle Period ending on and including the Closing Date, and the denominator of which is the number of calendar days in the entire Straddle Period (provided that any Tax exemption or allowance with respect to an annual period shall be pro-rated on an equal daily basis between the pre-Closing Tax period and the remainder of the Straddle Period); and

(B) in the case of all other Taxes, determined on a "closing of the books basis" as if the taxable period ended on the Closing Date.

(b) Tax Cooperation. The Parties shall furnish or cause to be furnished to each other, upon request, and at the sole cost of the requesting Party, as promptly as practicable, such information and assistance relating to the Purchased Assets as is reasonably necessary for the filing of Tax Returns and the preparation for, or the prosecution or defense of, any audit, claim,

demand, proposed adjustment or deficiency relating to Taxes, and any other matter or proceeding relating to Taxes.

(c) Transfer Taxes. To the extent Seller is required by applicable Law to pay Transfer Taxes, Buyer shall reimburse Seller the amount of such Transfer Taxes at least five Business Days prior to the applicable due date for such Transfer Taxes, and Seller shall provide timely payment thereof (if any payment is due) to the applicable Governmental Authority and promptly provide a copy of such Tax Return to Buyer. Further, each Party hereto agrees to timely sign and deliver (or to cause to be timely signed and delivered) such certificates or forms as may be necessary or appropriate and otherwise to cooperate to establish any available exemption from (or otherwise reduce) such Transfer Taxes. Closing. The Parties hereto shall cooperate in good faith to establish any available exemption from (or reduction of) any Transfer Taxes.

SECTION 7.05 *Misallocated Assets*. If, following the Closing, Buyer or its Affiliates own or hold any Excluded Asset, Buyer shall transfer, or shall cause its Affiliate to transfer, at no cost to Seller, such Excluded Asset as soon as practicable to Seller. If, following the Closing, Seller or any of its Affiliates owns any Purchased Asset, Seller shall transfer, or shall cause their respective Affiliates to transfer, such Purchased Asset as soon as practicable to Buyer or an Affiliate designated by Buyer.

SECTION 7.06 *Pre-Closing Accounts Receivables; Payments after Closing*.

(a) The Parties hereby acknowledge and agree that, during the period commencing on the date hereof and ending on the day immediately prior to the Closing Date, in the event that Seller receives any payment from a third party (other than Buyer or any of its Affiliates) that constitutes an account receivable or other receivable of the Business (each, a “**Pre-Closing A/R Payment**”), such Pre-Closing A/R Payment will be credited to Buyer’s account (and shall reduce the Cash Consideration payable by Buyer at the Closing on a dollar for dollar basis), until the aggregate amount of the Pre-Closing A/R Payments is equal to \$268,598 (the “**Pre-Closing A/R Threshold**”). At the Closing, solely to the extent that the aggregate amount of the Pre-Closing A/R Payments is less than the Pre-Closing A/R Threshold (such shortfall amount, the “**A/R Shortfall Amount**”), the Parties hereby agree that the Purchase Price shall be reduced by the A/R Shortfall Amount.

(b) In the event that Seller receives any payment from a third party (other than Buyer or any of its Affiliates) after the Closing Date pursuant to any of the Assumed Contracts (or with respect to the operation by Buyer of the Business or any Purchased Asset after the Closing) and to the extent such payment is not made in connection with an Excluded Asset or an Excluded Liability, Seller shall forward such payment, as promptly as practicable but in any event within thirty (30) days after such receipt, to Buyer (or other entity nominated by Buyer in writing to Seller) and notify such third party to remit all future payments (in each case, to the extent such payment is in respect of any post-Closing period with respect to the Business and is not in respect of an Excluded Asset or an Excluded Liability) pursuant to the Assumed Contracts to Buyer (or such other entity). Notwithstanding anything to the contrary in this Agreement, in the event that Buyer or any of its Affiliates receives any payment from a third party after the Closing on account of, or in connection with, any Excluded Asset (which includes, for the avoidance of doubt, any accounts receivables and other receivables of the Business with respect to any

pre-Closing period), Buyer shall forward such payment, as promptly as practicable but in any event within thirty (30) days after such receipt, to the Company (or other entity nominated by the Company in writing to Buyer) and notify such third party to remit all future payments on account of or in connection with the Excluded Assets to the Company (or such other entity as the Company may designate).

(c) For the avoidance of doubt, following the Closing, any fees, payments or other amounts payable to the Seller by the Buyer in its capacity as licensee under Buyer's License that relate to the provision of any license thereunder prior to the Closing and that remain unpaid as of the Closing shall be paid by Buyer to the Seller as promptly as practicable.

SECTION 7.07 *Bulk Transfer Laws.* The Parties intend that pursuant to section 363(f) of the Bankruptcy Code, the transfer of the Purchased Assets shall be free and clear of any security interests in the Purchased Assets, including any liens or claims arising out of the bulk transfer Laws, and the Parties shall take such steps as may be necessary or appropriate to so provide in the Sale Order. In furtherance of the foregoing, each Party hereby waives compliance by the other Parties with the "bulk sales," "bulk transfers" or similar Laws and all other similar Laws in all applicable jurisdictions in respect of the transactions contemplated by this Agreement.

SECTION 7.08 *Bankruptcy Court Approval.*

(a) The Debtors shall file the Bid Procedures Motion with the Bankruptcy Court no later than two (2) Business Days after the commencement of the Chapter 11 Cases (the "**Petition Date**").

(b) The Parties shall use their respective commercially reasonable efforts to have (i) the Bankruptcy Court enter the Bid Procedures Order as promptly as practicable after the filing of the Bid Procedures Motion and (ii) the Bankruptcy Court enter the Sale Order as promptly as practicable after the completion of the Auction but, in any event, in each case in compliance with the Milestones. Debtors and Buyer shall cooperate in good faith to obtain the Bankruptcy Court's entry of the Bid Procedures Order, the Sale Order, and any other Order reasonably necessary in connection with the transactions contemplated by this Agreement, including furnishing affidavits, nonconfidential financial information, or other documents or information for filing with the Bankruptcy Court and making such advisors of Debtors and Buyer and their respective Affiliates available to testify before the Bankruptcy Court for the purposes of, among other things, providing adequate assurances of performance by Buyer as required under Section 365 of the Bankruptcy Code, and demonstrating that Buyer is a "good faith" purchaser under Section 363(m) of the Bankruptcy Code. Buyer agrees that it will promptly take such actions as are reasonably requested by Seller to assist in obtaining entry of the Bid Procedures Order, the Sale Order, and any other Order reasonably necessary, consistent with the above.

(c) The Debtors shall give notice under the Bankruptcy Code and the Bankruptcy Rules of the request for the relief specified in the Bid Procedures and Sale Motion to all Persons entitled to such notice, including all Persons that have asserted Encumbrances on the Purchased Assets and all non-debtor parties to the Assumed Contracts, and other appropriate notice as required by the Bankruptcy Rules and the local rules of the Bankruptcy Court, 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 or the transactions contemplated hereby. Debtors shall be responsible for making all appropriate filings relating to this Agreement with the Bankruptcy Court, and shall use commercially reasonable efforts to submit such filings to Buyer no less than two Business Days prior to their filing with the Bankruptcy Court for Buyer's prior review and comment, which comments the Debtors shall consider and attempt to incorporate in good faith, in consultation with Buyer.

(d) In the event the entry of the Bid Procedures Order, the Sale Order or any other Orders of the Bankruptcy Court relating to this Agreement or the transactions contemplated hereby shall be appealed by any Person (or if any petition for certiorari or motion for reconsideration, amendment, clarification, modification, vacation, stay, rehearing or reargument shall be filed with respect to the Bid Procedures Order, the Sale Order or other such Order), Debtors shall use commercially reasonable efforts to defend such appeal.

(e) The Debtors and Buyer acknowledge that this Agreement and the transactions contemplated hereby are subject to (i) entry of, as applicable, the Bid Procedures Order and the Sale Order and (ii) the consideration by the Debtors and Seller of higher or better competing bids (whether through any and all types of consideration, including, without limitation, cash, assumed liabilities or credit bid) in respect of a sale, reorganization, or other disposition of the Debtors or Seller, the Business or the Purchased Assets. In the event of any discrepancy between this Agreement and the Bid Procedures Order and the Sale Order, the Bid Procedures Order and the Sale Order shall govern; provided, however, that nothing in this Section 7.08(e) shall limit the rights of Buyer hereunder in the event that any Bid Procedures Order or any Sale Order does not comply with the terms of this Agreement.

(f) During the period commencing on the date hereof and ending on the earlier of (i) the date of entry of the Bid Procedures Order or (ii) the date this Agreement is terminated as provided in Article 10, Seller will not, nor will it permit any of its Affiliates or anyone acting on behalf of any of them to, solicit, negotiate or enter into any discussions or negotiations with any Person (other than Buyer or its representatives) in connection with any Alternative Transaction; provided that Seller shall be permitted to furnish or cause to be furnished to any Person any information concerning the Purchased Assets or the Business. Seller shall, immediately upon the execution of this Agreement, cease any and all ongoing discussions with any other potential purchaser of all or any portion of the Purchased Assets and/or the Business and shall cause its representatives and Affiliates and their respective representatives to do the same. Notwithstanding anything to the contrary herein, from the date of entry of the Bid Procedures Order and until the transactions contemplated hereby are consummated, Buyer agrees and acknowledges that Seller, Debtors and their Affiliates, including through their representatives, are and may continue soliciting and/or responding to inquiries, proposals or offers from third parties in connection with any Alternative Transaction, including, without limitation, inquiries, proposals or offers related to the Purchased Assets, and may facilitate (and perform any and all other acts related thereto), including, without limitation, furnishing any information (subject to entering into a customary confidentiality agreement) with respect to, any effort or attempt by any Person to seek to do any of the foregoing in connection with an Alternative Transaction. Seller shall promptly notify Buyer of receipt by Debtors or any of their representatives of any such inquiries, proposals or offers; provided that, as to any inquiries, proposals or offers received prior

to entry of the Bid Procedures Order, Seller shall provide Buyer with a copy of any such inquiries, proposals or offers within two (2) Business Days of receipt by the Debtors or their representatives.

(g) The Sale Order 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, (B) the sale of the Purchased Assets to Buyer on the terms set forth herein and free and clear of all Encumbrances (other than Encumbrances included in the Assumed Liabilities and Permitted Encumbrances), and (C) the performance by Debtors of their respective obligations under this Agreement; (ii) authorize and empower Seller to assume and assign to Buyer the Assumed Contracts; (iii) find that Buyer is a “good faith” buyer within the meaning of section 363(m) of the Bankruptcy Code, find that Buyer is not a successor to any Seller, and grant Buyer the protections of section 363(m) of the Bankruptcy Code; (iv) find that Buyer shall have no Liability or responsibility for any Liability or other obligation of Seller arising under or related to the Purchased Assets other than as expressly set forth in this Agreement, including successor or vicarious Liabilities of any kind or character, including any theory of antitrust, successor, or transferee Liability, labor law, de facto merger, or substantial continuity; (v) find that Buyer has provided adequate assurance (as that term is used in section 365 of the Bankruptcy Code) of future performance in connection with the assumption of the Assumed Contracts; and (vi) find that Buyer shall have no Liability for any Excluded Liability.

(h) Debtors shall comply with the Milestones.

(i) If an Auction is conducted, and Buyer is not the Successful Bidder at the Auction but is the next highest bidder after the Successful Bidder at the Auction, Buyer shall serve as a Backup Bidder and keep its bid to consummate the transactions contemplated by this Agreement on the terms and conditions set forth in this Agreement (as the same may be improved upon in the Auction) open and irrevocable, notwithstanding any right of Buyer to otherwise terminate this Agreement pursuant to Article 10 hereof, until the earlier of (i) the Backup Bid Expiration Date (as defined in the Bid Procedures) or (ii) the first Business Day after the closing of a transaction with a Successful Bidder for the Purchased Assets that is not Buyer; provided, however, that if prior to the Backup Bid Expiration Date, a Successful Bidder for the Purchased Assets that is not Buyer fails to consummate its transaction as a result of a breach or failure to perform on the part of such Successful Bidder, or because a condition in such Successful Bidder’s purchase agreement cannot otherwise be met, and the purchase agreement with such Successful Bidder is terminated, Buyer (as the Backup Bidder) will be deemed to have the new prevailing bid, and Seller will be authorized, without further order of the Bankruptcy Court, to, and Buyer (as the Backup Bidder) shall, subject to the terms and conditions of this Agreement, consummate the transactions contemplated by this Agreement by the later of (x) ten (10) days of becoming the Successful Bidder and (ii) the Backup Bid Expiration Date, on the terms and conditions set forth in this Agreement (as the same may be improved upon in the Auction).

SECTION 7.09 *Bidding Protections.*

(a) If this Agreement is terminated by Buyer or Seller pursuant to (i) Section 10.01(c), (ii) Section 10.01(e), (iii) Section 10.01(i), (iv) Section 10.01(j) or (v) Section 10.01(k), then, in each case, Seller shall (or shall cause the Debtors to), without the requirement of any

notice or demand by Buyer, pay to Buyer the Expense Reimbursement, such payment to be made upon the earlier of (x) the consummation of an Alternative Transaction, (y) the consummation of a sale to the “Successful Bidder” or “Next Highest Bidder” at the Auction or (z) the date that is forty-five (45) days following such termination by wire transfer(s) in immediately available funds to one or more bank accounts of Buyer (or any of its Affiliates) designated in writing by Buyer to Seller.

(b) The Parties acknowledge and agree that (i) the Parties have expressly negotiated the provisions of this Section 7.09 and the payment of the Expense Reimbursement is an integral part of this Agreement, (ii) in the absence of Seller’s obligations to make these payments, Buyer would not have entered into this Agreement, and (iii) subject to approval by the Bankruptcy Court, the Expense Reimbursement shall constitute allowed superpriority Administrative Expense Claims pursuant to sections 105(a), 503(b), and 507(a)(2) of the Bankruptcy Code with priority over all other administrative expenses of the kind specified in section 503(b) of the Bankruptcy Code. Seller shall seek the approval of the Expense Reimbursement as set forth in this Section 7.09 and this Agreement in the Bid Procedures Order. Notwithstanding the foregoing, nothing set forth herein shall limit or restrict Buyer’s rights to pursue a grant of specific performance pursuant to Section 11.08 prior to any termination of this Agreement by Buyer.

SECTION 7.10 *Buyer’s License*. The Parties hereby acknowledge and agree that notwithstanding any provision of Buyer’s License to the contrary, Buyer’s License will continue in full force and effect as of the commencement of the Chapter 11 Cases, be an Assumed Contract hereunder and shall be assigned to Buyer as an Assumed Contract hereunder upon the Closing, subject to the terms and conditions of this Agreement; provided, that to the extent this Agreement is terminated in accordance with Article 10 hereof, the Parties’ rights with respect to the impact of the commencement of the Chapter 11 Cases on Buyer’s License as of the date of termination of this Agreement are reserved, and nothing in this Agreement shall be considered a waiver of any rights, claims, arguments and defenses with respect thereto.

ARTICLE 8

CONDITIONS TO CLOSING

SECTION 8.01 *Conditions to Obligations of Buyer and Seller*. The obligations of each of Buyer and Seller to consummate the Closing are subject to the satisfaction or valid waiver at or prior to the Closing of the following conditions:

- (a) no provision of any applicable Law and no judgment, injunction or Order shall then be in effect prohibiting or making illegal the consummation of the Closing;
- (b) the Bankruptcy Court shall have entered the Bid Procedures Order and the Bid Procedures Order shall be a Final Order; and
- (c) the Bankruptcy Court shall have entered the Sale Order in form and substance reasonably acceptable to Buyer and Seller and the Sale Order shall be a Final Order.

SECTION 8.02 *Conditions to Obligation of Buyer.* The obligation of Buyer to consummate the Closing is subject to the satisfaction (or valid waiver) at or prior to the Closing of the following further conditions:

(a) (i) each of the representations and warranties of Seller contained in Section 3.01, Section 3.02, Section 3.03, and Section 3.07 shall be true and correct in all respects (except for any failure to be so true and correct that is de minimis in nature) on and as of the date hereof and on and as of the Closing Date with the same effect as though such representations and warranties had been made on and as of the Closing Date (provided that representations and warranties which speak to a specified date shall speak only as of such date) and (ii) each other representation and warranty of Seller contained in Article 3 shall be true and correct on and as of the date hereof and as of Closing Date with the same effect as though such representations and warranties had been made on and as of the Closing Date (provided that representations and warranties which speak to a specified date shall speak only as of such date) except where the failure to be so true and correct (without giving effect to any limitation or qualification as to “materiality” (including the word “material”) or “Material Adverse Effect” or other similar term set forth therein) would not, individually or in the aggregate, have a Material Adverse Effect and Buyer shall have received a certificate of the Company certifying as to the matters set forth in this Section 8.02(a) signed by a duly authorized representative of the Company;

(b) the material covenants and agreements that Seller are required to perform or to comply with pursuant to this Agreement at or prior to the Closing shall have been performed and complied with in all material respects and Buyer shall have received a certificate of the Company to such effect signed by a duly authorized representative of the Company; and

(c) From the date hereof, there shall not have occurred any Material Adverse Effect.

SECTION 8.03 *Conditions to Obligation of Seller.* The obligation of Seller to consummate the Closing is subject to the satisfaction (or valid waiver) at or prior to the Closing of the following further conditions:

(a) the representations and warranties of Buyer contained in Article 4 shall be true and correct on and as of the Closing Date with the same effect as though such representations and warranties had been made on and as of the Closing Date (provided that representations and warranties which speak to a specified date shall speak only as of such date) except where the failure to be so true and correct (without giving effect to any limitation or qualification as to “materiality” (including the word “material”) or similar term set forth therein) would not, individually or in the aggregate, prevent, materially impede or delay the consummation of the Closing in accordance with its terms and Seller shall have received a certificate of Buyer to such effect signed by a duly authorized officer of Buyer; and

(b) the material covenants and agreements that Buyer is required to perform or to comply with pursuant to this Agreement at or prior to the Closing shall have been performed and complied with in all material respects and Seller shall have received a certificate of Buyer to such effect signed by a duly authorized officer of Buyer.

ARTICLE 9

SURVIVAL

SECTION 9.01 *Survival*. The Parties, intending to modify any applicable statute of limitations, agree that (a) (i) the representations and warranties in this Agreement and in any certificate delivered pursuant hereto and (ii) the covenants in this Agreement only requiring performance prior to the Closing shall, in each case, terminate and be of no further force and effect effective as of the Closing and shall not survive the Closing for any purpose, and thereafter there shall be no Liability on the part of, nor shall any claim be made by or on behalf of, any Party or any Party's Affiliates in respect thereof and (b) the covenants in this Agreement that contemplate performance at or after the Closing or expressly by their terms survive the Closing shall survive the Closing in accordance with their respective terms (the “**Surviving Post-Closing Covenants**”). Except with respect to the Surviving Post-Closing Covenants, no other remedy shall be asserted or sought by Buyer, and Buyer shall cause its Affiliates not to assert or seek any other remedy, against Seller or any of its Affiliates under any contract, misrepresentation, tort, strict liability, or statutory or regulatory Law or theory or otherwise, all such remedies being hereby knowingly and expressly waived and relinquished to the fullest extent permitted under applicable law.

ARTICLE 10

TERMINATION

SECTION 10.01 *Grounds for Termination*. This Agreement may be terminated at any time prior to the Closing:

- (a) by mutual written agreement of Seller and Buyer;
- (a) by either Seller or Buyer, if the Closing shall not have been consummated on or before November 30, 2021 (the “**End Date**”); provided, however, that the right to terminate this Agreement pursuant to this Section 10.01 shall not be available to a Party whose breach of any of its representations, warranties, covenants or agreements contained herein has been the primary cause of the failure of the Closing to occur on or before the End Date;
- (b) by either Seller or Buyer, if at the end of the Auction for the Purchased Assets (if any), Buyer is not determined by the Debtors to be either the “Successful Bidder” or “Next-Highest Bidder” (each as defined in the Bid Procedures Order);
- (c) by Seller, if Seller is not then in material breach of its obligations under this Agreement and Buyer breaches or fails to perform any of its representations, warranties, covenants or agreements contained in this Agreement and such breach or failure to perform (i) would prevent the satisfaction of a condition set forth in Section 8.01 or Section 8.03, (ii) cannot be, or has not been, cured within ten (10) Business Days following delivery of written notice to Buyer of such breach or failure to perform and (iii) has not been waived by Seller;
- (d) by Buyer, if Buyer is not then in material breach of its obligations under this Agreement and Seller breaches or fails to perform any of its representations, warranties,

covenants or agreements contained in this Agreement and such breach or failure to perform (i) would prevent the satisfaction of a condition set forth in Section 8.01 or Section 8.02, (ii) cannot be, or has not been, cured within ten (10) Business Days following delivery of written notice to the Company of such breach or failure to perform and (iii) has not been waived by Buyer;

(e) by either Seller or Buyer upon the conversion of any of Seller's Chapter 11 Cases to cases under Chapter 7 of the Bankruptcy Code, the dismissal of any of Seller's Chapter 11 Cases, or if a trustee or examiner with expanded powers to operate or manage the financial affairs of Seller is appointed;

(f) by either Seller or Buyer, if the Bankruptcy Court enters a final, non-appealable order that precludes the consummation of the transactions contemplated hereby on the terms and conditions set forth in this Agreement;

(g) by either Seller or Buyer, if any court of competent jurisdiction or other competent Governmental Authority shall have enacted or issued a Law or decree or taken any other action permanently restraining, enjoining or otherwise prohibiting the consummation of the transactions contemplated by this Agreement and such Law or decree or other action shall have become final and non-appealable; provided, however, that the right to terminate this Agreement under this Section 10.01(h) shall not be available to a Party if the failure to consummate the Closing because of such action by a Governmental Authority shall be due to the failure of such Party to have fulfilled, in any material respect, any of its obligations under this Agreement;

(h) by either Seller or Buyer, if the Bankruptcy Court enters an order approving an Alternative Transaction with one or more Persons other than Buyer;

(i) by Buyer, if any of the Milestones are not met; or

(j) by Seller, if Seller or its board of directors (or similar governing body), based on the advice of counsel, 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 applicable law.

The Party desiring to terminate this Agreement pursuant to this Section 10.01 (other than pursuant to Section 10.01(a)) shall give written notice of such termination to the other Party in accordance with Section 11.01.

SECTION 10.02 *Effect of Termination.*

(a) If this Agreement is terminated as permitted by Section 10.01, (i) this Agreement shall become null and void and of no further force and effect, except for the provisions of Sections 2.09, 6.01, 7.09, 10.03, Article 11 and this Section 10.02, which shall survive such termination of this Agreement and (ii) no Party (nor any stockholder, director, officer, employee, agent, consultant or representative of any such Party) shall thereafter have any Liability hereunder; provided, nothing in this Section 10.02 shall be deemed to release any Party from any Liability (x) for any breach of any covenants contained in this Agreement occurring prior to its termination and (y) that may otherwise be provided in, or contemplated by, the provisions of Section 2.09 or 10.02(b).

(b) If this Agreement is terminated pursuant to Section 10.01(d), the Good Faith Deposit (together with any interest accrued thereon) shall be retained by Debtors for their own account as damages, and the Parties acknowledge and agree that such payment of the Good Faith Deposit to Debtors shall constitute liquidated damages (and not a penalty) and shall be the sole and exclusive remedy of Seller and any other Person against Buyer and its Affiliates arising under this Agreement in connection with any such termination, and upon payment of the Good Faith Deposit to the Debtors, neither seller nor any other Person shall be entitled to bring or maintain any other Action against Buyer or any of its Affiliates and neither Buyer nor any of its Affiliates shall have any further liability or obligation to Seller arising out of this Agreement, the transactions contemplated by this Agreement or any matters forming the basis of such termination. The Parties acknowledge and agree that (i) the agreements contained in this Section 10.01(b) are an integral part of this Agreement and the transactions contemplated hereby and (ii) in light of the difficulty of accurately determining actual damages with respect to the foregoing, the right to any such receipt of the Good Faith Deposit constitutes a reasonable estimate of the damages that will compensate Seller in the circumstances in which such fee is payable for the efforts and resources expended and the opportunities forgone while negotiating this Agreement and in reliance on this Agreement and on the expectation of the consummation of the transactions contemplated hereby. If this Agreement is terminated pursuant to any provision of Section 10.01 (other than Section 10.01(d)), Debtors shall promptly (but in any event within two (2) Business Days of such termination) return the Good Faith Deposit (together with any interest accrued thereon) to Buyer by wire transfer of immediately available funds.

SECTION 10.03 *Costs and Expenses.* Except as otherwise expressly provided in this Agreement, including as set forth in Section 10.02(b) whether or not the transactions contemplated by this Agreement are consummated, all costs and expenses incurred in connection with this Agreement shall be paid by the Party incurring such cost or expense; provided, however, that all Cure Costs shall be paid by Buyer.

ARTICLE 11

MISCELLANEOUS

SECTION 11.01 *Notices*. All notices, requests and other communications to any Party hereunder shall be in writing and shall be delivered to the addresses set forth below (or pursuant to such other address(es) as may be designated in writing by the Party to receive such notice):

if to Buyer:

Centric Brands LLC
350 Fifth Avenue
New York, NY 10118
Attention: Lori Nembirkow, General Counsel
Email: LNembirkow@centricbrands.com

with a copy, which shall not constitute notice, to:

Akin Gump Strauss Hauer & Feld LLP
One Bryant Park
New York, NY 10036
Attention: Daniel I. Fisher and Brad Kahn
Email: dfisher@akingump.com
bkahn@akingump.com

if to Seller, to:

Sequential Brands Group, Inc.
1407 Broadway
38th Floor
New York, NY 10018
Attention: Eric Gul
Email: EGul@sbg-ny.com

with a copy, which shall not constitute notice, to:

Gibson, Dunn & Crutcher LLP
200 Park Avenue
New York, New York 10166
Attention: Joshua Brody, Lilit Voskanyan, Jason Zachary Goldstein
Email: jbrody@gibsondunn.com
lvoskanyan@gibsondunn.com
jgoldstein@gibsondunn.com

All such notices, requests and other communications shall be deemed received (a) if delivered prior to 5:00 p.m. New York time on a day which is a Business Day, then on such date of delivery if delivered personally, or, if by e-mail, upon written confirmation of delivery by e-mail

(which may be electronic), and if delivered after 5:00 p.m. New York time (whether personally or by email) then on the next succeeding Business Day, (b) on the first (1st) Business Day following the date of dispatch if delivered utilizing a next-day service by a recognized next-day courier or (c) on the earlier of confirmed receipt or the fifth (5th) Business Day following the date of mailing if delivered by registered or certified mail, return receipt requested, postage prepaid.

SECTION 11.02 *Amendments and Waivers.*

(a) Any provision of this Agreement may be amended or waived if, but only if, such amendment or waiver is in writing and is signed by each of Buyer and Seller.

(b) No failure or delay by any Party in exercising any right, power or privilege hereunder shall operate as a waiver thereof nor shall any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any other right, power or privilege. The rights and remedies herein provided shall be cumulative and not exclusive of any rights or remedies provided by Law.

SECTION 11.03 *Successors and Assigns.* The provisions of this Agreement shall be binding upon and inure to the benefit of the Parties and their respective successors and assigns. Buyer, on the one hand, may not assign, delegate or otherwise transfer any of its rights or obligations under this Agreement without the prior written consent of Seller, and Seller, on the other hand, may not assign, delegate or otherwise transfer any of their respective rights or obligations under this Agreement without the prior written consent of Buyer; provided, however, that Buyer may assign any or all of its rights and obligations under this Agreement (including the right to receive the Purchased Assets) without the prior written consent of Seller to (a) one or more subsidiaries of Buyer or (b) subject to the delivery to Seller of documentation reasonably establishing the creditworthiness of the applicable entity, to WH BUYER, LLC (or any Affiliate thereof) or any joint venture between WH BUYER, LLC (or any Affiliate thereof) and Buyer (or any subsidiary thereof); provided, further, that no such assignment will relieve Buyer of its obligations hereunder. Any attempted assignment in violation of this Section 11.03 shall be null and void, *ab initio*.

SECTION 11.04 *Governing Law.* This Agreement shall be governed by and construed in accordance with the Laws of the State of Delaware, without regard to the conflicts of law rules of such State.

SECTION 11.05 *Jurisdiction.* Without limiting any Party's right to appeal any order of the Bankruptcy Court, (i) the Bankruptcy Court will retain exclusive jurisdiction to enforce the terms of this Agreement and to decide any claims or disputes which may arise or result from, or be connected with, this Agreement, any breach or default hereunder, or the transactions contemplated hereby, and (ii) any and all proceedings related to the foregoing will 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 for such purposes and will receive notices at such locations as indicated in Section 11.01; provided, however, that if the Chapter 11 Cases have been closed pursuant to Section 350 of the Bankruptcy Code, the Parties agree to unconditionally and irrevocably submit to the exclusive jurisdiction of the United States District Court for the

Southern District of New York, or in the event (but only in the event) that such court does not have subject matter jurisdiction over such Action, in the Supreme Court of the State of New York, New York County, for the resolution of any such claim or dispute. The Parties hereby irrevocably waive, to the fullest extent permitted by applicable Law, any objection which they may now or hereafter have to the laying of venue of any such Action brought in such court or any defense of inconvenient forum for the maintenance of such dispute. Each of the Parties agrees that a judgment in any such dispute may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by Law. Process in any such Action may be served on any party anywhere in the world, whether within or without the jurisdiction of the Bankruptcy Court, the United States District Court for the District of New York or any state court of the State of New York. Without limiting the foregoing, each Party agrees that service of process on such Party as provided in Section 11.01 shall be deemed effective service of process on such Party.

SECTION 11.06 *WAIVER OF JURY TRIAL*. TO THE EXTENT NOT PROHIBITED BY APPLICABLE LAW THAT CANNOT BE WAIVED, EACH PARTY HEREBY WAIVES, AND COVENANTS THAT IT WILL NOT ASSERT (WHETHER AS PLAINTIFF, DEFENDANT OR OTHERWISE), ANY RIGHT TO TRIAL BY JURY IN ANY FORUM IN RESPECT OF ANY ISSUE, CLAIM, DEMAND, ACTION OR CAUSES OF ACTION ARISING IN WHOLE OR IN PART UNDER, RELATED TO, BASED ON OR IN CONNECTION WITH THIS AGREEMENT OR ANY ANCILLARY DOCUMENT OR THE SUBJECT MATTER HEREOF OR THEREOF, WHETHER NOW EXISTING OR HEREAFTER ARISING AND WHETHER SOUNDING IN TORT OR CONTRACT OR OTHERWISE. ANY PARTY HERETO MAY FILE AN ORIGINAL COUNTERPART OR A COPY OF THIS SECTION 11.06 WITH ANY COURT AS WRITTEN EVIDENCE OF THE CONSENT OF EACH SUCH PARTY TO THE WAIVER OF ITS RIGHT TO TRIAL BY JURY.

SECTION 11.07 *Counterparts; Third Party Beneficiaries*. This Agreement may be signed in any number of counterparts, each of which shall be an original, with the same effect as if the signatures thereto and hereto were upon the same instrument. This Agreement shall become effective when each Party shall have received a counterpart hereof signed by the other Party. Delivery of a .pdf version of one or more signatures to this Agreement shall be deemed adequate delivery for purposes of this Agreement. No provision of this Agreement is intended to confer upon any Person other than the Parties any rights, benefits, Causes of Action or remedies hereunder.

SECTION 11.08 *Specific Performance*. It is understood and agreed by the Parties that money damages (even if available) would not be a sufficient remedy for any breach of this Agreement by Seller or Buyer and as a consequence thereof, Seller and Buyer shall each be entitled to seek specific performance and injunctive or other equitable relief as a remedy for any such breach or threatened breach in addition to any other remedy to which such Party may be entitled in Law or in equity, including an Order of the Bankruptcy Court or other court of competent jurisdiction requiring Buyer or Seller, as may be applicable, to comply promptly with any of their obligations hereunder. Each of the Parties agrees that it will not oppose the granting of an injunction, specific performance and other equitable relief on the basis that the other Party has an adequate remedy at Law or that any award of specific performance is not an appropriate remedy for any reason at Law or in equity. Any Party seeking an injunction or injunctions to

prevent breaches of this Agreement and to enforce specifically the terms and provisions of this Agreement shall not be required to provide any bond or other security in connection with such Order.

SECTION 11.09 *Entire Agreement*. This Agreement and the other Transaction Documents (together with the Schedules and Exhibits hereto and thereto), and the Confidentiality Agreement, constitutes the entire agreement between the Parties with respect to the subject matter hereof and thereof and supersede all prior agreements and understandings, both oral and written, between the Parties with respect to such subject matter. No Party to this Agreement shall be liable or bound to any other Party in any manner by any representations, warranties, covenants or agreements relating to such subject matter except as specifically set forth herein and therein. In the event an ambiguity or question of intent or interpretation arises with respect to this Agreement, the terms and provisions of the execution version of this Agreement will control and prior drafts of this Agreement and the documents referenced herein will not be considered or analyzed for any purpose (including in support of parol evidence proffered by any Person in connection with this Agreement), will be deemed not to provide any evidence as to the meaning of the provisions hereof or the intent of the Parties with respect hereto and will be deemed joint work product of the Parties.

SECTION 11.10 *No Strict Construction*. Buyer, on the one hand, and Seller, on the other hand, participated jointly in the negotiation and drafting of this Agreement, and, in the event an ambiguity or question of intent or interpretation arises, this Agreement shall be construed as jointly drafted by Buyer, on the one hand, and Seller, on the other hand, and no presumption or burden of proof shall arise favoring or disfavoring any Party by virtue of the authorship of any provision of this Agreement. Without limitation as to the foregoing, no rule of strict construction construing ambiguities against the draftsman shall be applied against any Person with respect to this Agreement.

SECTION 11.11 *Severability*. If any term, provision, covenant or restriction of this Agreement is held by a court of competent jurisdiction or other authority to be invalid, void or unenforceable, the remainder of the terms, provisions, covenants and restrictions of this Agreement shall remain in full force and effect and shall in no way be affected, impaired or invalidated so long as the economic or legal substance of the transactions contemplated hereby is not affected in any manner materially adverse to any Party. Upon such a determination, the Parties shall negotiate in good faith to modify this Agreement so as to effect the original intent of the Parties as closely as possible in a mutually acceptable manner in order that the transaction contemplated hereby be consummated as originally contemplated to the fullest extent possible.

SECTION 11.12 *Disclosure Schedules*. The representations and warranties of Seller set forth in this Agreement are made and given subject to the disclosures in the Disclosure Schedules. Where a reference is made only to a particular disclosed document, the full contents of the document are deemed to be disclosed. Inclusion of information in the Disclosure Schedules will not be construed as an admission that such information is material to the business, operations of condition (financial or otherwise) of Seller or their respective businesses, in whole or in part, or as an admission of Liability or obligation of Seller to any third Person. The specific disclosures set forth in the Disclosure Schedules have been organized to correspond to section references in this Agreement to which the disclosure is most likely to relate, together with appropriate

cross-references when disclosure is applicable to other sections of this Agreement; provided, however, that any disclosure in any section of the Disclosure Schedules will apply to and will be deemed to be disclosed in any other section of the Disclosure Schedules, so long as the applicability of such disclosure is reasonably apparent on its face. It is understood and agreed that the specification of any dollar amount in the representations and warranties or covenants contained in this Agreement or the inclusion of any specific item in the Disclosure Schedules is not intended to imply that such amounts or higher or lower amounts, or the items so included or other items, are or are not material, and no Party or other Person shall use the fact of the setting of such amounts or the fact of the inclusion of any such item in the Disclosure Schedules in any dispute or controversy as to whether any obligation, item or matter not described in this Agreement or included in the Disclosure Schedules is or is not material for purposes of this Agreement. Nothing in this Agreement (including the Disclosure Schedules) shall be deemed an admission by either Party or any of its Affiliates, in any Causes of Action, that such Party or any such Affiliate, or any third party, is or is not in breach or violation of, or in default in, the performance or observance of any term or provisions of any Contract or Law.

[Signature Pages Follow.]

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

JOE'S HOLDINGS LLC

By: _____
Name:
Title:

CENTRIC BRANDS LLC

By: _____
Name:
Title:

Exhibit 3

Proposed Sale Order re: With You, Inc.

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

In re:

Sequential Brands Group, Inc., *et al.*¹

Debtors

Chapter 11

Case No. 21-11194 (JTD)

(Jointly Administered)

**ORDER (I) AUTHORIZING THE SALE OF CERTAIN ASSETS OF THE DEBTORS TO
WITH YOU INC. FREE AND CLEAR OF ALL LIENS, CLAIMS, INTERESTS AND
ENCUMBRANCES, (II) AUTHORIZING THE ASSUMPTION AND ASSIGNMENT OF
CERTAIN EXECUTORY CONTRACTS IN CONNECTION THEREWITH, AND (III)
GRANTING RELATED RELIEF**

Upon the motion, dated August 31, 2021 (the “Motion”) [Docket No. 19],² of Sequential Brands Group, Inc. (the “Seller”) and certain of its affiliates, as debtors and debtors in possession in the above-captioned cases (each, a “Debtor” and collectively, the “Debtors”), pursuant to Bankruptcy Code sections 105(a), 363, and 365 of title 11 of the United States Code (the “Bankruptcy Code”) and 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”), seeking entry of, among other things: (i) an order (the “Bidding Procedures Order”) (a) approving the bidding procedures (the “Bidding

¹ The Debtors, along with the last four digits of each Debtor’s tax identification number, are: Sequential Brands Group, Inc. (2789), SQBG, Inc. (9546), Sequential Licensing, Inc. (7108), William Rast Licensing, LLC (4304), Healing Sports Limited (0479), Brand Matter, LLC (1258), SBG FM, LLC (8013), Galaxy Brands LLC (9583), The Basketball Marketing Company, Inc. (7003), American Sporting Goods Corporation (1696), LNT Brands LLC (3923), Joe’s Holdings LLC (3085), Gaiam Brand Holdco, LLC (1581), Gaiam Americas, Inc. (8894), SBGGaiam Holdings, LLC (8923), SBG Universe Brands, LLC (4322), and GBT Promotions LLC (7003). The Debtors’ corporate headquarters and the mailing address for each Debtor is 1407 Broadway, 38th Floor, New York, NY 10018.

² Capitalized terms used but not defined herein shall have the meaning ascribed to them in the Motion or the With You APA (as defined herein), as applicable.

Procedures”) in connection with the sale or disposition (each, a “Sale”) of all or substantially all of the Debtors’ assets (including the Purchased Assets), (b) authorizing the Debtors to enter into one or more stalking horse agreements and to provide bidding protections thereunder, (c) scheduling an auction (the “Auction”) and approving the form and manner of notice thereof, (d) approving procedures for the assumption and assignment of certain executory contracts, (e) scheduling a sale hearing (the “Sale Hearing”) to approve the Sale and approving the form and manner of notice thereof; and (ii) an order (a) approving the Sale and other transactions contemplated by the With You APA (as defined below) free and clear of all liens, Claims (as defined below), liabilities, rights, Interests (as defined below) and Encumbrances, including the Permitted Encumbrances set forth on Schedule 1.01 to the With You APA (but subject to other Permitted Encumbrances) in accordance with the terms of the With You APA, (b) approving the assumption and assignment of certain executory contracts and unexpired leases, and (c) granting certain related relief; and the Debtors having executed that certain *Membership Interest Purchase Agreement by and between Sequential Brands Group, Inc. and With You, Inc.* dated as of October 7, 2021 (as may be amended from time to time in accordance with the terms thereof and this Order, the “With You APA”), attached hereto as **Exhibit 1**, contemplating the sale of the Purchased Assets to With You, Inc. (“WYI” or “Buyer”) or Assignee (as defined below) free and clear of any Claims, Interests, or Encumbrances, including the Permitted Encumbrances set forth on Schedule 1.01 to the With You APA (but subject to other Permitted Encumbrances) (the “Sale Transaction”); and the Court having entered the Bidding Procedures Order on September 24, 2021 [Docket No. 138]; and the Debtors having filed a *Notice of (I) Stalking Horse Designation and (II) Filing of With You Stalking Horse Purchase Agreement with Bid Protections* (the “Stalking Horse Notice”) [Docket No. 176] designating With You, Inc. as a stalking horse bidder pursuant to the Bidding Procedures Order; and this Court having entered an order approving the With You Stalking Horse Bid Protections (as defined in the Stalking Horse

Notice) [Docket No. 183] (the “Stalking Horse Order”); and the Auction having been cancelled in accordance with the Bidding Procedures; and the Sale Hearing having been held on November 4, 2021; and the Court having reviewed and considered the relief sought in the Motion, the Stalking Horse Notice, the With You APA, all objections to the Motion, and the arguments of counsel made, and the evidence proffered or adduced at the Sale Hearing; and all parties in interest having been heard or having had the opportunity to be heard regarding the Sale Transaction and the relief requested in this Order; and due and sufficient notice of the Sale Hearing and the relief sought therein having been given under the particular circumstances of these Chapter 11 cases and in accordance with the Bidding Procedures Order; and it appearing that no other or further notice need be provided; and it appearing that the relief requested in the Motion is in the best interests of the Debtors, their estates, their creditors and all other parties in interest; and it appearing that the Court has jurisdiction over this matter; and it further appearing that the legal and factual bases set forth in the Motion and the Herbert Declaration [Docket No. 134] and at the Sale Hearing establish just cause for the relief granted herein; and after due deliberation thereon:

THE COURT HEREBY FINDS THAT:³

Jurisdiction and Venue

A. This Court has jurisdiction to hear and determine the Motion pursuant to 28 U.S.C. §§ 157 and 1334, the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware dated as of February 29, 2012, and this matter is a core proceeding pursuant to 28 U.S.C. § 157(b). Venue of these cases and proceedings is proper in this District and this Court under 28 U.S.C. §§ 1408 and 1409.

³ The findings and conclusions set forth herein constitute this 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.

Statutory Predicates

B. The statutory predicates for the relief requested in the Motion are Bankruptcy Code sections 105, 363 and 365. Such relief is also warranted pursuant to Bankruptcy Rules 2002, 6004, 6006, 9007, 9008 and 9014 and Local Rules 2002-1 and 6004-1.

Final Order

C. This Order constitutes a final and appealable order within the meaning of 28 U.S.C. § 158(a).

Notice of the With You APA, Assumption and Assignment of Assumed Contracts, Sale Transaction, Sale Hearing and Bidding Procedures Order

D. On August 31, 2021 (the “Petition Date”), the Debtors commenced these chapter 11 cases (the “Chapter 11 Cases”) by filing a voluntary petition for relief under chapter 11 of the Bankruptcy Code.

E. Since the Petition Date, the Debtors have continued to operate and manage their businesses as debtors-in-possession pursuant to Bankruptcy Code sections 1107(a) and 1108.

F. The Debtors gave due and proper notice of (i) the Sale on September 24, 2021 [Docket No. 139] (the “Sale Notice”) and (ii) the Stalking Horse Notice on October 8, 2021. The Sale Notice and Stalking Horse Notice constituted good, sufficient, and appropriate notice of the Sale under the particular circumstances and no further notice need be given with respect to the proposed Sale. As provided by the Sale Notice, a reasonable opportunity to object or be heard regarding the requested relief has been afforded to all interested persons and entities. Other parties interested in bidding on the Purchased Assets were provided, pursuant to the Bidding Procedures Order, sufficient information to make an informed judgment on whether to bid.

G. The Debtors also gave due and proper notice of the potential assumption and assignment of each executory contract or unexpired lease available to be assumed by the Debtors and assigned to the Buyer to each non-debtor party under each such executory contract or unexpired lease

as reflected on the notices of assumption, sale and assignment of the Assumed Contracts filed on September 29, 2021 [Docket No. 148], October 8, 2021 [Docket No. 175], and October 20, 2021 [Docket No. 225] (together, the “Assumption Notice”). Such notice was good, sufficient, and appropriate under the particular circumstances and the counterparties to the Assumed Contracts are hereby deemed to consent to the relief granted herein unless otherwise provided in this Order.

H. As evidenced by the affidavits of service [Docket Nos. 151, 152, 179, 180, 181, 182, 187, 188, 247, 254, 260, 262] and publication [Docket No. 147] previously filed with this Court, and based on the representations of counsel at the Sale Hearing, due, proper, timely, adequate and sufficient notice of the Motion, the Bidding Procedures Order, the Stalking Horse Order, the Auction, the Sale Hearing, the assumption and assignment of the Assumed Contracts, the With You APA, this Order and the Sale Transaction has been provided in accordance with Bankruptcy Code sections 102(1) and 363, Bankruptcy Rules 2002, 9007, 9008, and 9014 and Local Rules 2002-1 and 6004-1. The Debtors have complied with all obligations to provide notice of the Motion, the Bidding Procedures Order, the Stalking Horse Notice, the Auction, the Sale Hearing, the assumption and assignment of the Assumed Contracts, the With You APA, this Order and the Sale Transaction as required by the Bidding Procedures Order. The aforementioned notices are good, sufficient, and appropriate under the circumstances, and no other or further notice of the Motion, the Bidding Procedures Order, the Stalking Horse Notice, the Auction, the Sale Hearing, the assumption and assignment of the Assumed Contracts, the With You APA, this Order, or the Sale Transaction is or shall be required.

I. A reasonable opportunity to object or be heard regarding the relief requested in the Motion and provided in this Order was afforded to all parties in interest.

Compliance with the Bidding Procedures Order

J. As demonstrated by the evidence proffered or adduced at the Sale Hearing and the representations of counsel at the Sale Hearing, the Debtors have complied in all material respects

with the Bidding Procedures Order. The Debtors and their professionals have adequately and appropriately marketed the Purchased Assets in compliance with the Bidding Procedures and the Bidding Procedures Order, and in accordance with the Debtors' fiduciary duties. Based upon the record of these proceedings, creditors, other parties in interest, and prospective purchasers were afforded a reasonable and fair opportunity to bid for the Purchased Assets.

K. The Bidding Procedures were substantively and procedurally fair to all parties and all potential bidders and afforded notice and a full, fair, and reasonable opportunity for any person to make a higher or otherwise better offer to purchase the Purchased Assets. The Debtors conducted the sale process without collusion and in accordance with the Bidding Procedures.

L. The Bidding Procedures Order and the Stalking Horse Order are incorporated herein by reference.

M. The Buyer is the Successful Bidder, and the With You APA is the Successful Bid, for the Purchased Assets in accordance with the Bidding Procedures Order and the Stalking Horse Order. The Buyer has complied in all respects with the Bidding Procedures Order and all other applicable orders of this Court in negotiating and entering into the With You APA, and the Sale Transaction and the With You APA likewise comply with the Bidding Procedures Order and all other applicable orders of this Court.

Business Judgment

N. The With You APA, including the form and total consideration to be realized by the Debtors under the With You APA, (i) constitutes the highest and best offer received by the Debtors for the Purchased Assets; (ii) is fair and reasonable; and (iii) is in the best interests of the Debtors, their estates, their creditors, and all other parties in interest.

O. The Debtors' determination that the consideration provided by the Buyer under the With You APA constitutes the highest and best offer for the Purchased Assets constitutes a valid and sound exercise of the Debtors' business judgment.

P. Consistent with their fiduciary duties, the Debtors have demonstrated good, sufficient, and sound business reasons and justifications for entering into the Sale Transaction and the performance of their obligations under the With You APA, including, but not limited to, the fact that (i) the consideration provided by the Buyer under the With You APA will provide a greater recovery for the Debtors' estates than would be provided by any other available alternative, including a separate liquidation of the Purchased Assets; and (ii) unless the Sale Transaction is concluded expeditiously as provided for in the Motion and pursuant to the With You APA, recoveries of creditors will be diminished.

Corporate Authority

Q. Subject to entry of this Order, the Debtors (i) have full corporate power and authority to execute and deliver the With You APA and all other documents contemplated thereby, have all of the necessary corporate power and authority to consummate the transactions contemplated by the With You APA, including, without limitation, the Sale Transaction and the assumption and assignment of the Assumed Contracts, (ii) have taken all corporate action necessary to authorize and approve the With You APA and the consummation by the Debtors of the transactions contemplated thereby, including, without limitation, the Sale Transaction and the assumption and assignment of the Assumed Contracts, and (iii) subject to entry of this Order, need no consents or approvals, including any consents or approvals from any non-Debtor entities, other than those expressly set forth in the With You APA or this Order, to consummate the transactions contemplated thereby, including, without limitation, the Sale Transaction and the assumption and assignment of the Assumed Contracts.

Good Faith

R. The sales process engaged in by the Debtors and the Buyer, including, without limitation, the Auction process, which was conducted in accordance with the Bidding Procedures and

the Bidding Procedures Order, and the negotiation of the With You APA, was at arm's length, non-collusive, in good faith, and substantively and procedurally fair to all parties in interest. None of the Debtors or the Buyer has engaged in any conduct that would cause or permit the With You APA or the Sale Transaction to be avoided, or costs or damages to be imposed, under Bankruptcy Code section 363(n).

S. The Debtors and the Buyer have complied, in good faith, in all respects with the Bidding Procedures Order, the Stalking Horse Order, and the Bidding Procedures. The Debtors and the Seller, and their respective management, board of directors, board of managers (or comparable governing authority), employees, agents, and representatives, and the Buyer and its employees, agents, advisors, and representatives, each actively participated in the bidding process and in the Auction process, and each acted in good faith and without collusion or fraud of any kind. The Buyer subjected its bid to competitive bidding in accordance with the Bidding Procedures and the Stalking Horse Order and was designated the Successful Bidder for the Purchased Assets in accordance with the Bidding Procedures, the Bidding Procedures Order, and the Stalking Horse Order.

T. The Buyer is a good faith buyer within the meaning of Bankruptcy Code section 363(m) and is therefore entitled to the full protection of that provision in respect of the Sale Transaction, each term of the With You APA (and any ancillary documents executed in connection therewith) and each term of this Order, and otherwise has proceeded in good faith in all respects in connection with this proceeding. None of the Debtors or the Buyer has engaged in any conduct that would prevent the application of Bankruptcy Code section 363(m). The Debtors were free to deal with any other party interested in buying or selling some or all of the Purchased Assets on behalf of the Debtors' estates. The protections afforded by Bankruptcy Code section 363(m) are integral to the Sale Transaction and the Buyer would not consummate the Sale Transaction without such protections.

U. The form and total consideration to be realized by the Debtors under the With You

APA constitutes fair value, fair, full and adequate consideration, reasonably equivalent value and reasonable market value for the Purchased Assets.

V. Neither the Buyer nor any of its affiliates, officers, directors, managers, shareholders, members, or any of their respective successors or assigns is an “insider” of any of the Debtors, as that term is defined under Bankruptcy Code section 101(31). No common identity of directors, managers, controlling shareholders, or members exists between the Debtors and the Buyer.

No Fraudulent Transfer

W. The consideration provided by the Buyer for the Purchased Assets pursuant to the With You APA: (i) is fair and reasonable; (ii) is the highest and best offer for the Purchased Assets; (iii) will provide a greater recovery for the Debtors’ creditors and estates than would be provided by any other practical available alternative; and (iv) constitutes reasonably equivalent value and fair consideration under the Bankruptcy Code, the laws of the United States, and the laws of each state, territory, possession, and the District of Columbia.

X. The With You APA was not entered into, and none of the Debtors or the Buyer has entered into the With You APA or proposes to consummate the Sale Transaction, for the purpose of: (i) escaping liability for any of the Debtors’ debts; or (ii) hindering, delaying, or defrauding the Debtors’ present or future creditors, for the purpose of statutory and common law fraudulent conveyance and fraudulent transfer claims whether under the Bankruptcy Code or under the laws of the United States, any state, territory, possession thereof, or the District of Columbia, or any other applicable jurisdiction with laws substantially similar to the foregoing.

Free and Clear

Y. The transfer of the Purchased Assets to the Buyer will be legal, valid, and effective transfers of the Purchased Assets, and will vest the Buyer with all right, title, and interest of the Seller to the Purchased Assets, free and clear of all claims, liens (including, without limitation, any statutory

lien on real and personal property and any and all “liens” as that term is defined and used in the Bankruptcy Code, including Section 101(37) thereof), liabilities, interests, rights, and encumbrances, including, without limitation, the following: all mortgages, restrictions (including, without limitation, any restriction on the use, voting rights, transfer rights, claims for receipt of income or other exercise of any attributes of ownership), hypothecations, charges, indentures, loan agreements, instruments, leases, licenses, sublicenses, options, deeds of trust, security interests, equity interests, conditional sale rights, or other title retention agreements, pledges, judgments, demands, rights of first refusal, consent rights, offsets, contract rights, rights of setoff, recoupment rights, rights of recovery, reimbursement rights, contribution claims, indemnity rights, exoneration rights, product liability claims, alter-ego claims, environmental rights and claims (including, without limitation, toxic tort claims), labor rights and claims, employment rights and claims, pension rights and claims, tax claims, regulatory violations by any governmental entity, decrees of any court or foreign or domestic governmental entity, charges of any kind or nature, debts arising in any way in connection with any agreements, acts, or failures to act, reclamation claims obligation claims, demands, guaranties, option rights or claims, rights, contractual or other commitment rights and claims, and all other matters of any kind and nature, whether known or unknown, choate or inchoate, filed or unfiled, scheduled or unscheduled, noticed or unnoticed, recorded or unrecorded, perfected or unperfected, allowed or disallowed, contingent or non- contingent, liquidated or unliquidated, matured or unmatured, material or non-material, disputed or undisputed, whether arising prior to or subsequent to the commencement of the Chapter 11 Cases, and whether imposed by agreement, understanding, law, equity or otherwise, including claims otherwise arising under any theory, law or doctrine of successor or transferee liability or related theories (all of the foregoing, including, without limitation, liens and liabilities, but excluding Assumed Liabilities, collectively being referred to in this Order as “Claims” and, as used in this Order, the term “Claims” includes, without limitation, any and all “claims” as that

term is defined and used in the Bankruptcy Code, including section 101(5) thereof).

Z. The Debtors, to the extent permitted by applicable law, may transfer the Purchased Assets free and clear of all Claims, other interests of any kind or nature whatsoever (“Interests”), and Encumbrances, including the Permitted Encumbrances set forth on Schedule 1.01 to the With You APA (but subject to other Permitted Encumbrances), including, without limitation, rights or claims based on any successor or transferee liability, because, in each case, one or more of the standards set forth in Bankruptcy Code section 363(f)(1)-(5) has been satisfied.

AA. Those holders of Claims and non-Debtor parties to the Assumed Contracts who did not object or who withdrew their objections to the Motion are deemed to have consented pursuant to Bankruptcy Code section 363(f)(2). Those holders of Claims and non-Debtor parties to the Assumed Contracts who did object fall within one or more of the other subsections of Bankruptcy Code section 363(f).

BB. Each of the DIP Parties and the Prepetition Secured Parties (each as defined in the DIP Orders) has consented to the sale of the Purchased Assets to the Buyer pursuant to the With You APA free and clear of any Claims, Interests, or Encumbrances (including the Permitted Encumbrances set forth on Schedule 1.01 to the With You APA (but subject to other Permitted Encumbrances)) of the DIP Parties and the Prepetition Secured Parties against the Purchased Assets (the “Secured Lenders’ Liens”), and any reference herein to Claims, Interests, or Encumbrances shall include the Secured Lenders’ Liens.

CC. The Debtors have, to the extent necessary, satisfied the requirements of section 363(b)(1) of the Bankruptcy Code.

DD. The Buyer would not have entered into the With You APA and would not consummate the transactions contemplated thereby, including, without limitation, the Sale Transaction and the assumption and assignment of the Assumed Contracts: (i) if the transfer of the

Purchased Assets were not free and clear of all Claims, Interests, and Encumbrances (including the Permitted Encumbrances set forth on Schedule 1.01 to the With You APA (but subject to other Permitted Encumbrances)); or (ii) if the Buyer would, or in the future could, be liable for any such Claims (including the Permitted Encumbrances set forth on Schedule 1.01 to the With You APA (but subject to other Permitted Encumbrances)). The Buyer will not consummate the transactions contemplated by the With You APA, including, without limitation, the Sale Transaction and the assumption and assignment of the Assumed Contracts, unless this Court expressly orders that none of the Buyer, its respective affiliates, its respective present or contemplated members or shareholders, or the Purchased Assets will have any liability whatsoever (including the Permitted Encumbrances set forth on Schedule 1.01 to the With You APA (but subject to other Permitted Encumbrances)) with respect to, or be required to satisfy in any manner, whether at law or equity, or by payment, setoff, or otherwise, directly or indirectly, any Claims.

EE. Not transferring the Purchased Assets free and clear of all Claims, Interests, and Encumbrances (including the Permitted Encumbrances set forth on Schedule 1.01 to the With You APA (but subject to other Permitted Encumbrances)) would adversely impact the Debtors' efforts to maximize the value of their estates, and the transfer of the Purchased Assets other than pursuant to a transfer that is free and clear of all Claims, Interests, and Encumbrances (including the Permitted Encumbrances set forth on Schedule 1.01 to the With You APA (but subject to other Permitted Encumbrances)) would be of substantially less benefit to the Debtors' estates.

FF. Neither the Buyer nor any of its affiliates are a mere continuation of the Debtors or their estates, there is no continuity or common identity between the Buyer, any of its affiliates and any of the Debtors, and there is no continuity of enterprise between the Buyer, any of its affiliates and any of the Debtors. Neither the Buyer nor any of its affiliates are holding themselves out to the public as a continuation of any of the Debtors. Neither the Buyer nor any of its affiliates are a

successor to any of the Debtors or their estates and none of the transactions contemplated by the With You APA, including, without limitation, the Sale Transaction and the assumption and assignment of the Assumed Contracts amounts to a consolidation, merger, or *de facto* merger of the Buyer or any of its affiliates with or into any of the Debtors.

GG. Without limiting the generality of the foregoing, and other than as may be set forth in the With You APA, none of the Buyer, its affiliates, its and their respective present or contemplated members or shareholders, or the Purchased Assets will have any liability whatsoever with respect to, or be required to satisfy in any manner, whether at law or equity, or by payment, setoff, or otherwise, directly or indirectly, any Claims relating to any U.S. federal, state, or local income tax liabilities, that the Debtors may incur in connection with consummation of the transactions contemplated by the With You APA, including, without limitation, the Sale Transaction and the assumption and assignment of the Assumed Contracts, or that the Debtors have otherwise incurred prior to the consummation of the transactions contemplated by the With You APA.

Validity of Transfer

HH. The consummation of the transactions contemplated by the With You APA, including, without limitation, the Sale Transaction and the assumption and assignment of the Assumed Contracts is legal, valid and properly authorized under all applicable provisions of the Bankruptcy Code, including, without limitation, Bankruptcy Code sections 105(a), 363(b), 363(f), 363(m), 365(b) and 365(f), and all of the applicable requirements of such sections have been complied with in respect of the transactions contemplated under the With You APA.

II. The Purchased Assets constitute property of the Debtors' estates and good title to the Purchased Assets of the Debtors is vested in the Debtors' estates within the meaning of Bankruptcy Code section 541(a). The Debtors are the sole and lawful owners of the Purchased Assets, and no other person has any ownership right, title, or interest therein.

JJ. The With You APA has been duly and validly executed and delivered by the Debtors and, subject to the terms of the With You APA, shall constitute a valid and binding obligation of the Debtors, enforceable against the Debtors in accordance with its terms. The With You APA, the Sale Transaction, and the consummation thereof shall be specifically enforceable against and binding upon (without posting any bond) the Debtors and any chapter 7 or chapter 11 trustee appointed in these chapter 11 cases and shall not be subject to rejection or avoidance by the foregoing parties or any other person.

KK. The sale, conveyance, assignment, and transfer of any personally identifiable information pursuant to the terms of the With You APA and this Order complies with the terms of the Debtors' policy regarding the transfer of such personally identifiable information as of the Petition Date and, as a result, consummation of the Sale Transaction is permitted pursuant to section 363(b)(1)(A) of the Bankruptcy Code. Accordingly, appointment of a consumer privacy ombudsman in accordance with sections 363(b)(1) or 332 of the Bankruptcy Code is not required with respect to the Sale Transaction.

Assumed Contracts

LL. The assumption and assignment of the Assumed Contracts pursuant to the Assumption Notice, the terms of this Order, and the With You APA is integral to the transactions contemplated by the With You APA; is in the best interests of the Debtors, their estates and creditors, and all other parties in interest; and represents a reasonable exercise of the Debtors' sound and prudent business judgment.

MM. Pursuant to the terms of the With You APA and this Order, on or before the Closing Date, as applicable pursuant to the terms of this Order, the Debtors or the Buyer, as applicable, shall have, except as otherwise provided in the With You APA or this Order, or as otherwise expressly agreed to between the Debtors or the Buyer, as applicable, and such counterparty: (i) cured, or

provided adequate assurance of the cure of, any monetary default existing as of and including the Closing Date under any of the Assumed Contracts, within the meaning of Bankruptcy Code section 365(b)(1)(A); (ii) provided compensation, or adequate assurance of compensation, to any party for actual pecuniary loss to such party resulting from a monetary default existing as of and including the Closing Date under any of the Assumed Contracts, within the meaning of Bankruptcy Code section 365(b)(1)(B); and (iii) provided adequate assurance of future performance under the Assumed Contracts within the meaning of Bankruptcy Code sections 365(b)(1)(C), 365(b)(3) (to the extent applicable) and 365(f)(2)(B).

Application of Proceeds

NN. Pursuant to the interim and final orders authorizing and approving the Debtors' debtor in possession financing and use of cash collateral [Docket Nos. 70 and 110] (together, the "DIP Orders"), the Purchased Assets constitute Cash Collateral, Prepetition Collateral and DIP Collateral (each as defined in the DIP Orders) and are subject to the Adequate Protection Liens, Prepetition Liens, and DIP Liens (each as defined in the DIP Orders). Subject to the "Payment in Full" (as defined in the DIP Orders) of the Prepetition BAML Obligations (as defined in the DIP Orders), pursuant to the DIP Orders and the DIP Loan Documents (as defined in the DIP Orders), the Debtors are required to apply all consideration received from the sale of the Purchased Assets as follows: first, to the holders of the DIP Obligations as of the date of the initial funding under the DIP Credit Facility (as defined in the DIP Orders) (or as otherwise agreed to between the Buyer and such holders of the DIP Obligations) until such time as such DIP Obligations are paid in full in cash (or as otherwise agreed by the DIP Agent as directed by the Required DIP Lenders (as defined in the DIP Loan Documents)) and all commitments to lend under the DIP Loan Documents have been terminated; and second, to the Prepetition Term B Agent (as defined in the DIP Orders) for distribution to the holders of the Prepetition Term B Obligations as of the Petition Date (or as

otherwise agreed to between the Buyer and such holders of the Prepetition Term B Obligations) in accordance with the Prepetition Term B Credit Agreement (as defined in the DIP Orders) until the Prepetition Term B Obligations (as defined in the DIP Orders) have been paid in full in cash (or as otherwise agreed by the Prepetition Term B Agent (as defined in the DIP Orders) as directed by the Required Lenders (as defined in the Prepetition Term B Loan Documents)). The application of the consideration from the sale of the Purchased Assets pursuant to the immediately preceding sentence complies with the requirements of the DIP Orders and the DIP Loan Documents and is supported by good, sufficient and sound business reasons.

Compelling Circumstances for an Immediate Sale

OO. To maximize the value of the Purchased Assets, it is essential that the transactions contemplated by the With You APA, including, without limitation, the Sale Transaction and the assumption and assignment of the Assumed Contracts, occur within the time constraints set forth in the With You APA. Time is of the essence in consummating the transactions contemplated by the With You APA, including, without limitation, the Sale Transaction and the assumption and assignment of the Assumed Contracts. Accordingly, there is cause to waive the stays contemplated by Bankruptcy Rules 6004 and 6006.

PP. The Debtors have demonstrated compelling circumstances and a good, sufficient, and sound business purpose and justification for the immediate approval and consummation of the transactions contemplated by the With You APA, including, without limitation, the Sale Transaction and the assumption and assignment of the Assumed Contracts prior to, and outside of, a chapter 11 plan because, among other things, the Debtors' estates will suffer irreparable harm if the relief requested in the Motion is not granted on an expedited basis. The transactions contemplated by the With You APA, including, without limitation, the Sale Transaction and the assumption and assignment of the Assumed Contracts, neither impermissibly restructure the rights of the Debtors'

creditors nor impermissibly dictates the terms of a chapter 11 plan for the Debtors, and therefore, do not constitute a *sub rosa* plan.

QQ. The legal and factual bases set forth in the Motion and the Herbert Declaration filed in support thereof and presented at the Sale Hearing establish just cause for the relief granted herein.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED THAT:

General Provisions

1. The Motion is granted as provided herein, and entry into and performance under, and in respect of, the With You APA attached hereto as **Exhibit 1** and the consummation of the transactions contemplated thereby, including, without limitation, the Sale Transaction and the assumption and assignment of the Assumed Contracts is authorized and approved.

2. Any objections and responses to the Motion or the relief requested therein that have not been withdrawn, waived, settled, or resolved, and all reservation of rights included in such objections and responses, are overruled on the merits and denied with prejudice. All persons and entities given notice of the Motion that failed to timely object thereto are deemed to consent to the relief granted herein, including for purposes of Bankruptcy Code sections 363(f)(2), 365(c)(1), and 365(e)(2).

Approval of the With You APA

3. The With You APA, all ancillary documents, the transactions contemplated thereby, including, without limitation, the Sale Transaction and the assumption and assignment of the Assumed Contracts (but subject to the Buyer's rights with respect thereto pursuant to the With You APA) and all the terms and conditions thereof, are approved. The failure specifically to include any particular provision of the With You APA in this Order shall not diminish or impair the effectiveness of such provision, it being the intent of the Court that the With You APA be authorized and approved in its entirety.

4. The Debtors and their respective officers, employees and agents are authorized and

directed to take any and all actions necessary, appropriate or reasonably requested by the Buyer to perform, consummate, implement, and close the Sale Transaction, including, without limitation, (i) the sale to the Buyer of all Purchased Assets, in accordance with the terms and conditions set forth in the With You APA and this Order; and (ii) execution, acknowledgment, and delivery of such deeds, assignments, conveyances, stock powers, and other assurance, documents, and instruments of transfer and any action for purposes of assigning, transferring, granting, conveying, and confirming to the Buyer, or reducing to possession, the Purchased Assets, all without further order of this Court. The Debtors are further authorized to pay, without further order of this Court, whether before, at, or after the Closing Date, any expenses or costs that are required to be paid by the Debtors under the With You APA, this Order, or the Bidding Procedures Order, in order to consummate the Sale Transaction or perform their obligations under the With You APA, including payment of the With You Stalking Horse Bid Protections to the extent provided by the With You APA, the Bidding Procedures Order, and the Stalking Horse Order.

5. All persons and entities, including, without limitation, the Debtors, the Debtors' estates, all debt security holders, equity security holders, governmental tax and regulatory authorities, lenders, customers, vendors, employees, former employees, litigation claimants, trustees, trade creditors, and any other creditors (or agent of any of the foregoing) who may or do hold Claims (whether legal or equitable, secured or unsecured, matured or unmatured, contingent or noncontingent, senior or subordinated) against the Debtors or the Purchased Assets owned by the Debtors, arising under or out of, in connection with, or in any way relating to, the Debtors, the Purchased Assets owned by the Debtors, the operation or ownership of the Purchased Assets by the Debtors prior to the Closing Date, or the Sale Transaction, are hereby prohibited, forever barred, estopped, and permanently enjoined from asserting or pursuing such Claims against Buyer, its affiliates, shareholders, members, successors, assigns, its property, or the Purchased Assets,

including, without limitation, taking any of the following actions with respect to any Claims: (i) commencing or continuing in any manner any action, whether at law or in equity, in any judicial, administrative, arbitral, or any other proceeding, against Buyer, its affiliates, shareholders, members, successors, assigns, assets (including the Purchased Assets), and/or properties; (ii) enforcing, attaching, collecting, or recovering in any manner any judgment, award, decree, or order against Buyer, its affiliates, shareholders, members, successors, assigns, assets (including the Purchased Assets), and/or properties; (c) creating, perfecting, or enforcing any Claim against Buyer, its affiliates, any of their respective successors, assigns, shareholders, members, assets (including the Purchased Assets), and/or properties; (d) asserting a Claim as a setoff, right of subrogation, or recoupment of any kind against any obligation due against Buyer, its affiliates, any of their respective successors, assigns, shareholders, members, assets (including the Purchased Assets), and/or properties; or (e) commencing or continuing any action in any manner or place that does not comply, or is inconsistent, with the provisions of this Order, the With You APA, or the agreements or actions contemplated or taken in respect thereof, including the Debtors' ability to transfer the Purchased Assets to the Buyer in accordance with the terms of this Order and the With You APA. No such Person shall assert or pursue any such Claim against Buyer, its affiliates, any of their respective successors, assigns, shareholders, members, assets (including the Purchased Assets), and/or properties.

6. The sale of the Purchased Assets to the Buyer under the With You APA constitutes a transfer for reasonably equivalent value and fair consideration under the Bankruptcy Code and laws of all applicable jurisdictions, including, without limitation, the laws of each jurisdiction in which the Purchased Assets are located, and the sale of the Purchased Assets to the Buyer may not be avoided under any statutory or common law fraudulent conveyance and fraudulent transfer theories whether under the Bankruptcy Code, under the laws of the United States, or the laws of any state, territory,

possession thereof, or the District of Columbia, or any other applicable jurisdiction with laws substantially similar to the foregoing.

7. In accordance with, and pursuant to, section 11.03 of the With You APA, at any time prior to the Closing Date, WYI may assign any or all of its rights and obligations under the With You APA (including the right to receive the Purchased Assets) to one or more subsidiaries of Buyer, in each case, without the prior written consent of the Debtors and without further order of this Court; or (ii) Buyer may assign, delegate, or otherwise transfer any of its rights or obligations under the With You APA with the prior written consent of the Debtors but without further order of this Court (the “Assignee”); provided that no such assignment will relieve Buyer of its obligations under the With You APA. Following such assignment, the Assignee shall have the benefit of all factual findings, orders, and other provisions of this Order related to the Buyer.

Transfer of the Purchased Assets Free and Clear

8. Pursuant to Bankruptcy Code sections 105(a) and 363(f), the Purchased Assets shall be sold free and clear of all Claims, Interests, and Encumbrances (including the Permitted Encumbrances set forth on Schedule 1.01 to the With You APA (but subject to other Permitted Encumbrances)), including, for the avoidance of doubt, the Secured Lenders’ Liens, with all such Claims to attach to the proceeds of the Sale Transaction to be received by the Debtors with the same validity, force, priority, and effect that they now have as against the Purchased Assets, subject to any claims and defenses the Debtors may possess with respect thereto; provided, however, that setoff rights will be extinguished to the extent there is no longer mutuality after the consummation of the Sale Transaction.

9. At Closing, all of the Debtors’ right, title, and interest in and to, and possession of, the Purchased Assets shall be immediately vested in the Buyer pursuant to Bankruptcy Code sections 105(a), 363(b), and 363(f) free and clear of any and all Claims, Interests, and Encumbrances

(including the Permitted Encumbrances set forth on Schedule 1.01 to the With You APA (but subject to other Permitted Encumbrances)). Such transfer shall constitute a legal, valid, binding, and effective transfer of, and shall vest the Buyer with good, valid and marketable title to, the Purchased Assets. All person or entities, presently or on or after the Closing Date, in possession of some or all of the Purchased Assets are directed to surrender possession of the Purchased Assets to the Buyer or its designees on the Closing Date or at such time thereafter as the Buyer may request.

10. This Order is and shall be binding upon and govern the acts of all entities, including, without limitation, all filing agents, filing officers, title agents, title companies, recorders of mortgages, recorders of deeds, registrars of deeds, registrars of patents, trademarks, or other intellectual property, administrative agencies, governmental departments, secretaries of state, federal and local officials, and all other persons and entities who may be required by operation of law, the duties of their office or contract, to accept, file, register, or otherwise record or release any documents or instruments; and each of the foregoing persons and entities is hereby authorized to accept for filing any and all of the documents and instruments necessary and appropriate to consummate the Sale Transaction contemplated by the With You APA.

11. Except as otherwise expressly provided in the With You APA or this Order, all persons and entities (and their respective successors and assigns), including, but not limited to, all debt security holders, equity security holders, affiliates, foreign, federal, state and local governmental, tax and regulatory authorities, lenders, customers, vendors, employees, trade creditors, litigation claimants, and other creditors holding Claims against the Debtors or the Purchased Assets arising under or out of, in connection with, or in any way relating to, the Debtors, the Debtors' predecessors or affiliates, the Purchased Assets, the ownership, sale, or operation of the Purchased Assets prior to Closing or the transfer of the Purchased Assets to the Buyer, are hereby forever barred, estopped, and permanently enjoined from asserting or prosecuting any cause of action, process, or other act or

seeking to collect, offset, or recover on account of any Claims against the Buyer, its successors or assigns; their property; or the Purchased Assets. Following the Closing, no holder of any Claim or Encumbrance (including the Permitted Encumbrances set forth on Schedule 1.01 to the With You APA (but subject to other Permitted Encumbrances)) shall interfere with the Buyer's title to or use and enjoyment of the Purchased Assets based on or related to any such Claim or Encumbrance (including the Permitted Encumbrances set forth on Schedule 1.01 to the With You APA (but subject to other Permitted Encumbrances)) or based on any action or omission of the Debtors, including any action or omission the Debtors may take in the Chapter 11 Cases.

12. The Debtors are authorized and directed to execute such documents as may be necessary to release any Claims, Interests, or Encumbrances (including the Permitted Encumbrances set forth on Schedule 1.01 to the With You APA (but subject to other Permitted Encumbrances)) of any kind against the Purchased Assets as such Claims, Interests, or Encumbrances (including the Permitted Encumbrances set forth on Schedule 1.01 to the With You APA (but subject to other Permitted Encumbrances)) may have been recorded or may otherwise exist. If any person or entity that has filed financing statements, *lis pendens* or other documents or agreements evidencing Claims, Interests, or Encumbrances (including the Permitted Encumbrances set forth on Schedule 1.01 to the With You APA (but subject to other Permitted Encumbrances)) against or in the Purchased Assets shall not have delivered to the Debtors prior to the Closing of the Sale Transaction, in proper form for filing and executed by the appropriate parties, termination statements, instruments of satisfaction, releases of all Claims, Interests, or Encumbrances (including the Permitted Encumbrances set forth on Schedule 1.01 to the With You APA (but subject to other Permitted Encumbrances)) that the person or entity has with respect to the Purchased Assets: (i) the Debtors are hereby authorized and directed to execute and file such statements, instruments, releases, and other documents on behalf of the person or entity with respect to the Purchased Assets; (ii) the Buyer is hereby authorized to file,

register, or otherwise record a certified copy of this Order that, once filed, registered, or otherwise recorded, shall constitute conclusive evidence of the release of all such Claims, Interests, or Encumbrances (including the Permitted Encumbrances set forth on Schedule 1.01 to the With You APA (but subject to other Permitted Encumbrances)) against the Buyer and the applicable Purchased Assets; (iii) the Debtors' creditors and the holders of any Claims, Interests, or Encumbrances (including the Permitted Encumbrances set forth on Schedule 1.01 to the With You APA (but subject to other Permitted Encumbrances)) are authorized and directed to execute such documents and take all other actions as may be necessary to terminate, discharge, or release their Claims, Interests, or Encumbrances (including the Permitted Encumbrances set forth on Schedule 1.01 to the With You APA (but subject to other Permitted Encumbrances)) in the Purchased Assets; and (iv) the Buyer may seek in this Court or any other court to compel appropriate parties to execute termination statements, instruments of satisfaction, and releases of all such Claims, Interests, or Encumbrances (including the Permitted Encumbrances set forth on Schedule 1.01 to the With You APA (but subject to other Permitted Encumbrances)) with respect to the Purchased Assets. This Order is deemed to be in recordable form sufficient to be placed in the filing or recording system of each and every foreign, federal, state, or local government agency, department, or office, and such agencies, departments, and offices are authorized and directed to accept this Order for filing or recording. Notwithstanding the foregoing, the provisions of this Order authorizing the sale and assignment of the Purchased Assets free and clear of Claims, Interests, and Encumbrances (including the Permitted Encumbrances set forth on Schedule 1.01 to the With You APA (but subject to other Permitted Encumbrances)) shall be self-executing, and none of the Debtors or the Buyer shall be required to execute or file releases, termination statements, assignments, consents, or other instruments in order to effectuate, consummate, and implement the provisions of this Order.

13. To the maximum extent permitted under applicable law, the Buyer shall be authorized,

as of the Closing Date, to operate under any license, permit, registration, and governmental authorization or approval of the Debtors with respect to the Purchased Assets, and all such licenses, permits, registrations, and governmental authorizations and approvals are deemed to have been, and hereby are, directed to be transferred to the Buyer with respect to the Purchased Assets as of the Closing Date. To the extent the Buyer cannot operate under any such license, permit, registration and governmental authorization or approval in accordance with the previous sentence, such licenses, permits, registrations, and governmental authorizations and approvals shall be in effect while the Buyer, with assistance from the Debtors (and at the Buyer's sole cost and expense), works promptly and diligently to apply for and secure all necessary government approvals for new issuance of such licenses, permits, registrations and governmental authorization and approvals to the Buyer.

14. No governmental unit (as defined in Bankruptcy Code section 101(27)) or any representative thereof may deny, revoke, suspend, or refuse to renew any permit, license, or similar grant relating to the operation of the Purchased Assets on account of the filing or pendency of the Chapter 11 Cases or the consummation of the Sale Transaction to the extent that any such action by a governmental unit or any representative thereof would violate Bankruptcy Code section 525.

No Successor or Transfer Liability

15. Upon the Closing Date, except as provided in the With You APA, the entrance of this Order and the With You APA shall mean that the Buyer (and any of its affiliates, successors, shareholders, members or assigns), as a result of any action taken in connection with the With You APA, the consummation of the transactions contemplated by the With You APA, including, without limitation, the Sale Transaction and the assumption and assignment of the Assumed Contracts, or the transfer or operation of the Purchased Assets, shall not be deemed to: (i) be a legal successor or successor employer to the Debtors, or otherwise be deemed a successor to the Debtors, and shall instead be, and be deemed to be, a new employer with respect to all federal,

state or local unemployment laws, including any unemployment compensation or tax laws, or any other similar federal or state laws; (ii) have, *de facto*, or otherwise, merged or consolidated with or into the Debtors; or (iii) be an alterego or a mere continuation or substantial continuation of the Debtors or the enterprise(s) of the Debtors, including, in the case of each of subclauses (i)-(iii), without limitation, (x) within the meaning of any foreign, federal, state or local revenue law, pension law, the Employee Retirement Income Security Act, the Consolidated Omnibus Budget Reconciliation Act, the WARN Act (29 U.S.C. §§ 2101 et seq.) (“WARN”), Comprehensive Environmental Response Compensation and Liability Act (“CERCLA”), the Fair Labor Standard Act, Title VII of the Civil Rights Act of 1964 (as amended), the Age Discrimination and Employment Act of 1967 (as amended), the Federal Rehabilitation Act of 1973 (as amended), the National Labor Relations Act, 29 U.S.C. § 151, *et seq.* or (y) in respect of (I) any environmental liabilities, debts, claims, or obligations arising from conditions first existing on or prior to the Closing Date (including, without limitation, the presence of hazardous, toxic, polluting, or contaminating substances or wastes), which may be asserted on any basis, including, without limitation, under CERCLA, (II) any liabilities, penalties, costs, debts, or obligations of or required to be paid by the Debtors for any taxes of any kind for any period, labor, employment, or other law, rule, or regulation (including, without limitation, filing requirements under any such laws, rules or regulations), or (III) any products liability law or doctrine with respect to the Debtors’ liability under such law, rule or regulation or doctrine.

16. Without limiting the generality of the foregoing, and except as otherwise provided in the With You APA and this Order, neither the Buyer nor any of its affiliates, successors, shareholders, members, or assigns shall have any responsibility for: (i) any liability or other obligation of the Debtors related to the Purchased Assets; or (ii) any Claims against the Debtors or any of their predecessors or affiliates. By virtue of the Buyer’s purchase of the Purchased Assets, neither the Buyer nor any of its affiliates, successors, shareholders, members, or assigns shall have any liability whatsoever with respect to the Debtors’ (or their predecessors’ or affiliates’) respective businesses or operations or any of the Debtors’ (or their predecessors’ or affiliates’) obligations based, in whole or part, directly or indirectly, on any theory of successor or vicarious liability of any kind or character,

or based upon any theory of antitrust, environmental (including, but not limited to CERCLA), successor or transferee liability, *de facto* merger or substantial continuity, labor and employment (including, but not limited to, WARN), or products liability law, whether known or unknown as of the Closing, now existing or hereafter arising, asserted or unasserted, fixed or contingent, liquidated or unliquidated, including any liabilities or non-monetary obligations on account of any settlement or injunction or any liabilities on account of any taxes arising, accruing or payable under, out of, in connection with, or in any way relating to the operation of the Purchased Assets prior to the Closing or such later time as Buyer is assigned and assumes any Assumed Contract (collectively, with the potential claims set forth in Paragraph 15 of this Order, “Successor or Transferee Liability”). The Buyer would not have acquired the Purchased Assets but for the foregoing protections against Successor or Transferee Liability.

17. None of the Buyer or its affiliates, successors, assigns, equity holders, employees, or professionals shall have or incur any liability to, or be subject to any action by any of the Debtors or any of their estates, predecessors, successors, or assigns, arising out of the negotiation, investigation, preparation, execution, or delivery of the With You APA and the entry into and consummation of the sale of the Purchased Assets, except as may be expressly provided in the With You APA and this Order.

18. Nothing in this Order or the With You APA shall require the Buyer or any of its affiliates to: (i) continue or maintain in effect, or assume any liability in respect of, any employee, collective bargaining agreement, pension, welfare, fringe benefit, or any other benefit plan, trust arrangement, or other agreements to which the Debtors may be a party or have any responsibility therefor including, without limitation, medical, welfare, and pension benefits payable after retirement or other termination of employment; or (ii) assume any responsibility as a fiduciary, plan sponsor, or otherwise, for making any contribution to, or in respect of the funding, investment, or administration

of any employee benefit plan, arrangement, or agreement (including but not limited to pension plans) or the termination of any such plan, arrangement, or agreement.

19. No bulk sales law or similar law of any state or other jurisdiction shall apply in any way to the transactions with the Debtors that are approved by this Order, including, without limitation, the With You APA and the Sale Transaction.

Good Faith; Arm's Length Sale

20. The With You APA has been negotiated and executed, and the transactions contemplated thereby, including, without limitation, the Sale Transaction, the assumption and assignment of the Assumed Contracts, are and have been undertaken by the Debtors, the Buyer, and their respective representatives at arm's length, without collusion, and in "good faith," as that term is defined in Bankruptcy Code section 363(m). Accordingly, the reversal or modification on appeal of the authorization provided herein to consummate the Sale Transaction shall not affect the validity of the Sale Transaction or any term of the With You APA and shall not permit the unwinding of the Sale Transaction. The Buyer is a good faith purchaser within the meaning of Bankruptcy Code section 363(m) and, as such, is entitled to the full protections of Bankruptcy Code section 363(m).

21. None of the Debtors or the Buyer has engaged in any conduct that would cause or permit the With You APA or the transactions contemplated thereby, including, without limitation, the Sale Transaction and the assumption and assignment of the Assumed Contracts, to be avoided, or damages or costs to be imposed, under Bankruptcy Code section 363(n). The consideration provided by the Buyer for the Purchased Assets under the With You APA is fair and reasonable, and the Sale Transaction may not be avoided under Bankruptcy Code section 363(n).

Assumption and Assignment of the Assumed Contracts

22. Except as otherwise expressly provided in the With You APA or this Order, upon the Closing Date, pursuant to Bankruptcy Code sections 105(a), 363, and 365, the Debtors are authorized

to (i) assume each of the Assumed Contracts and assign the Assumed Contracts, as set forth in **Exhibit 2** (the “Assumed Contracts Exhibit”) attached hereto, to the Buyer free and clear of all Claims, Interests, and Encumbrances (including the Permitted Encumbrances set forth on Schedule 1.01 to the With You APA (but subject to other Permitted Encumbrances)); and (ii) execute and deliver to the Buyer such documents or other instruments as may be reasonably requested by Buyer to assign and transfer the Assumed Contracts to the Buyer.

23. The Cure Costs listed on the Assumption Notice and Assumed Contracts Exhibit are the sole amounts necessary to be paid upon assumption of the Assumed Contracts under Bankruptcy Code sections 365(b)(1)(A) and (B) and 365(f)(2)(A). All Cure Costs, if any, shall be paid or otherwise satisfied by the Buyer. Upon the payment or satisfaction of the Cure Costs, if any, by the Buyer, the Assumed Contracts shall remain in full force and effect, and: (i) no default shall exist under the Assumed Contracts; and (ii) no event or condition shall exist which, with the passage of time or giving of notice, or both, would constitute such a default. After the payment or satisfaction of the Cure Costs by the Buyer, none of the Debtors or the Buyer, its affiliates, successors, shareholders, members, or assigns shall have any further liabilities to the counterparties to the Assumed Contracts other than the Debtors’ obligations under the Assumed Contracts that accrue and become due and payable on or after the Closing Date.

24. To the extent any non-Debtor counterparty to an Assumed Contract has failed to timely object to a proposed Cure Cost, such Cure Cost has been and shall be deemed to be finally determined as the Cure Cost listed on the Assumption Notice and Assumed Contracts Exhibit and any such non-Debtor counterparty shall be prohibited from challenging, objecting to, or denying the validity and finality of the Cure Cost at any time. The non-Debtor counterparty to an Assumed Contract is forever bound by the applicable Cure Cost and, upon payment of the Cure Costs as provided herein and in the With You APA, is hereby enjoined from taking any action against Buyer

with respect to any claim for cure under the Assumed Contract.

25. Any provisions in any Assumed Contract that prohibit or condition the assignment of such Assumed Contract or allow the party to such Assumed Contract to terminate, recapture, impose any penalty or condition on renewal or extension, or modify any term or condition upon assignment of such Assumed Contract constitute unenforceable anti-assignment provisions that are void and of no force and effect.

26. Any party that may have had the right to consent to the assignment of an Assumed Contract is deemed to have consented to such assignment, including for purposes of Bankruptcy Code sections 365(c)(1)(B) and 365(e)(2)(A)(ii) and otherwise, if such party failed to object to the assumption and assignment of such Assumed Contract.

27. Each Assumed Contract constitutes an executory contract under the Bankruptcy Code and all requirements and conditions under Bankruptcy Code sections 363 and 365 for the assumption by the Debtors and assignment to the Buyer of the Assumed Contracts have been, or will be, satisfied. Upon the Buyer's assumption of the Assumed Contracts in accordance with the terms hereof, in accordance with Bankruptcy Code sections 363 and 365: (i) the Buyer shall be fully and irrevocably vested with all rights, title, and interest of the Debtors under the Assumed Contracts; (ii) the Buyer shall be deemed to be substituted for the Debtors as a party to the applicable Assumed Contracts; and (iii) the Debtors shall be relieved, pursuant to Bankruptcy Code section 365(k), from any further liability under the Assumed Contracts.

28. The Buyer has demonstrated adequate assurance of future performance under the relevant Assumed Contracts within the meaning of Bankruptcy Code sections 365(b)(1)(C) and 365(f)(2)(B).

29. There shall be no rent accelerations, assignment fees, increases, or any other fees charged to the Debtors or the Buyer as a result of the assumption, assignment, and sale of the

Assumed Contracts. Subject to the terms of the With You APA, the validity of the transactions contemplated by the With You APA, including, without limitation, the Sale Transaction and the assumption and assignment of the Assumed Contracts, shall not be affected by any dispute between any of the Debtors or their affiliates, and another party to an Assumed Contract regarding the payment of any amount. Upon assignment to the Buyer, the Assumed Contracts shall be valid and binding, in full force and effect and enforceable by the Buyer in accordance with their respective terms.

30. Pursuant to Bankruptcy Code sections 105(a), 363, and 365, all counterparties to the Assumed Contracts are forever barred and permanently enjoined from raising or asserting against the Debtors or the Buyer any assignment fee, default, breach, or claim of pecuniary loss, or condition to assignment, arising under or related to the Assumed Contracts existing as of and including the Closing Date under the With You APA or arising by reason of the consummation of transactions contemplated by the With You APA, including, without limitation, the Sale Transaction, the assumption and assignment of the Assumed Contracts.

31. All counterparties to the Assumed Contracts shall cooperate and expeditiously execute and deliver, upon the reasonable requests of the Buyer, and shall not charge the Debtors or the Buyer for any instruments, applications, consents, or other documents that may be required or requested by any public or quasi-public authority or other party or entity to effectuate the applicable transfers in connection with the Sale of the Purchased Assets.

Application of Proceeds

32. Subject to the “Payment in Full” of the Prepetition BAML Obligations, the Debtors are authorized and directed to distribute the consideration received by the Debtors from the sale of the Purchased Assets as follows: *first*, to the holders of the DIP Obligations as of the date of the initial funding under the DIP Credit Facility (or as otherwise agreed to between the Buyer and such holders of the DIP Obligations) until such time as the DIP Obligations are paid in full in cash (or as otherwise

agreed by the DIP Agent as directed by the Required Lenders) and all commitments to lend under the DIP Loan Documents have been terminated and *second*, to the Prepetition Term B Agent for distribution to the holders of the Prepetition Term B Obligations as of the Petition Date (or as otherwise agreed to between the Buyer and such holders of the Prepetition Term B Obligations) in accordance with the Prepetition Term B Credit Agreement until the Prepetition Term B Obligations have been paid in full in cash (or as otherwise agreed by the Prepetition Term B Agent as directed by the Required Lenders). The application of the consideration from the sale of the Transferred Assets pursuant to the immediately preceding sentence complies with the requirements of the DIP Orders and the DIP Loan Documents and is supported by good, sufficient, and sound business reasons.

Related Relief

33. Each and every federal, foreign, state and governmental agency or department, and any other person or entity, is hereby authorized to accept any and all documents and instruments in connection with or necessary to consummate the Sale Transaction contemplated by the With You APA.

34. No governmental unit may revoke or suspend any right, license, copyright, patent, trademark, or other permission relating to the use of the Purchased Assets sold, transferred, or conveyed to the Buyer on account of the filing or pendency of these Chapter 11 Cases or the consummation of the sale of the Purchased Assets.

35. Except as expressly provided in the With You APA, nothing in this Order shall be deemed to waive, release, extinguish, or estop the Debtors or their estates from asserting, or otherwise impair or diminish, any right (including, without limitation, any right of recoupment), claim, cause of action, defense, offset, or counterclaim in respect of any Excluded Asset.

36. All entities that are presently, or on the Closing Date may be, in possession of some or all of the Purchased Assets are hereby directed to surrender possession of the Purchased Assets to the

Buyer on or prior to the Closing Date or such later date that such party and Buyer mutually agree.

37. To the extent this Order is inconsistent with any prior order or pleading filed in these Chapter 11 Cases related to the Motion or the terms of the With You APA, the terms of this Order shall govern.

38. This Order and the With You APA shall be binding in all respects upon all pre-petition and post-petition creditors of the Debtors, all interest holders of the Debtors, all non-Debtor parties to the Assumed Contracts, any Court-appointed committee, all successors and assigns of the Debtors and their affiliates and subsidiaries, and any trustees, examiners, “responsible persons” or other fiduciaries appointed in these Chapter 11 Cases or upon a conversion of the Debtors’ cases to those under chapter 7 of the Bankruptcy Code, including a chapter 7 trustee, and the With You APA and Sale Transaction shall not be subject to rejection or avoidance under any circumstances by any party. If any order under Bankruptcy Code section 1112 is entered, such order shall provide (in accordance with Bankruptcy Code sections 105 and 349) that this Order and the rights granted to the Buyer hereunder shall remain effective and, notwithstanding such dismissal, shall remain binding on parties in interest. For the avoidance of doubt, the Debtors’ inability to satisfy in full all administrative expense claims of the Debtors’ estates shall not be a basis for termination, rejection, or avoidance (as applicable) of the With You APA or the Sale Transaction.

39. This Court shall retain jurisdiction to, among other things, interpret, implement, and enforce the terms and provisions of this Order and the With You APA, all amendments thereto, and any waivers and consents thereunder and each of the agreements executed in connection therewith to which the Debtors are a party or which has been assigned by the Debtors to the Buyer, and to adjudicate, if necessary, any and all disputes concerning or relating in any way to the Sale Transaction, including any and all disputes with any counterparty to any executory contract or unexpired lease of the Debtors (including, without limitation, disputes with respect to assumption

and assignment of any Assumed Contracts or any cure disputes) and any party that has, or asserts, possession, control or other rights in respect of any of the Purchased Assets; provided, however, that, in the event the Court abstains from exercising or declines to exercise such jurisdiction with respect to the With You APA, the Bidding Procedures Order, or this Order, such abstention, refusal, or lack of jurisdiction shall have no effect upon and shall not control, prohibit, or limit the exercise of jurisdiction of any other court having competent jurisdiction with respect to any such matter. This Court retains jurisdiction to compel delivery of the Purchased Assets, to protect the Debtor and its assets, including the Purchased Assets, against any Claims and successor and transferee liability and to enter orders, as appropriate, pursuant to Bankruptcy Code sections 105(a) or 363 (or other applicable provisions) necessary to transfer the Purchased Assets to the Buyer.

40. At any time prior to the Closing Date, the Buyer or the Debtors may terminate the With You APA pursuant to the terms thereof without any penalty or liability to the Buyer or the Debtors (or their estates), except as set forth in the With You APA.

41. The With You APA and any related agreements, documents, or other instruments may be modified, amended or supplemented by the parties thereto and in accordance with the terms thereof, without further order of the Court.

42. This Order constitutes a final order within the meaning of 28 U.S.C. § 158(a).

43. Notwithstanding any provision in the Bankruptcy Rules to the contrary, including but not limited to Bankruptcy Rules 6004(h) and 6006(d), the Court expressly finds there is no reason for delay in the implementation of this Order and, accordingly: (i) the terms of this Order shall be immediately effective and enforceable upon its entry; (ii) the Debtors are not subject to any stay of this Order or in the implementation, enforcement, or realization of the relief granted in this Order; and (iii) the Debtors and the Buyer may, in their discretion and without further delay, take any action and perform any act authorized under this Order.

44. The Buyer shall not be required to seek or obtain relief from the automatic stay under Bankruptcy Code section 362, to give any notice permitted by the With You APA or to enforce any of its remedies under the With You APA or any other sale-related document. The automatic stay imposed by Bankruptcy Code section 362 is modified solely to the extent necessary to implement the preceding sentence; provided however, that this Court shall retain exclusive jurisdiction over any and all disputes with respect thereto.

45. The provisions of this Order are non-severable and mutually dependent.

46. Notwithstanding the provisions of Bankruptcy Rules 6004(h) and 6006(d) or any applicable provisions of the Local Rules, this Order shall not be stayed after the entry hereof, but shall be effective and enforceable immediately upon entry, and the 14-day stay provided in Bankruptcy Rules 6004(h) and 6006(d) is hereby expressly waived and shall not apply. Time is of the essence in closing the Sale Transaction and the Debtors and the Buyer intend to close the Sale Transaction as soon as practicable.

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

Exhibit 1

With You APA

MEMBERSHIP INTEREST PURCHASE AGREEMENT

by and between

SEQUENTIAL BRANDS GROUP, INC.

and

WITH YOU, INC.

October 7, 2021

TABLE OF CONTENTS

	<u>PAGE</u>
ARTICLE 1 DEFINITIONS.....	1
SECTION 1.01 Definitions.....	1
SECTION 1.02 Construction.....	8
ARTICLE 2 PURCHASE AND SALE	9
SECTION 2.01 Purchase and Sale	9
SECTION 2.02 Assignment of Contracts and Rights.....	10
SECTION 2.03 Estimated Purchase Price	10
SECTION 2.04 Good Faith Deposit	10
SECTION 2.05 Closing Statement; Post-Closing Adjustment.....	11
SECTION 2.06 Closing	12
SECTION 2.07 Post-Closing Payment.....	14
SECTION 2.08 Seller Receivables.....	14
ARTICLE 3 REPRESENTATIONS AND WARRANTIES OF SELLER.....	15
SECTION 3.01 Organization and Qualification.....	15
SECTION 3.02 Corporate Authorization	15
SECTION 3.03 Execution and Delivery; Enforceability.....	15
SECTION 3.04 Consents and Approvals	15
SECTION 3.05 No Conflicts	16
SECTION 3.06 Membership Interests.....	16
SECTION 3.07 Title to the Purchased Assets	16
SECTION 3.08 Equity Interests	16
SECTION 3.09 Litigation.....	16
SECTION 3.10 Intellectual Property.....	17
SECTION 3.11 Taxes	17
SECTION 3.12 No Other Representations or Warranties	18
ARTICLE 4 REPRESENTATIONS AND WARRANTIES OF BUYER.....	18
SECTION 4.01 Corporate Existence and Power	18
SECTION 4.02 Corporate Authorization	18
SECTION 4.03 Execution and Delivery; Enforceability.....	18
SECTION 4.04 No Conflicts	18
SECTION 4.05 Availability of Funds; Solvency	18
SECTION 4.06 Litigation.....	19
SECTION 4.07 Investment Intent	19
SECTION 4.08 Brokers.....	19
SECTION 4.09 Independent Investigation.....	19
ARTICLE 5 COVENANTS OF SELLER.....	20
SECTION 5.01 Conduct of the Business.....	20
SECTION 5.02 Access to Information.....	21
SECTION 5.03 Update of Disclosure Schedules	22

SECTION 5.04	Use of Name	22
SECTION 5.05	Notices of Certain Events	22
SECTION 5.06	Wrong Pockets	22
ARTICLE 6 COVENANTS OF BUYER.....		23
SECTION 6.01	Confidentiality	23
SECTION 6.02	Notices of Certain Events	23
SECTION 6.03	Preservation of Books and Records	23
SECTION 6.04	Communication.....	23
SECTION 6.05	Buyer's Knowledge	24
ARTICLE 7 COVENANTS OF BUYER AND SELLER		24
SECTION 7.01	Further Assurances.....	24
SECTION 7.02	Certain Filings.....	24
SECTION 7.03	Public Announcements	24
SECTION 7.04	Tax Matters	25
SECTION 7.05	Bulk Transfer Laws.....	25
SECTION 7.06	Bankruptcy Court Approval.....	26
SECTION 7.07	Bidding Protections.....	28
ARTICLE 8 CONDITIONS TO CLOSING.....		29
SECTION 8.01	Conditions to Obligations of the Parties	29
SECTION 8.02	Conditions to Obligation of Buyer.....	30
SECTION 8.03	Conditions to Obligation of Seller	30
ARTICLE 9 SURVIVAL		31
SECTION 9.01	Survival.....	31
ARTICLE 10 TERMINATION.....		31
SECTION 10.01	Grounds for Termination	31
SECTION 10.02	Effect of Termination.....	32
SECTION 10.03	Costs and Expenses.....	33
ARTICLE 11 MISCELLANEOUS		34
SECTION 11.01	Notices	34
SECTION 11.02	Amendments and Waivers	35
SECTION 11.03	Successors and Assigns.....	35
SECTION 11.04	Governing Law	35
SECTION 11.05	Jurisdiction.....	35
SECTION 11.06	WAIVER OF JURY TRIAL.....	36
SECTION 11.07	Counterparts; Third Party Beneficiaries	36
SECTION 11.08	Specific Performance	36
SECTION 11.09	Entire Agreement	37
SECTION 11.10	No Strict Construction	37
SECTION 11.11	Severability	37
SECTION 11.12	Disclosure Schedules	37

EXHIBITS

Exhibit A	Milestones
Exhibit B	Bid Procedures Order

DISCLOSURE SCHEDULES

Schedule 1.01	Certain Permitted Encumbrances
Schedule 2.01(c)	Domain Names
Schedule 2.02(a)	Assumed Contracts and Cure Costs
Schedule 2.05(c)	Approved Marketing Activities
Schedule 3.04	Consents and Approvals
Schedule 3.09	Litigation
Schedule 3.10	Intellectual Property
Schedule 3.11(b)	Taxes
Schedule 5.01	Conduct of the Business
Schedule 6.04	Certain Seller Representatives

MEMBERSHIP INTEREST PURCHASE AGREEMENT

THIS **MEMBERSHIP INTEREST PURCHASE AGREEMENT**, dated as of October 7, 2021 (the “**Agreement**”), is made and entered into by and between Sequential Brands Group, Inc., a Delaware corporation (“**Seller**”), and With You, Inc., a California corporation (“**Buyer**”). Seller and Buyer are sometimes referred to collectively herein as the “**Parties**” and individually as a “**Party**”. Capitalized terms used herein and not otherwise defined herein have the meanings set forth in Article 1.

WITNESSETH:

WHEREAS, the issued and outstanding membership interests (the “**Membership Interests**”) of With You LLC, a Delaware limited liability company (the “**Company**”), are owned as follows: Seller owns 62.5% of the Membership Interests (the “**Seller Interests**”) and Buyer owns 37.5% of the Membership Interests;

WHEREAS, the Parties, along with the Company, have entered into that certain Amended and Restated Operating Agreement of the Company, dated as of April 8, 2015 (as amended or supplemented, the “**Operating Agreement**”);

WHEREAS, subject to the terms and conditions set forth in this Agreement, Seller desires to sell, assign, transfer, and convey to Buyer, and Buyer desires to purchase and acquire from Seller all of Seller’s right, title and interest in and to the Purchased Assets (as defined below), including without limitation, one hundred percent (100%) of the Seller Interests such that after giving effect to such purchase of the Seller Interests, Buyer shall own 100% of the Membership Interests of the Company;

WHEREAS, Seller and certain of its affiliates (the “**Debtors**”) have filed voluntary petitions for relief under Chapter 11 of Title 11, §§ 101-1330 of the United States Code (as amended, the “**Bankruptcy Code**”): (a) commencing cases (the “**Chapter 11 Cases**”) in the United States Bankruptcy Court for the District of Delaware (the “**Bankruptcy Court**”), which Chapter 11 Cases are jointly administered under Case No. 21-11194 (JTD); and (b) to seek approval of the Bankruptcy Court to consummate the transactions contemplated by this Agreement.

NOW, THEREFORE, in consideration of the premises and the mutual promises herein made, and in consideration of the foregoing and of the representations, warranties, covenants, agreements and conditions herein contained, the receipt and sufficiency of which are hereby acknowledged, the Parties, intending to be legally bound hereby, agree as follows:

ARTICLE 1

DEFINITIONS

SECTION 1.01 *Definitions.*

- (a) The following terms, as used herein, have the following meanings:

“**Action**” means any claim, action, suit, arbitration or proceeding by or before any Governmental Authority.

“**Administrative Manager**” has the meaning set forth in the Operating Agreement.

“**Affiliate**” means, with respect to any Person, another Person that, directly or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with, such Person, where “control” means the possession, directly or indirectly, of the power to direct the management and policies of a Person whether through the ownership of voting securities, by contract or otherwise. For the avoidance of doubt, ownership of more than fifty percent (50%) of the voting securities shall be deemed to be “control” for purposes of this definition.

“**Alternative Transaction**” means any reorganization, merger, transaction, consolidation, business combination, joint venture, partnership, sale of assets, financing (debt or equity), or restructuring or similar transaction of or by Seller or the Company involving any of the Purchased Assets; provided, however, that an Alternative Transaction shall not include (a) after the entry of the Bid Procedures Order, a sale for the Purchased Assets determined by the Debtors to be higher or otherwise better in accordance with the Bid Procedures (as defined in the Bid Procedures Order), or (b) pursuit of confirmation of a Chapter 11 plan of liquidation, confirmation of which plan shall take place solely following the Bankruptcy Court’s entry of the Sale Order, with the occurrence of any “effective date” or similar concept under such plan subject to the occurrence of the Closing Date.

“**Auction**” means any auction for the sale of the Debtors’ assets conducted pursuant to the terms and conditions of the Bid Procedures and the Bid Procedures Order.

“**Backup Bidder**” has the meaning set forth in the Bid Procedures Order.

“**Bankruptcy Rules**” means the Federal Rules of Bankruptcy Procedure.

“**Bid Procedures**” means the bidding procedures for the solicitation and submission of bids for a sale, reorganization, or other disposition of the Debtors, any portion of, or all or substantially all of their assets approved by the Bankruptcy Court pursuant to the Bid Procedures Order.

“**Bid Procedures Motion**” means the motion seeking entry of the Bid Procedures Order and the Sale Order.

“**Bid Procedures Order**” means an order of the Bankruptcy Court in the form attached hereto as Exhibit B that, among other things, approves (a) the Bid Procedures, (b) bid protections granted to Buyer, including the Break-Up Fee and Expense Reimbursement and provides that such bid protections shall constitute allowed administrative expenses of Debtors’ estates under section 503(b) of the Bankruptcy Code, (c) the form and manner of notice of auction(s), sale transaction(s), and hearing(s), (d) the procedures for assumption and assignment of the Assumed Contracts, and (e) the date for auction(s), if necessary; with any material changes thereto in form and substance reasonably acceptable to Buyer.

“**Break-Up Fee**” means a cash amount equal to \$1,950,000.00.

“Business” means (i) the worldwide business of creating, designing, developing, manufacturing, marketing, selling and licensing of all consumer related lifestyle products including but not limited to all categories within the Fashion, Home, Beauty, Personal Care, Baby, Crafts, Pets, Holiday, Seasonal, Bridal, Celebrations, Travel, Floral, and Food industry segments, but specifically excluding only the Retained Assets (as defined in the Operating Agreement), (ii) the exploitation of the Endorsement Rights (as defined in the Operating Agreement), (iii) all lines of business reasonably related or ancillary thereto (including the establishment and operating of retail stores), and (iv) any other line of business approved by Buyer and Seller (in their capacity as members of the Company) as of the date of this Agreement, in each case as conducted as of the date of this Agreement.

“Business Day” means a day other than Saturday, Sunday or other day on which commercial banks in New York, New York are authorized or required by law to close.

“Causes of Action” means any Claim, action, suit, arbitration or proceeding by or before any Governmental Authority.

“Claim” means a “claim” as defined in Section 101 of the Bankruptcy Code.

“Closing Date” means the date of the Closing.

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

“Confidentiality Agreement” means the Confidentiality and Nondisclosure Agreement, dated as of February 5, 2021 by and among Seller, Buyer and Threadstone Advisors LLC.

“Contract” means any contract, agreement, license, sublicense, sales order, purchase order, instrument or other commitment, that is binding on any Person under applicable Law.

“COVID-19” means SARS-CoV-2 or COVID-19, and any evolutions thereof or related or associated epidemics, pandemic or disease outbreaks.

“Cure Costs” means with respect to any Assumed Contract, the Liabilities that must be paid or otherwise satisfied to cure all monetary defaults under such Assumed Contract to the extent required by Section 365(b) of the Bankruptcy Code.

“Disclosure Schedules” means the Disclosure Schedules attached hereto, as may be supplemented and amended pursuant to Section 5.03.

“Encumbrance” means any charge, claim, limitation, condition, equitable interest, mortgage, lien, option, pledge, security interest, easement, covenant, encroachment, right of first refusal, adverse claim or restriction of any kind, including any restriction on transfer or other assignment, as security or otherwise, of or relating to use, quiet enjoyment, voting, transfer, receipt of income or exercise of any other attribute of ownership.

“Expense Reimbursement” means an amount in cash equal to the lesser of (a) \$400,000.00 and (b) all reasonable and documented out-of-pocket third-party expenses actually

incurred by Buyer in connection with the negotiation of this Agreement and the transactions contemplated hereby.

“**Final Deficiency**” means the amount, if any, by which the Final Purchase Price (as finally determined in accordance with Section 2.05) is less than the Estimated Purchase Price.

“**Final Excess**” means the amount, if any, by which the Final Purchase Price (as finally determined in accordance with Section 2.05) exceeds the Estimated Purchase Price.

“**Final Order**” means a judgment or Order of the Bankruptcy Court (or any other court of competent jurisdiction) entered by the clerk of the Bankruptcy Court (or such other court) on the docket in the Chapter 11 Cases (or the docket of such other court), which has not been modified, amended, reversed, vacated or stayed (other than such modifications or amendments that are consented in writing to by Buyer); provided that the possibility that a motion under Rule 60 of the Federal Rules of Civil Procedures, or any analogous rule under the Federal Rules of Bankruptcy Procedure, may be filed relating to such Order, shall not cause an Order not to be a Final Order.

“**Final Purchase Price**” means (a) the Base Purchase Price *plus* (b) the amount by which the Final Closing Working Capital Amount is greater than zero (0), if any, *minus* (c) the amount by which the Final Closing Working Capital Amount is less than zero (0), if any.

“**GAAP**” means United States generally accepted accounting principles and practices, consistently applied.

“**Governmental Authority**” means any (a) multinational, federal, state, municipal, local or other governmental or public department, court, tribunal, bureau, agency or instrumentality of government, domestic or foreign, (b) any subdivision or authority of any of the foregoing or (c) any regulatory or administrative authority.

“**Intellectual Property**” means, with respect to any Person, all of the following in any jurisdiction in which the applicable Person operates and currently, sells its products and services: (i) all patents and patent applications, (ii) all trademarks, service marks, trade dress, logos, slogans, trade names, corporate names, URLs and Internet domain names, together with all translations, adaptations, derivations, and combinations thereof and including all goodwill associated therewith, and all applications, registrations, and renewals in connection therewith, (iii) all published and unpublished works of authorship, copyrights therein and thereto and registrations and applications for each of the foregoing, (iv) all mask works and all applications, registrations, and renewals in connection therewith, (v) all trade secrets and confidential business information (including ideas, research and development, know-how, formulas, compositions, manufacturing and production processes and techniques, technical data, designs, drawings, specifications, customer and supplier lists, pricing and cost information, and business and marketing plans and proposals), (vi) all advertising and promotional materials, and (vii) all copies and tangible embodiments thereof (in whatever form or medium).

“**Knowledge of Seller**” means the actual knowledge of each of Tina Simpson, Beth Pliker, Norma Renner, and following due inquiry, the knowledge of Chad Wagenheim and Tracy Soinger.

“**Law**” means any law, treaty, statute, ordinance, code, decree, Order, rule or regulation of any Governmental Authority.

“**Liability**” means any and all debts, liabilities, commitments and obligations of any kind, whether fixed, contingent or absolute, matured or unmatured, liquidated or unliquidated, accrued or not accrued, asserted or not asserted, known or unknown, determined, determinable or otherwise, whenever or however arising (including, whether arising out of any Contract or tort based on negligence or strict liability) and whether or not the same would be required to be reflected in financial statements or disclosed in the notes thereto.

“**Licensed Intellectual Property**” means Intellectual Property that the Company licensed or is otherwise permitted by other Persons to use.

“**Lien Release Letters**” means one or more release letters or termination statements or customary release documentation in the applicable jurisdiction with respect to the Encumbrances set forth on Schedule 1.01 on the Purchased Assets, in form and substance reasonably satisfactory to Buyer, which letters and other instruments provide that all such Encumbrances set forth on Schedule 1.01 on the Purchased Assets shall be released and terminated effective concurrently with the Closing with no Liability to Buyer or any of its Affiliates, unless, in each case above, such release has been included in the Sale Order.

“**Material Adverse Effect**” means any change, effect, event, circumstance, occurrence or state of facts that, individually or in the aggregate, (a) would be reasonably likely to prevent or materially delay or materially impair the ability of Seller to consummate the transactions contemplated by this Agreement, or (b) has had or would reasonably be expected to have a material adverse effect on the Business, taken as a whole, excluding, however, for purposes of clause (b) only, any change, effect, event, circumstance, occurrence or state of facts that results from or arises out of: (i) the execution and delivery of this Agreement or the announcement thereof or the pendency or consummation of the transactions contemplated by this Agreement and the other Transaction Documents; (ii) general changes or developments in global or national political, economic, business, monetary, financial or capital or credit market conditions or trends; (iii) general political, economic, business, monetary, financial or capital or credit market conditions or trends (including interest rates); (iv) geopolitical conditions or any outbreak or escalation of hostilities, acts of terrorism or war, civil unrest, epidemic, pandemic, disease outbreak or other health crisis or public health event (including COVID-19), regional, national or international emergency, earthquakes, floods, hurricanes, tornadoes, wildfires, natural disasters or any other acts of God or similar force majeure events, or any escalation or worsening of the foregoing; (v) the failure of the financial or operating performance of the Company or its business to meet internal, Buyer or analyst or other external projections, forecasts or budgets for any period (it being understood that the underlying cause of such failure to meet such projections and forecasts may be taken into account in determining whether a Material Adverse Effect has occurred); (vi) any action taken or omitted to be taken after the date hereof by or at the written request of Buyer, or in compliance with the express covenants and agreements contained in this Agreement; (vii) changes in (or proposals to change) Laws or accounting regulations or principles; or (viii) the Chapter 11 Cases, including the Auction and any announced liquidation of Seller or any of its assets; provided, that any change, effect, event, circumstance, occurrence or state of facts described in clauses (ii), (iii), (iv) and (viii) shall be taken into account in determining whether a Material Adverse Effect

has occurred or would reasonably be expected to occur to the extent that such change, effect, event, circumstance, occurrence or state of facts has a materially disproportionate effect on the Business, taken as a whole, as compared to the effects on other participants in the same industry as the Business.

“**Milestones**” means the milestones set forth on Exhibit A.

“**Order**” means any award, writ, injunction, judgment, order, ruling, decision, subpoena, precept, directive, consent, approval, award, decree or similar determination or finding entered, issued, made or rendered by any Governmental Authority.

“**Owned Intellectual Property**” means Intellectual Property owned by or exclusively licensed to the Company.

“**Permitted Encumbrances**” means the following Encumbrances: (a) Encumbrances for Taxes, assessments or other governmental charges or levies that are not yet due or payable or that are being contested in good faith by appropriate Causes of Action; (b) Encumbrances set forth on Schedule 1.01 that will be released at the Closing with no Liability to Buyer or its Affiliates; (c) Encumbrances incurred by or at the written direction of Buyer at the Closing; and (d) outbound Intellectual Property licenses, covenants not to sue and similar rights that are subject to Section 365(n) of the Bankruptcy Code or other outbound non-exclusive licenses to Intellectual Property entered into in the ordinary course of business.

“**Person**” means any individual, corporation (including any non-profit corporation), partnership, limited liability company, joint venture, unincorporated organization, estate, trust, association, organization or other legal entity or group (as defined in Section 13(d)(3) of the Securities Exchange Act of 1934, as amended) or Governmental Authority.

“**Pre-Closing Tax Period**” means any taxable period ending on or before the Closing Date and, with respect to any Straddle Period, the portion of such taxable period ending on and including the Closing Date.

“**Receivables**” means all receivables (including, without limitations, accounts receivable, loans receivables and customer advances) of the Company.

“**Registered**” means issued by, registered, recorded or filed with, renewed by or the subject of a pending application before any Governmental Authority or internet domain name registrar.

“**Representatives**” means, with respect to any Person, the officers, directors, principals, employees, counsel, accountants, agents, auditors, advisors, bankers and other representatives of such Person.

“**Sale Order**” means an Order by the Bankruptcy Court, in form and substance reasonably acceptable to Buyer and Seller, among other things, (a) approving this Agreement, (b) authorizing the sale of the Purchased Assets to Buyer pursuant to section 363 of the Bankruptcy Code, pursuant to the terms and conditions set forth herein, free and clear of any Encumbrances, including the Permitted Encumbrances set forth on Schedule 1.01 but subject to the other Permitted Encumbrances, (c) authorizing the assumption and assignment to Buyer of the Assumed Contracts

pursuant to Section 365 of the Bankruptcy Code and (d) authorizing the other transactions contemplated by this Agreement.

“**Successful Bidder**” has the meaning set forth in the Bid Procedures Order.

“**Tax**” means (a) all federal, state, local or foreign income, gross receipts, franchise, estimated, alternative minimum, add-on minimum, sales, use, transfer, real property gains, registration, value added, excise, natural resources, severance, stamp, occupation, premium, windfall profit, environmental, customs, duties, real property, special assessment, personal property, capital stock, social security, unemployment, disability, payroll, license, employee or other withholding tax, or any other taxes, fees, assessments or charges of any kind whatsoever including any interest, penalties or additions to tax or additional amounts in respect of the foregoing; (b) any Liability for payment of amounts described in clause (a), whether as a result of transferee Liability, of being a member of an affiliated, consolidated, combined or unitary group for any period or otherwise through operation of law; and (c) any Liability for the payment of amounts described in clauses (a) or (b) as a result of any tax sharing, tax indemnity, tax receivable or tax allocation agreement or express or implied obligation (other than any such agreement or obligation entered into in the ordinary course of business that is not primarily related to Taxes).

“**Tax Return**” means any report, return, election, extension or similar document (including schedules or any related or supporting information) filed or required to be filed with respect to Taxes with any Governmental Authority or other authority in connection with the determination, assessment or collection of any Tax or the administration of any Laws or administrative requirements relating to any Tax, including any information return, claim for refund, amended return or declaration of estimated Taxes.

“**Transaction Documents**” means this Agreement, the Assignment and Assumption Agreement and any other agreements, instruments or documents entered into pursuant to, or as contemplated by, this Agreement or the transactions contemplated hereby.

“**Transition Services Agreement**” means a Transition Services Agreement, to be negotiated in good faith between Seller and Buyer prior to the Closing, in form and substance reasonably acceptable to Seller and Buyer.

“**Transfer Taxes**” means any sales, use, property transfer or gains, documentary, stamp, registration, intangible, conveyance, recording or similar Tax (including, for certainty, goods and services tax and harmonized sales tax) and any recording costs or fees, however styled or designated, or other amounts in the nature of transfer Taxes payable in connection with the sale or transfer of the Seller Interests, including filing costs and attorneys’ fees.

“**With You Avoidance Actions**” means: any and all claims for relief of the Debtors against the Company, any of the Company’s licensees, the Buyer, Tina Simpson, or Jessica Simpson solely under chapter 5 of the Bankruptcy Code, including section 544 through 553, section 558 and any other applicable provisions of the Bankruptcy Code, or state fraudulent conveyance, fraudulent transfer, voidable transaction or similar Laws.

“**Working Capital**” means (i) the sum of the current assets (excluding (A) Receivables, (B) deferred Tax assets and income Tax assets and (C) cash, which will be distributed by the

Company to Seller and Buyer immediately prior to the Closing pursuant to the first sentence of Section 2.05(c) of the Company, *minus* (ii) the sum of the current liabilities (excluding deferred Tax Liabilities and income Tax payables) of the Company.

(b) Each of the following terms is defined in the Section set forth opposite such term:

<u>Term</u>	<u>Section</u>
Agreement	Preamble
Assignment and Assumption Agreement	Section 2.06(b)(iv)
Assumed Contracts	Section 2.02(a)
Bankruptcy Code	Recitals
Bankruptcy Court	Recitals
Bankruptcy and Equity Exception	Section 3.03
Base Purchase Price	Section 2.03
Buyer	Preamble
Chapter 11 Cases	Recitals
Closing	Section 2.06
Closing Statement	Section 2.05
Company	Recitals
Debtors	Recitals
Disputed Matters	Section 2.05(f)
Domain Names	Section 2.01(c)
E-Commerce Termination Letter	Section 2.06(iv)
End Date	Section 10.01(b)
Estimated Closing Working Capital Amount	Section 2.05
Estimated Purchase Price	Section 2.03
Final Closing Working Capital Amount	Section 2.05(d)
Good Faith Deposit	Section 2.04(a)
Marketing Budget	Section 2.05(c)
Marketing Spend Period	Section 2.05(c)
Objections Statement	Section 2.05(e)
Operating Agreement	Recitals
Party or Parties	Preamble
Post-Closing Statement	Section 2.05(d)
Purchased Assets	Recitals
Seller	Preamble
Straddle Period	Section 7.04(a)(i)
Surviving Post-Closing Covenants	Section 9.01

SECTION 1.02 *Construction.* In construing this Agreement, including the Exhibits and Schedules hereto, the following principles shall be followed: (a) the terms “herein,” “hereof,” “hereby,” “hereunder” and other similar terms refer to this Agreement as a whole and not only to the particular Article, Section or other subdivision in which any such terms may be employed unless otherwise specified; (b) except as otherwise set forth herein, references to Articles, Sections, Schedules and Exhibits refer to the Articles, Sections, Schedules and Exhibits of this Agreement, which are incorporated in and made a part of this Agreement; (c) a reference to any Person shall

include such Person's successors and assigns; (d) the word "includes" and "including" and their syntactical variants mean "includes, but is not limited to" and "including, without limitation," and corresponding syntactical variant expressions; (e) a defined term has its defined meaning throughout this Agreement, regardless of whether it appears before or after the place in this Agreement where it is defined, including in any Schedule; (f) the word "dollar" and the symbol "\$" refer to the lawful currency of the United States of America; (g) unless the context of this Agreement clearly requires otherwise, words importing the masculine gender shall include the feminine and neutral genders and vice versa, (h) the words "to the extent" shall mean "the degree by which" and not "if"; (i) the word "will" will be construed to have the same meaning and effect as the word "shall," and the words "shall," "will," or "agree(s)" are mandatory, and "may" is permissive, (j) where a word is defined herein, references to the singular will include references to the plural and vice versa, (k) all references to a day or days will be deemed to refer to a calendar day or calendar days, as applicable, unless Business Days are expressly specified, (l) any reference to any agreement or Contract will be a reference to such agreement or Contract, as amended, modified, supplemented or waived; (m) any reference to any particular Code section or any Law will be interpreted to include any amendment to, revision of or successor to that section or Law regardless of how it is numbered or classified; provided that, for the purposes of the representations and warranties set forth herein, with respect to any violation of or non-compliance with, or alleged violation of or non-compliance, with any Code section or Law, the reference to such Code section or Law means such Code section or Law as in effect at the time of such violation or non-compliance or alleged violation or non-compliance; (n) references to "written" or "in writing" include in electronic form; (o) the headings contained in this Agreement and the other Transaction Documents are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement and the other Transaction Documents; (p) 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 shall be excluded and if the last day of such period is not a Business Day, the period shall end on the next succeeding Business Day; and (q) the word "or" shall not be exclusive.

ARTICLE 2

PURCHASE AND SALE

SECTION 2.01 *Purchase and Sale.* Subject to the entry of the Bid Procedures Order and the Sale Order and upon the terms and subject to the conditions of this Agreement and the Sale Order, on the Closing Date, Seller shall sell, transfer, assign, convey and deliver to Buyer, and Buyer shall purchase, acquire and accept from Seller, free and clear of all Encumbrances, including the Permitted Encumbrances set forth on Schedule 1.01, but subject to the other Permitted Encumbrances, all of Seller's right, title and interest in the following assets, interests, and rights (collectively, the "**Purchased Assets**"):

- (a) The Seller Interests;
- (b) The Assumed Contracts;

(c) Any domain names, websites, or social media handles owned by Seller that are exclusively used or necessary for the Business, as set forth in Schedule 2.01(c), including related passwords (collectively, the “**Domain Names**”);

(d) Any other Intellectual Property owned or licensed by Seller and exclusively used or necessary for the Business that is not otherwise owned or exclusively licensed by the Company; and

(e) The With You Avoidance Actions.

SECTION 2.02 *Assignment of Contracts and Rights.*

(a) Schedule 2.02(a) sets forth a list of all Contracts to which Seller is a party and that Buyer intends to have Seller assume and assign to Buyer on the Closing Date (the “**Assumed Contracts**”), together with the applicable Cure Costs, if any, for each such Assumed Contract as reasonably estimated in good faith by Seller. At any time prior to the date that is five (5) Business Days prior to the date of the hearing on the Sale Order, Buyer may, by written notice to Seller, designate in writing any Contract exclusively related to the Business not designated as an Assumed Contract and, upon such designation, such Assumed Contract will constitute a Purchased Asset and will be conveyed to Buyer under, and in accordance with the terms of, this Agreement at Closing. All Contracts of Seller which do not constitute Assumed Contracts or which otherwise cannot be assumed and assigned to Buyer shall not be considered Purchased Assets.

(b) At Closing, (i) Seller shall, pursuant to the Sale Order and the 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 and the consideration for which is included in the Purchase Price, and (ii) Buyer shall pay promptly all Cure Costs in connection with such assumption and assignment.

SECTION 2.03 *Estimated Purchase Price.* On the terms and subject to the conditions contained herein, the purchase price for the Purchased Assets shall be equal to \$65,000,000 (the “**Base Purchase Price**”) plus (b) the amount by which the Estimated Closing Working Capital Amount is greater than zero (0), if any, minus (c) the amount by which the Estimated Closing Working Capital Amount is less than zero (0), if any (the Base Purchase Price, as adjusted pursuant to subsections (b) and (c), if any, the “**Estimated Purchase Price**”).

SECTION 2.04 *Good Faith Deposit.*

(a) No later than one (1) Business Day following the date of this Agreement, Buyer shall deposit (or cause to be deposited) in a trust account maintained on behalf of Seller (and to be designated by Seller prior to the date hereof) cash in the amount of \$5,000,000.00 (the “**Good Faith Deposit**”) to be held in escrow in accordance with the terms of this Agreement and to be released as provided in Section 2.04(b).

(b) If the Closing occurs, the Good Faith Deposit (and any interest accrued thereon) shall be transferred to and retained by Seller at the Closing as a credit against the Purchase Price. If this Agreement is terminated in accordance with the terms hereof, the

Good Faith Deposit (together with any interest accrued thereon) shall be treated in the manner set forth in Section 10.02(b).

SECTION 2.05 *Closing Statement; Post-Closing Adjustment.*

(a) Within three (3) Business Days prior to the Closing Date, Seller shall provide to Buyer a statement (the “**Closing Statement**”) setting forth Seller’s good faith calculation of Working Capital as of 12:01 a.m. Eastern time on the Closing Date, without taking into account any of the transactions occurring as part of the Closing (the “**Estimated Closing Working Capital Amount**”), and on the basis of the foregoing, Seller’s good faith calculation of the Estimated Purchase Price.

(b) As of the date hereof and as of the Closing Date, the Company does not and will not have any indebtedness for borrowed money or any cash. Buyer hereby acknowledges and agrees that there shall be no adjustment to the Purchase Price, prior to or after the Closing, with respect to any indebtedness of the Company for borrowed money or any cash held by the Company.

(c) The Parties hereby acknowledge and agree that all cash of the Company will be distributed to Seller and Buyer in accordance with Section 3.01 of the Operating Agreement immediately prior to the Closing. In addition, the Parties hereby acknowledge and agree that, as of the date of this Agreement, the Seller (as Administrative Manager) has approved, and the Company has allocated, \$320,000 of the cash of the Company (such amount, the “**Marketing Budget**”) towards marketing and advertising fees and expenses between the period beginning from the date of this Agreement and ending on the Closing Date (such period, the “**Marketing Spend Period**”). The Marketing Budget can only be spent by the Company during the Marketing Spend Period and only for the marketing and advertising activities described on Schedule 2.05(c), unless otherwise agreed by the Parties in writing. Following the Marketing Spend Period, the Company shall not utilize any portion of the Marketing Budget or incur any further marketing or advertising fees or expense, and the Buyer agrees that any such amount taken from the Marketing Budget or incurred by the Company following the Marketing Spend Period shall be solely at the Buyer’s expense. To the extent there is any amount that remains in the Marketing Budget following the Marketing Spend Period, the Parties hereby agree that all such amount shall be distributed (along with other cash of the Company) to Seller and Buyer in accordance with Section 3.01 of the Operating Agreement immediately prior to the Closing.

(d) Within twenty (20) Business Days after the Closing Date, Buyer shall prepare and deliver to Seller a statement (the “**Post-Closing Statement**”) setting forth Buyer’s good-faith calculation of Working Capital as of 12:01 a.m. Eastern time on the Closing Date, without taking into account any of the transactions occurring as part of the Closing (“**Final Closing Working Capital Amount**”), and on the basis of the foregoing, Buyer’s calculation of the Final Purchase Price, together with reasonable detail and supporting documentation. The Post-Closing Statement shall be prepared using the same methodologies and accounting principles used to prepare the Closing Statement.

(e) During the ten (10) Business Days following Seller's receipt of the Post-Closing Statement, and during any period of dispute in accordance with this Section 2.05, Buyer shall (i) provide Seller and its Representatives upon prior written notice with reasonable but confidential access during normal business hours to the books and records of Buyer, the personnel of, and work papers prepared by, Buyer and/or its accountants to the extent relating to the Post-Closing Statement and to such historical financial information relating to the calculations set forth in the Post-Closing Statement, (ii) reasonably cooperate with the Seller and its Representatives in connection with such review, including providing on a timely basis all other information in connection with such review as is reasonably requested by the Seller or its Representatives, and (iii) use its commercially reasonable efforts to cause its accountants, Representatives and employees to timely and reasonably cooperate with the Seller and its Representatives in connection with such review. If Seller has any objections to the Post-Closing Statement, then Seller shall deliver to Buyer a written statement (an "**Objections Statement**") setting forth in reasonable detail each item that Seller disputes (including the specific adjustments that Seller proposes to be made to the Post-Closing Statement taking into account the information then available to Seller). If an Objections Statement is not delivered to Buyer within ten (10) Business Days following the Seller's receipt of the Post-Closing Statement, or if Seller delivers, before the expiration of such ten (10) Business Day period, written notice to Buyer that it has no objections to the Post-Closing Statement, then the Post-Closing Statement shall be final and binding on, and non-appealable by, the Parties. Any matters and amounts not raised in the Objections Statement shall be deemed to be final and binding on, and non-appealable by, the Parties.

(f) If a timely Objections Statement is received by Buyer in accordance with Section 2.05(e), then Seller and Buyer shall negotiate in good faith to resolve the objections raised therein. If Buyer and Seller are unable to reach a final resolution of all of such objections within ten (10) Business Days after the delivery of the Objections Statement to Buyer (or such longer period as Seller and Buyer may agree in writing), then Seller and Buyer shall submit any and all matters and amounts (but only such matters and amounts) that were included in the Objections Statement and remain in dispute (the "**Disputed Matters**") to the Bankruptcy Court for the purpose of resolving the Disputed Matters.

SECTION 2.06 *Closing*. The closing (the "**Closing**") of the purchase and sale of the Purchased Assets hereunder shall take place remotely by conference call and by exchange of signature pages by email or fax, or at such other place as Seller and Buyer mutually may agree in writing, as soon as possible following entry of the Sale Order, but in no event later than three (3) Business Days, after satisfaction of the conditions set forth in Article 8, or at such other time or place as Buyer and Seller may agree in writing. At the Closing:

(a) Buyer shall deliver, or cause to be delivered, to Seller:

(i) the Estimated Purchase Price (less the Good Faith Deposit as set forth in Section 2.04(a)) by wire transfer of immediately available funds, to the bank account(s) designated in writing by Seller prior to the Closing Date;

(ii) the Assignment and Assumption Agreement, duly executed by Buyer;

(iii) the Transition Services Agreement, duly executed by Buyer;

(iv) a letter confirming the termination of that certain agreement between Buyer and the Company dated May 1, 2019 with respect to the Jessica Simpson e-commerce platform and website (“**E-Commerce Termination Letter**”);

(v) each other Transaction Document to which Buyer is a party, duly executed by Buyer; and

(vi) such other assignments and other good and sufficient instruments of assumption and transfer, in form satisfactory to Buyer and Seller, as Seller may reasonably request to transfer and assign the Purchased Assets to Buyer.

(b) Seller shall deliver, or cause to be delivered, to Buyer:

(i) the Seller Interests and certificates representing the Seller Interests, duly endorsed in blank or accompanied by powers duly endorsed in blank in proper form for transfer, with appropriate transfer stamps, if any, affixed;

(ii) Seller’s books and records, to the extent exclusively related to the Business, including all corporate records, all technical information and data, databases, computer files, schematics, all filings made with or records required to be kept by any Governmental Authority, all research and development reports, all financial and accounting records (including without limitation, the unaudited balance sheets and related statements of income as of and for (i) the fiscal year ended December 31, 2020, (ii) the fiscal year ended December 31, 2019 and (iii) the period ended the month prior to the Closing Date), all creative, promotional or advertising materials, and any other ledgers, files, documents, correspondence and business records relating to the foregoing; provided, however, in no event shall Seller be required to deliver to Buyer any books and records of any kind or medium, communications, corporate records, minute books, emails, correspondence or any other transmission, records or materials that, in each case, are related to the sale of the Business by Seller, including, without limitation, the transactions contemplated by this Agreement, the negotiation thereof and hereof and the consummation of the transactions contemplated hereby; provided, further, that Seller shall be entitled to retain a copy of such books and records described in this Section 2.06(b)(ii) for recordkeeping purposes, which such copies shall be retained in accordance with the terms of the Confidentiality Agreement;

(iii) the Domain Names, and a list of all user names, passwords and other relevant login information needed to access the foregoing;

- (iv) an assignment and assumption agreement, in form and substance reasonably acceptable to Seller and Buyer (the “**Assignment and Assumption Agreement**”), with respect to the Assumed Contracts, duly executed by Seller;
- (v) the With You Avoidance Actions;
- (vi) the Transition Services Agreement, duly executed by Seller;
- (vii) the E-Commerce Termination Letter;
- (viii) each other Transaction Document to which Seller is a party, duly executed by Seller;
- (ix) the resignation of the Administrative Manager as a manager of the Company;
- (x) a certificate of non-foreign status executed by Seller (or, if applicable, a direct or indirect owner of Seller) for U.S. federal income tax purposes, prepared in accordance with Treasury Regulation Section 1.1445-2(b) and a properly executed IRS Form W-9;
- (xi) Lien Release Letters; and
- (xii) such other assignments and other good and sufficient instruments of assumption and transfer, in form satisfactory to Buyer and Seller, as Buyer may reasonably request to vest in Buyer all right, title and interest in and to the Purchased Assets.

SECTION 2.07 *Post-Closing Payment.* After determination of the Final Purchase Price in accordance with Section 2.05, an adjustment payment shall be calculated as set forth in this Section 2.07:

(a) If there is a Final Deficiency, then, no later than three (3) Business Days after the determination of the Final Purchase Price in accordance with Section 2.05, Seller shall pay the amount of the Final Deficiency by wire transfer of immediately available funds to the account(s) designated by Buyer.

(a) If there is a Final Excess, then, no later than three (3) Business Days after the determination of the Final Purchase Price in accordance with Section 2.05, Buyer shall pay to Seller the amount of the Final Excess by wire transfer of immediately available funds to the account designated by Seller.

SECTION 2.08 *Seller Receivables.* The Parties acknowledge and agree that Receivables that relate to any period prior to the Closing Date shall be allocated to Seller and Buyer in accordance with Section 3.01 of the Operating Agreement, other than Receivables that are royalties payable by Buyer to the Company pursuant to that certain License Agreement, dated as of May 1, 2019, by and between Buyer and the Company, which the Parties acknowledge and agree shall be allocated 100% to Seller. From and after the Closing, with respect to Receivables

that relate to any period prior to the Closing Date, (a) to the extent that such Receivables are paid to and actually collected by Buyer or any of its Affiliates, Buyer shall promptly remit, or cause its Affiliates to promptly remit, Seller's portion of such Receivables as set forth in the first sentence of this Section 2.08 to Seller by wire transfer of immediately available funds no later than fifteen (15) days following the end of each calendar month following the Closing Date, and (b) in furtherance of the foregoing, (i) Buyer shall, and shall cause the Company to, use commercially reasonable efforts to collect on such Receivables and (ii) Buyer shall not, and shall cause the Company not to, take any action that would have the effect of reducing the Receivables payable to the Company or delaying the payment of Receivables due to the Company.

ARTICLE 3

REPRESENTATIONS AND WARRANTIES OF SELLER

Except as set forth in the Disclosure Schedules, Seller hereby represents and warrants to Buyer as of the date of this Agreement and the Closing Date as follows:

SECTION 3.01 *Organization and Qualification.* Seller is a corporation duly organized and is validly existing and in good standing (where applicable) under the Laws of the State of Delaware, with the requisite power and authority to own its properties and conduct its business as currently conducted, except for any failure to be in good standing as would not, individually or in the aggregate, have a Material Adverse Effect.

SECTION 3.02 *Corporate Authorization.* Subject to entry of the Sale Order, the execution, delivery and performance by Seller of this Agreement and all other Transaction Documents to which Seller is or will be a party and the consummation of the transactions contemplated hereby and thereby have been, or prior to the Closing will be, duly authorized by all necessary corporate or other action on the part of Seller. Subject to entry of the Sale Order, Seller has all necessary power and authority to execute and deliver this Agreement and the other Transaction Documents to which Seller is or will be a party, and to consummate the transactions contemplated hereby and thereby and to performs its obligations hereunder and thereunder.

SECTION 3.03 *Execution and Delivery; Enforceability.* This Agreement has been duly and validly executed and delivered by Seller and, subject to the Bankruptcy Court's entry of the Bid Procedures Order and the Sale Order and subject to the effect of any Laws relating to bankruptcy, reorganization, insolvency, moratorium, fraudulent conveyance or preferential transfers, or similar Laws relating to or affecting creditors' rights generally and subject, as to enforceability, to the effect of general principles of equity (regardless of whether such enforceability is considered in any Causes of Action in equity or at Law) (the "**Bankruptcy and Equity Exception**"), will constitute the valid and binding obligation of Seller, enforceable against Seller in accordance with its terms.

SECTION 3.04 *Consents and Approvals.* No consent, approval, authorization or Order of or with any third party, or Governmental Authority having jurisdiction over Seller or any of its properties, is required for the execution and delivery by Seller of this Agreement and performance of and compliance by Seller with all of the provisions hereof and the consummation of the transactions contemplated herein, except: (a) as set forth on Schedule 3.04(a); (b) the entry

of the Sale Order and the expiration, or waiver by the Bankruptcy Court, of the fourteen (14) day period set forth in Rules 6004(h) and 3020(e) of the Federal Rules of Bankruptcy Procedure, as applicable; (c) for notices, filings and consents required in connection with the Chapter 11 Cases; and (d) for such consents, approvals, authorizations and Orders, the failure of which to provide, make or obtain, would not, individually or in the aggregate, be material to the Company, taken as a whole.

SECTION 3.05 *No Conflicts.* The execution, delivery and performance by Seller of this Agreement and the other Transaction Documents to which Seller is or will be a party and the consummation by Seller of the transactions contemplated hereby and thereby do not and will not (a) conflict with or violate any of the organizational documents of Seller; (b) conflict with or violate any Law applicable to Seller; (c) result in any breach of, constitute a default (or an event that, with notice or lapse of time or both, would become a default) under or require any consent of any Person pursuant to, any note, bond, mortgage, indenture, agreement, lease, license, permit, franchise, instrument, obligation or other contract to which Seller is a party; or (d) subject to entry of the Sale Order, require any consent or approval of, registration or filing with, or notice to any Governmental Authority, except, in the causes of clauses (b) through (d), as would not, individually or in the aggregate, be material to the Company, taken as a whole.

SECTION 3.06 *Membership Interests.* The Membership Interests have been duly authorized, validly issued and are fully paid and nonassessable. There are no Encumbrances to which the Company is subject, or other Contract to which the Company is subject, relating to the ownership, transfer or voting of any Membership Interests in the Company. There are no outstanding options, warrants, convertible securities, subscriptions or other rights obligating the Company to issue any additional Membership Interests.

SECTION 3.07 *Title to the Purchased Assets.* Seller is the sole legal and beneficial owner of the Purchased Assets. Upon delivery to Buyer on the Closing Date of the instruments of transfer contemplated hereby and subject to the terms of the Sale Order, Seller will thereby transfer to Buyer, all of Seller's right, title and interest in and to the Purchased Assets free and clear of all Encumbrances (other than Permitted Encumbrances). Immediately following the Closing, Buyer will own one hundred percent (100%) of the Membership Interests.

SECTION 3.08 *Equity Interests.* The Company (a) does not directly or indirectly own any equity, partnership, membership or similar interest in any Person, or any interest convertible into, exercisable for the purchase of or exchangeable for any such equity, partnership, membership or similar interest in such Person, and (b) is not under any current or prospective obligation to form or participate in, provide funds to, make any loan, capital contribution or other investment in or assume any liability or obligation of, any Person.

SECTION 3.09 *Litigation.* Except as set forth on Schedule 3.09, as of the date hereof, there are no Causes of Action to which the Company is a party pending, or, to the Knowledge of Seller, threatened (a) to restrain or prevent the transactions contemplated by this Agreement, or (b) otherwise affecting any material property or asset of the Company, except as would not be material to the Company, taken as a whole. Except as set forth on Schedule 3.09, the Company is not a party to any outstanding Order.

SECTION 3.10 *Intellectual Property.*

(a) Schedule 3.10(a) sets forth a true and complete list of all material Owned Intellectual Property that is Registered.

(b) Except as set forth on Schedule 3.10(b), no Owned Intellectual Property has been in the last twelve (12) months or is now involved in any opposition, cancellation, public protest, domain name dispute resolution, interference, reissue, reexamination, mediation or arbitration proceeding and, to the Knowledge of Seller, no such proceeding is or has been threatened with respect to any of the Owned Intellectual Property, except as would not, individually or in the aggregate, be material to the Company.

(c) The Company owns or otherwise holds valid rights to use all Intellectual Property used in the operation of the Business as currently conducted. The Company exclusively owns, free and clear of any and all Encumbrances (other than Permitted Encumbrances and licenses granted under third-party Intellectual Property exclusively licensed to the Company), all Owned Intellectual Property and, to the Knowledge of Seller, all other Intellectual Property used in the Business other than Licensed Intellectual Property.

(d) Except as would not, individually or in the aggregate, be material to the Company, the Company has taken reasonable steps in accordance with standard industry practices to protect its rights in its Owned Intellectual Property.

(e) All material Owned Intellectual Property is subsisting and, to the Knowledge of Seller, valid and enforceable.

(f) The Company has not transferred ownership of, or granted any exclusive license with respect to, any Owned Intellectual Property, other than the license agreements with licensees of the Jessica Simpson brand to manufacture, import, sell, distribute, market and/or promote products bearing the Jessica Simpson brand. Upon the consummation of the Closing, the Company shall continue to own all of the Owned Intellectual Property rights reasonably necessary for the conduct of the Business as it is currently conducted and all of such rights shall be exercisable by the Company to the same extent as prior to the Closing. To the Knowledge of Seller, other than as set forth on Schedule 3.10(f), no loss or expiration of any of the Owned Intellectual Property used by the Company is threatened or, within three (3) months preceding the date hereof, pending.

SECTION 3.11 *Taxes.*

(a) The Company has timely filed all income or other material Tax Returns required to be filed with the appropriate Governmental Authorities, and all such Tax Returns are true, correct and complete in all material respects. All income and other material Taxes due and payable by the Company with respect to the Business whether or not shown to be payable on such Tax Returns, have been timely paid. No claim has been made in writing within the last three (3) taxable years by a Governmental Authority in a jurisdiction where Seller does not file Tax Returns that Seller or the Business is or may be subject to taxation by that jurisdiction.

(b) Other than as set forth on Schedule 3.11(b), there are no Encumbrances on any of the Membership Interests that arose in connection with any failure (or alleged failure) of Seller or the Company to pay any Tax, other than Encumbrances for Taxes not yet due and payable.

SECTION 3.12 *No Other Representations or Warranties.* Buyer acknowledges that, except for the representations and warranties expressly set forth in this Article 3, neither Seller nor any other Person or Representative acting on behalf of Seller or otherwise makes any express or implied representation or warranty with respect to Seller or with respect to any information provided by or on behalf of Seller to Buyer.

ARTICLE 4

REPRESENTATIONS AND WARRANTIES OF BUYER

Buyer represents and warrants to Seller as of the date of this Agreement as follows:

SECTION 4.01 *Corporate Existence and Power.* Buyer is a corporation duly organized, validly existing and in good standing under the laws of the State of California and has all power and authority to carry on its business as presently conducted.

SECTION 4.02 *Corporate Authorization.* The execution, delivery and performance by Buyer of this Agreement and all other Transaction Documents to which Buyer is or will be a party and the consummation of the transactions contemplated hereby and thereby are within the corporate powers of Buyer and have been duly authorized by all necessary corporate action on the part of Buyer.

SECTION 4.03 *Execution and Delivery; Enforceability.* This Agreement and all other Transaction Documents to which Buyer is or will be a party have been, or prior to the Closing will be, duly and validly executed and delivered by Buyer, and constitute the valid and binding obligation of Buyer, enforceable against Buyer in accordance with its terms, subject to the Bankruptcy and Equity Exception.

SECTION 4.04 *No Conflicts.* The execution, delivery and performance by Buyer of this Agreement and the other Transaction Documents to which it is or will be a party and the consummation by Buyer of the transactions contemplated hereby and thereby do not and will not (a) conflict with or violate any of the organizational documents of Buyer; (b) conflict with or violate any Law applicable to Buyer; (c) result in any breach of, constitute a default (or an event that, with notice or lapse of time or both, would become a default) under or require any consent of any Person pursuant to, any note, bond, mortgage, indenture, agreement, lease, license, permit, franchise, instrument, obligation or other contract to which Buyer is a party; or (d) require any consent or approval of, registration or filing with, or notice to any Governmental Authority, except for such consents or approvals that would not, individually or in the aggregate, reasonably be expected to have a materially adverse effect on Buyer's ability to consummate the transactions contemplated by this Agreement.

SECTION 4.05 *Availability of Funds; Solvency.* Buyer shall have at the Closing sufficient funds to pay all of the Purchase Price and any other costs, fees and expenses which may

be required to be paid by or on behalf of Buyer under this Agreement and the other Transaction Documents. Notwithstanding anything to the contrary contained herein, Buyer acknowledges and agrees that its obligations to consummate the transactions contemplated hereby are not contingent upon its ability to obtain any third party financing. As of the Closing and immediately after consummating the transactions contemplated by this Agreement and the other transactions contemplated by the Transaction Documents, Buyer and its subsidiaries (taken as a whole) will not, (a) be insolvent (either because their financial condition is such that the sum of their debts is greater than the fair value of their assets or because the present fair value of their assets will be less than the amount required to pay their Liability (calculated as the amount that would reasonably be expected to become an actual and matured Liability) on their debts as they become absolute and matured); (b) have unreasonably small capital with which to engage in their respective businesses; or (c) have incurred or plan to incur debts beyond their ability to repay such debts as they become absolute and matured.

SECTION 4.06 *Litigation.* There are no Actions to which Buyer is a party pending, or, to the knowledge of Buyer, threatened (a) to restrain or prevent the transactions contemplated by this Agreement or any other Transaction Documents, or (b) that would affect in any material respect Buyer's ability to perform its obligations under this Agreement or any other Transaction Documents or to consummate the transactions contemplated hereby or thereby.

SECTION 4.07 *Investment Intent.* Buyer is acquiring the Purchased Assets for its own account for investment purposes only and not with a view to any public distribution thereof or with any intention of selling, distributing or otherwise disposing of the Purchased Assets in a manner that would violate the registration requirements of the Securities Act.

SECTION 4.08 *Brokers.* No broker, finder or agent will have any claim against Seller for any fees or commissions in connection with the transactions contemplated by this Agreement or any other Transaction Document based on arrangements made by or on behalf of Buyer.

SECTION 4.09 *Independent Investigation.* BUYER HAS CONDUCTED ITS OWN INDEPENDENT REVIEW AND ANALYSIS OF THE COMPANY, INCLUDING ITS OPERATIONS, ASSETS, LIABILITIES, RESULTS OF OPERATIONS, FINANCIAL CONDITION, SOFTWARE, TECHNOLOGY AND PROSPECTS OF THE BUSINESS, AND ACKNOWLEDGES THAT IT HAS BEEN PROVIDED ACCESS TO PERSONNEL, PROPERTIES, PREMISES AND RECORDS OF THE COMPANY AND THE DATA ROOM ESTABLISHED BY SELLER FOR SUCH PURPOSE. IN ENTERING INTO THIS AGREEMENT, BUYER HAS RELIED SOLELY UPON ITS OWN INVESTIGATION AND ANALYSIS AND THE INFORMATION CONTAINED IN SUCH DATA ROOM, AND SELLER'S REPRESENTATIONS AND WARRANTIES SET FORTH IN ARTICLE 3 AND ACKNOWLEDGES THAT NEITHER SELLER NOR ANY OF ITS AFFILIATES OR REPRESENTATIVES MAKES OR HAS MADE ANY REPRESENTATION OR WARRANTY, EITHER EXPRESS OR IMPLIED, AS TO THE ACCURACY OR COMPLETENESS OF ANY OF THE INFORMATION PROVIDED OR MADE AVAILABLE TO BUYER OR ITS REPRESENTATIVES (INCLUDING ANY INFORMATION PROVIDED OR MADE AVAILABLE TO BUYER IN THE DATA ROOM, EXCEPT AS EXPRESSLY PROVIDED IN ARTICLE 3). EXCEPT AS SPECIFICALLY SET FORTH IN ARTICLE 3, (A) SELLER

MAKES NO REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, AT LAW OR IN EQUITY, IN RESPECT OF OR OTHERWISE IN ANY WAY RELATING TO THE COMPANY OR ITS ASSETS, LIABILITIES OR OPERATIONS, OR ITS BUSINESS, INCLUDING WITH RESPECT TO VALUE, CONDITION OR PERFORMANCE OR MERCHANTABILITY, NONINFRINGEMENT OR FITNESS FOR ANY PURPOSE (BOTH GENERALLY OR FOR ANY PARTICULAR PURPOSE) AND WITH RESPECT TO FUTURE REVENUE, PROFITABILITY OR THE SUCCESS OF THE COMPANY AND THE BUSINESS AND (B) ANY SUCH OTHER REPRESENTATIONS OR WARRANTIES ARE HEREBY EXPRESSLY DISCLAIMED. BUYER ACKNOWLEDGES THAT, SHOULD THE CLOSING OCCUR, BUYER SHALL ACQUIRE THE ASSETS OF THE BUSINESS WITHOUT ANY WARRANTY AS TO MERCHANTABILITY OR FITNESS THEREOF FOR ANY PARTICULAR PURPOSE, IN AN "AS IS" CONDITION AND ON A "WHERE IS" BASIS.

ARTICLE 5

COVENANTS OF SELLER

SECTION 5.01 *Conduct of the Business.* Except (1) as may be reasonably advisable to carry out any of the transactions contemplated by the Transaction Documents or as set forth on Schedule 5.01, (2) as consented to by Buyer (which consent shall not be unreasonably withheld, conditioned or delayed), with an email from Tina Simpson on behalf of Buyer being sufficient, (3) as expressly permitted pursuant to the Bid Procedures Motion, Bid Procedures Order, and Bid Procedures or this Agreement, (4) as required or approved by the Bankruptcy Code or any Orders entered by the Bankruptcy Court in the Chapter 11 Cases, including, without limitation, any debtor-in-possession financing order or any order permitting the use of cash collateral, (5) as otherwise necessary to comply with applicable Law, or (6) for any actions taken in good faith as reasonably necessary to respond to COVID-19 (provided, that prior to taking (or abstaining from taking) any action pursuant to this clause (6), Seller shall use commercially reasonable efforts to provide reasonable advance notice to Buyer and consult in good faith with Buyer with respect to the appropriateness of such action or inaction), from the date hereof until the Closing Date, (x) Seller shall use commercially reasonable efforts to conduct the Business in the ordinary course of business and (y) Seller shall cause the Company not to, and the Company shall not:

(a) take any actions with respect to Company's capital structure or organizational structure, or amend or otherwise change Company's certificate of formation or operating agreement or equivalent organizational documents;

(b) issue, sell, pledge, transfer, dispose of or otherwise subject to any Encumbrance, except a Permitted Encumbrance, (i) any Membership Interests, or any options, warrants, convertible securities or other rights of any kind to acquire any such Membership Interests, or any other equity or ownership interest in the Company or the Business or (ii) any properties or assets of the Company or the Business, other than sales of inventory or other products by licensees of the Business in the ordinary course of business;

(c) acquire any corporation, partnership, limited liability company, other business organization or division thereof or any material amount of assets, or enter into any

joint venture, strategic alliance, exclusive dealing, noncompetition or similar Contract or arrangement;

(d) incur any indebtedness or issue any debt securities or assume, guarantee or endorse, or otherwise become responsible for, the obligations of any Person, or make any loans or advances;

(e) enter into, amend, waive, modify or consent to the termination of any lease, any material Contract in respect of any Licensed Intellectual Property or any other material Contract of the Company, or amend, waive, modify or consent to the termination of the Company's rights thereunder in any material respect;

(f) permit the lapse of any right relating to Owned Intellectual Property (or any other Intellectual Property that constitutes a Purchased Asset) that is material to the Business as currently conducted; or

(g) agree or commit to do any of the foregoing.

SECTION 5.02 *Access to Information.*

(a) From the date hereof until the Closing Date, Seller will use commercially reasonable efforts, subject to the terms of the Confidentiality Agreement, to give, on reasonable prior written notice and during normal business hours, Buyer, its counsel, and financial advisors, reasonable access to the offices, properties, books and records of Seller relating (and solely to the extent relating) to the Company, and (ii) to furnish to Buyer, its counsel, financial advisors, auditors and other authorized Representatives such financial and operating data and other information relating (and solely to the extent relating) to the Company as such Persons may reasonably request. Buyer agrees that any investigation undertaken pursuant to the access granted under this Section 5.02(a) shall be conducted in such a manner as not to unreasonably interfere with the operation of Seller's business.

(b) Notwithstanding anything to the contrary in this Agreement, Seller shall not be required to provide access to, or otherwise furnish, any information if Seller determines, in its reasonable discretion, that (i) such access would be reasonably likely to jeopardize any attorney-client or other similar privilege, (ii) such access would contravene any applicable Laws, fiduciary duty or binding agreement entered into prior to the date of this Agreement, (iii) the information to be accessed is pertinent to any existing or potential litigation between Seller or any of their Affiliates, on the one hand, and Buyer or any of its Affiliates, on the other hand or (iv) any information, guidance or advice received by the Company and its Affiliates related to the transactions contemplated by this Agreement.

(c) All requests for access or information by or on behalf of Buyer shall be submitted to Stifel, Nicolaus & Co. or such other person(s) as Seller may designate in writing, and none of Buyer or any of its Affiliates or Representatives shall communicate with any other employees or officers of Seller without the prior written consent of Seller. For the avoidance of doubt, and notwithstanding anything contained herein to the contrary, Buyer shall not have access to personnel records of Seller relating to individual

performance or evaluation records, medical histories or other information related to employees of Seller.

(d) At and following the Closing, Seller may retain copies of the books and records of the Business to the extent Seller determines, in its sole discretion, that Seller (i) should retain them to comply with applicable Law or (ii) may require such copies for Tax purposes.

SECTION 5.03 *Update of Disclosure Schedules.* Until the Closing Date, Seller may deliver any new schedules or supplement or amend the Disclosure Schedules with respect to any matter that, if existing, occurring or known as of the date hereof, would have been required to be set forth or described in the Disclosure Schedules. Any such supplement or amendment shall be deemed to modify the Disclosure Schedules for purposes of this Agreement except to the extent that, absent such modification(s) to the Disclosure Schedules, Seller would then be in breach of the representations, warranties, covenants or other agreements contained herein such that the condition to Closing set forth in Section 8.02(a) would not then be satisfied.

SECTION 5.04 *Use of Name.* After the Closing, Seller shall not, and shall cause its Affiliates not to, use, authorize the use, register, or attempt to register the name “Jessica Simpson” or any confusingly similar variations thereof as a trademark, domain name, or any other form of Intellectual Property.

SECTION 5.05 *Notices of Certain Events.* Seller shall promptly (and in any event within five (5) Business Days) notify Buyer in writing (which notice shall include, to the extent reasonably practicable, any relevant details and information in Seller’s possession or control) of (a) the occurrence of any change, effect, event, circumstance, occurrence or state of facts of which it is or becomes aware, which does, or which could be reasonably be expected to, cause any condition set forth in Article 8 to fail to be satisfied or which would otherwise prevent, delay or impede the Closing, (b) any written notice or other communication from any Governmental Authority (other than the Bankruptcy Court) related to or in connection with the transactions contemplated by this Agreement and (c) the receipt of any notice or other communication from any Person alleging that the consent of such Person is or may be required in connection with the transactions contemplated by this Agreement. Any required to provide notice to be provided under this Section 5.05 may be fully satisfied by providing notice to counsel to Buyer at the email address for such counsel as set forth in Section 11.01.

SECTION 5.06 *Wrong Pockets.* Within twelve (12) months following the Closing Date, (a) in the event that any asset, right or property of Seller or its Affiliates exclusively used or necessary for the Business is found to have been retained by Seller or its Affiliates, (i) Seller shall, or shall cause its Affiliates to, transfer and convey such asset, right or property (and any related Liability) as soon as reasonably practicable to Buyer, in each case for no additional consideration, and (ii) Seller shall hold such asset, right or property in trust for Buyer until such transfer and conveyance is completed, or (b) any asset, right or property of Seller or its Affiliates that are not related to or used in the Business is found to have been transferred and conveyed to Buyer, (i) Buyer shall transfer and convey such asset, right or property (and any related Liability) as soon as reasonably practicable to Seller, in each case for no additional consideration and (ii) Buyer shall hold such asset, right or property in trust for Seller until such transfer and conveyance is completed.

ARTICLE 6

COVENANTS OF BUYER

SECTION 6.01 *Confidentiality.* Buyer acknowledges and agrees that at any time prior to the Closing Date and after any termination of this Agreement, the Confidentiality Agreement shall remain in full force and effect and Buyer and its Affiliates shall remain bound thereby during such periods.

SECTION 6.02 *Notices of Certain Events.* Buyer shall promptly (and in any event within five (5) Business Days) notify Seller in writing (which notice shall include, to the extent reasonably practicable, any relevant details and information in Buyer's possession or control) of (a) the occurrence of any change, effect, event, circumstance, occurrence or state of facts of which it is or becomes aware, which does, or which could be reasonably be expected to, cause any condition set forth in Article 8 to fail to be satisfied or which would otherwise prevent, delay or impede the Closing, (b) any written notice or other communication from any Governmental Authority (other than in or related to the Bankruptcy Court) related to or in connection with the transactions contemplated by this Agreement and (c) the receipt of any notice or other communication from any Person alleging that the consent of such Person is or may be required in connection with the transactions contemplated by this Agreement. Any requirement to provide notice under this Section 6.02 may be fully satisfied by provided notice to counsel to Seller at the email address for such counsel as set forth in Section 11.01.

SECTION 6.03 *Preservation of Books and Records.* After the Closing Date, Buyer shall provide to Seller and its Affiliates and Representatives (without charge to Seller other than the costs of copying, if any) reasonable access to, including the right to make copies of, all books and records included in and otherwise related to the Company, to the extent necessary to permit Seller to determine any matter relating to their respective rights and obligations hereunder or to any period ending on or before the Closing Date (for example, for purposes of any Tax or accounting audit or any claim or litigation matter) or otherwise related to the Company, for periods prior to the Closing and shall preserve such books and records until the latest of (a) such period as shall be consistent with Buyer's records retention policy in effect from time to time, (b) the retention period required by applicable Law, (c) the conclusion of all bankruptcy proceedings relating to the Chapter 11 Cases, including the closing of the Chapter 11 Cases and (d) in the case of books and records relating to Taxes, the expiration of the statute of limitations applicable to such Taxes. Such access shall include access to any information in electronic form to the extent reasonably available. Buyer acknowledges that Seller has the right to retain originals or copies of all of books and records related to the Company for periods prior to the Closing.

SECTION 6.04 *Communication.* On and after the date hereof and through the Closing Date, other than the Representatives of Seller set forth on Schedule 6.04, Buyer shall not (and shall not permit any of Buyer's Representatives or Affiliates to) contact or communicate with the employees, licensees, customers, service providers and vendors of Seller without the prior consultation with and written approval of Seller; provided that, subject to Section 6.01, this Section 6.04 shall not prohibit ordinary course communications that are unrelated to this Agreement or the transactions contemplated hereby.

SECTION 6.05 *Buyer's Knowledge.* Notwithstanding anything herein to the contrary, Buyer acknowledges and agrees that, in the event that Buyer has entered into this Agreement with any knowledge by Buyer or any Affiliate of Buyer of any breach by Seller of any representation, warranty or covenant in this Agreement, Buyer shall not have any claim or recourse against Seller or any of its Affiliates with respect to such breach under this Agreement, including under Article 8 and Article 10.

ARTICLE 7

COVENANTS OF BUYER AND SELLER

SECTION 7.01 *Further Assurances.*

(a) At and after the Closing, and without further consideration therefor, Seller and Buyer shall use commercially reasonable efforts to take, or cause to be taken, all appropriate action to do, or cause to be done, all things reasonably necessary, proper or advisable under applicable Law or otherwise to consummate and make effective the transactions contemplated by this Agreement and the other Transaction Documents as promptly as practicable .

(b) The Parties agree to (and shall cause each of their respective Affiliates to) provide each other with such information and assistance as is reasonably necessary for the preparation of any Tax Returns or for the defense of any Tax claim or assessment, whether in connection with an audit or otherwise, including the furnishing or making available on a timely basis of records, personnel (as reasonably required), books of account, or other necessary materials.

SECTION 7.02 *Certain Filings.* Seller and Buyer shall use their commercially reasonable efforts to take, or cause to be taken, all actions and to do, or cause to be done, all things necessary under applicable Law to consummate and make effective the transactions contemplated by this Agreement, including furnishing all information required by applicable Law in connection with approvals of or filings with any Governmental Authority, and filing, or causing to be filed, as promptly as practicable, any required notification and report forms under other applicable competition Laws with the applicable Governmental Authority.

SECTION 7.03 *Public Announcements.* On and after the date hereof and through the Closing Date, the Parties shall consult with each other before issuing any press release or otherwise making any public statements with respect to this Agreement or the transactions contemplated hereby, and no Party shall issue any press release or make any public statement prior to obtaining the written consent of all other Parties hereto (which consent shall not be unreasonably withheld, conditioned or delayed); provided, however, that that no such prior consultation or consent shall be required for disclosure by either Party (a) to its current, former or prospective lenders and their respective Representatives, provided that the recipient of such information is subject to a customary confidentiality obligation, (b) in earnings releases or earnings calls or as otherwise advised by accountants, or (c) as required by applicable Law or applicable securities exchange rules.

SECTION 7.04 *Tax Matters.*

(a) Allocation of Straddle Period Taxes.

(i) For purposes of this Agreement, in order to apportion appropriately any Taxes relating to a taxable period beginning before and ending after the day immediately prior to the Closing Date (a “**Straddle Period**”), the amount of Taxes that are allocable to the portion of the Straddle Period ending on and including the day immediately prior to the Closing Date shall be:

(A) in the case of Taxes imposed on a periodic basis with respect to the business or assets of a Seller (such as ad valorem and property Taxes) and exemptions, allowances or deductions that are calculated on an annual basis, such as depreciation, the amount of such Taxes, exemptions, allowances or deductions for the entire Straddle Period multiplied by a fraction, the numerator of which is the number of calendar days in the portion of the Straddle Period ending on and including the Closing Date, and the denominator of which is the number of calendar days in the entire Straddle Period (provided that any Tax exemption or allowance with respect to an annual period shall be pro-rated on an equal daily basis between the pre-Closing Tax period and the remainder of the Straddle Period); and

(B) in the case of all other Taxes, determined on a “closing of the books basis” as if the taxable period ended on the Closing Date.

(b) Tax Cooperation. The Parties shall furnish or cause to be furnished to each other, upon request, and at the sole cost of the requesting Party, as promptly as practicable, such information and assistance relating to the Company as is reasonably necessary for the filing of Tax Returns and the preparation for, or the prosecution or defense of, any audit, claim, demand, proposed adjustment or deficiency relating to Taxes, and any other matter or proceeding relating to Taxes.

(c) Transfer Taxes. To the extent Seller is required by applicable Law to pay Transfer Taxes, Buyer shall reimburse Seller the amount of such Transfer Taxes at least five Business Days prior to the applicable due date for such Transfer Taxes, and Seller shall provide timely payment thereof (if any payment is due) to the applicable Governmental Authority and promptly provide a copy of such Tax Return to Buyer. Further, each Party hereto agrees to timely sign and deliver (or to cause to be timely signed and delivered) such certificates or forms as may be necessary or appropriate and otherwise to cooperate to establish any available exemption from (or otherwise reduce) such Transfer Taxes. Closing. The Parties hereto shall cooperate in good faith to establish any available exemption from (or reduction of) any Transfer Taxes.

SECTION 7.05 *Bulk Transfer Laws.* The Parties intend that pursuant to Section 363(f) of the Bankruptcy Code, the transfer of the Purchased Assets shall be free and clear of any security interests, including any liens or claims arising out of the bulk transfer Laws, and the Parties shall take such steps as may be necessary or appropriate to so provide in the Sale Order. In

furtherance of the foregoing, each Party hereby waives compliance by the other Parties with the “bulk sales,” “bulk transfers” or similar Laws and all other similar Laws in all applicable jurisdictions in respect of the transactions contemplated by this Agreement.

SECTION 7.06 *Bankruptcy Court Approval.*

(a) The Parties shall use their respective commercially reasonable efforts to have (i) the Bankruptcy Court enter the Bid Procedures Order as promptly as practicable and (ii) the Bankruptcy Court enter the Sale Order as promptly as practicable after the completion of the Auction but, in any event, in each case in compliance with the Milestones. Debtors and Buyer shall cooperate in good faith to obtain the Bankruptcy Court’s entry of the Bid Procedures Order, the Sale Order, and any other Order reasonably necessary in connection with the transactions contemplated by this Agreement, including furnishing affidavits, nonconfidential financial information, or other documents or information for filing with the Bankruptcy Court and making such advisors of Debtors and Buyer and their respective Affiliates available to testify before the Bankruptcy Court for the purposes of, among other things, providing adequate assurances of performance by Buyer as required under Section 365 of the Bankruptcy Code, and demonstrating that Buyer is a “good faith” purchaser under Section 363(m) of the Bankruptcy Code. Buyer agrees that it will promptly take such actions as are reasonably requested by Seller to assist in obtaining entry of the Bid Procedures Order, the Sale Order, and any other Order reasonably necessary, consistent with the above.

(b) The Debtors shall give notice under the Bankruptcy Code and the Bankruptcy Rules of the request for the relief specified in the Bid Procedures and Sale Motion to all Persons entitled to such notice, including all Persons that have asserted Encumbrances on the Purchased Assets and all non-debtor parties to the Assumed Contracts, and other appropriate notice as required by the Bankruptcy Rules and the local rules of the Bankruptcy Court, 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 or the transactions contemplated hereby. Debtors shall be responsible for making all appropriate filings relating to this Agreement with the Bankruptcy Court, and shall use commercially reasonable efforts to submit such filings to Buyer no less than two Business Days prior to their filing with the Bankruptcy Court for Buyer’s prior review and comment, which comments the Debtors shall consider and attempt to incorporate in good faith, in consultation with Buyer.

(c) In the event the entry of the Bid Procedures Order, the Sale Order or any other Orders of the Bankruptcy Court relating to this Agreement or the transactions contemplated hereby shall be appealed by any Person (or if any petition for certiorari or motion for reconsideration, amendment, clarification, modification, vacation, stay, rehearing or reargument shall be filed with respect to the Bid Procedures Order, the Sale Order or other such Order), Debtors shall use commercially reasonable efforts to defend such appeal.

(d) The Debtors and Buyer acknowledge that this Agreement and the transactions contemplated hereby are subject to (i) entry of, as applicable, the Bid Procedures Order and the Sale Order and (ii) the consideration by the Debtors and Seller of higher or better competing bids (whether through any and all types of consideration, including, without limitation, cash, assumed liabilities or credit bid) in respect of a sale, reorganization, or other disposition of the Debtors or Seller, the Business or the Purchased Assets. In the event of any discrepancy between this Agreement and the Bid Procedures Order and the Sale Order, the Bid Procedures Order and the Sale Order shall govern; provided, however, that nothing in this Section 7.07(d) shall limit the rights of Buyer hereunder in the event that any Bid Procedures Order or any Sale Order does not comply with the terms of this Agreement.

(e) During the period commencing on the date hereof and ending on the earlier of (i) the date of entry of the Bid Procedures Order or (ii) the date this Agreement is terminated as provided in Article 10, Seller will not, nor will it permit any of its Affiliates or anyone acting on behalf of any of them to, solicit, negotiate or enter into any discussions or negotiations with any Person (other than Buyer or its Representatives) in connection with any Alternative Transaction; provided that Seller shall be permitted to furnish or cause to be furnished to any Person any information concerning the Purchased Assets or the Business. Seller shall, immediately upon the execution of this Agreement, cease any and all ongoing discussions with any other potential purchaser of all or any portion of the Purchased Assets and/or the Business and shall cause its Representatives and Affiliates and their respective Representatives to do the same. Notwithstanding anything to the contrary herein, from the date of entry of the Bid Procedures Order and until the transactions contemplated hereby are consummated, Buyer agrees and acknowledges that Seller, Debtors and their Affiliates, including through their Representatives, are and may continue soliciting and/or responding to inquiries, proposals or offers from third parties in connection with any Alternative Transaction, including, without limitation, inquiries, proposals or offers related to the Purchased Assets, and may facilitate (and perform any and all other acts related thereto), including, without limitation, furnishing any information (subject to entering into a customary confidentiality agreement) with respect to, any effort or attempt by any Person to seek to do any of the foregoing in connection with an Alternative Transaction. Seller shall promptly notify Buyer of receipt by Debtors or any of their Representatives of any such inquiries, proposals or offers; provided that, as to any inquiries, proposals or offers received prior to entry of the Bid Procedures Order, Seller shall provide Buyer with a copy of any such inquiries, proposals or offers within two (2) Business Days of receipt by the Debtors or their Representatives.

(f) The Sale Order 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, (B) the sale of the Purchased Assets to Buyer on the terms set forth herein and free and clear of all Encumbrances, including the Permitted Encumbrances set forth on Schedule 1.01 but subject to the other Permitted Encumbrances, and (C) the performance by Debtors of their respective obligations under this Agreement; (ii) authorize and empower Seller to assume and assign to Buyer the Assumed Contracts; (iii) find that Buyer is a “good faith” buyer within the meaning of section 363(m) of the Bankruptcy Code, find that Buyer is not a successor to any Seller, and grant Buyer the protections of

section 363(m) of the Bankruptcy Code; (iv) find that Buyer shall have no Liability or responsibility for any Liability or other obligation of Seller arising under or related to the Purchased Assets other than as expressly set forth in this Agreement, including successor or vicarious Liabilities of any kind or character, including any theory of antitrust, successor, or transferee Liability, labor law, de facto merger, or substantial continuity; and (v) find that Buyer has provided adequate assurance (as that term is used in Section 365 of the Bankruptcy Code) of future performance in connection with the assumption of the Assumed Contracts.

(g) Debtors shall comply with the Milestones.

(h) If an Auction is conducted, and Buyer is not the Successful Bidder at the Auction but is the next highest bidder after the Successful Bidder at the Auction, Buyer shall serve as a Backup Bidder and keep its bid to consummate the transactions contemplated by this Agreement on the terms and conditions set forth in this Agreement (as the same may be improved upon in the Auction) open and irrevocable, notwithstanding any right of Buyer to otherwise terminate this Agreement pursuant to Article 10 hereof, until the earlier of (i) the Backup Bid Expiration Date (as defined in the Bid Procedures) or (ii) the first Business Day after the closing of a transaction with a Successful Bidder for the Purchased Assets that is not Buyer; provided, however, that if prior to the Backup Bid Expiration Date, a Successful Bidder for the Purchased Assets that is not Buyer fails to consummate its transaction as a result of a breach or failure to perform on the part of such Successful Bidder, or because a condition in such Successful Bidder's purchase agreement cannot otherwise be met, and the purchase agreement with such Successful Bidder is terminated, Buyer (as the Backup Bidder) will be deemed to have the new prevailing bid, and Seller will be authorized, without further order of the Bankruptcy Court, to, and Buyer (as the Backup Bidder) shall, subject to the terms and conditions of this Agreement, consummate the transactions contemplated by this Agreement by the later of (x) ten (10) days of becoming the Successful Bidder and (ii) the Backup Bid Expiration Date, on the terms and conditions set forth in this Agreement (as the same may be improved upon in the Auction).

SECTION 7.07 *Bidding Protections.*

(a) If this Agreement is terminated by Buyer or Seller pursuant to (i) Section 10.01(c), (ii) Section 10.01(h) or (iii) Section 10.01(j), then, in each case, Seller shall (or shall cause the Debtors to), without the requirement of any notice or demand by Buyer, pay to Buyer the Break-Up Fee, such payment to be made upon the earlier of (x) the consummation of an Alternative Transaction, (y) the consummation of a sale to the "Successful Bidder" or "Next Highest Bidder" at the Auction or (z) the date that is forty-five (45) days following such termination, in immediately available funds to one or more bank accounts of Buyer (or any of its Affiliates) designated in writing by Buyer to Seller.

(b) If this Agreement is terminated by Buyer or Seller pursuant to (i) Section 10.01(c), (ii) Section 10.01(e), (iii) Section 10.01(h), (iv) Section 10.01(i) or (v) Section 10.01(j), then, in each case, Seller shall (or shall cause the Debtors to), without the requirement of any notice or demand by Buyer, pay to Buyer the Expense Reimbursement,

such payment to be made upon the earlier of (x) the consummation of an Alternative Transaction, (y) the consummation of a sale to the “Successful Bidder” or “Next Highest Bidder” at the Auction or (z) the date that is forty-five (45) days following such termination by wire transfer(s) in immediately available funds to one or more bank accounts of Buyer (or any of its Affiliates) designated in writing by Buyer to Seller.

(c) The Parties acknowledge and agree that (i) the Parties have expressly negotiated the provisions of this Section 7.07 and the payment of the Break-Up Fee and the Expense Reimbursement are integral parts of this Agreement, (ii) in the absence of Seller’s obligations to make these payments, Buyer would not have entered into this Agreement, and (iii) subject to approval by the Bankruptcy Court, the Break-Up Fee and the Expense Reimbursement shall constitute allowed superpriority Administrative Expense Claims pursuant to sections 105(a), 503(b), and 507(a)(2) of the Bankruptcy Code with priority over all other administrative expenses of the kind specified in section 503(b) of the Bankruptcy Code. Seller shall seek the approval of the Break-Up Fee and the Expense Reimbursement as set forth in this Section 7.07 and this Agreement in the Bid Procedures Order. Buyer acknowledges and agrees that in the event the Break-Up Fee becomes payable, the right to receive the Break-Up Fee and the Expense Reimbursement and the return of the Good Faith Deposit shall be the sole and exclusive remedy of Buyer against Debtors, Seller, and any of their respective Affiliates for any liability, damage or other loss resulting from, the termination of this Agreement, breach of any representation, warranty covenant or agreement contained herein or the failure of the transactions contemplated hereby to be consummated, and none of Buyer nor any of its Affiliates shall have any other remedy or cause of action under or relating to this Agreement or any applicable Law. Notwithstanding the foregoing, nothing set forth herein shall limit or restrict Buyer’s rights to pursue a grant of specific performance pursuant to Section 11.08 prior to any termination of this Agreement by Buyer.

ARTICLE 8

CONDITIONS TO CLOSING

SECTION 8.01 *Conditions to Obligations of the Parties.* The obligations of each of the Parties to consummate the Closing are subject to the satisfaction or valid waiver at or prior to the Closing of the following conditions:

- (a) no provision of any applicable Law and no judgment, injunction or Order shall then be in effect prohibiting or making illegal the consummation of the Closing;
- (b) the Bankruptcy Court shall have entered the Bid Procedures Order and the Bid Procedures Order shall be a Final Order; and
- (c) the Bankruptcy Court shall have entered the Sale Order in form and substance reasonably acceptable to Buyer and Seller and the Sale Order shall be a Final Order.

SECTION 8.02 *Conditions to Obligation of Buyer.* The obligation of Buyer to consummate the Closing is subject to the satisfaction (or valid waiver) at or prior to the Closing of the following further conditions:

(a) (i) each of the representations and warranties of Seller contained in Section 3.01, Section 3.02, Section 3.03, and Section 3.07 shall be true and correct in all respects (except for any failure to be so true and correct that is de minimis in nature) on and as of the date hereof and on and as of the Closing Date with the same effect as though such representations and warranties had been made on and as of the Closing Date (provided that representations and warranties which speak to a specified date shall speak only as of such date) and (ii) each other representation and warranty of Seller contained in Article 3 shall be true and correct on and as of the date hereof and as of Closing Date with the same effect as though such representations and warranties had been made on and as of the Closing Date (provided that representations and warranties which speak to a specified date shall speak only as of such date) except where the failure to be so true and correct (without giving effect to any limitation or qualification as to “materiality” (including the word “material”) or “Material Adverse Effect” or other similar term set forth therein) would not, individually or in the aggregate, have a Material Adverse Effect and Buyer shall have received a certificate of the Company certifying as to the matters set forth in this Section 8.02(a) signed by a duly authorized Representative of the Company;

(b) the material covenants and agreements that Seller is required to perform or to comply with pursuant to this Agreement at or prior to the Closing shall have been performed and complied with in all material respects and Buyer shall have received a certificate of the Company to such effect signed by a duly authorized Representative of the Company.

(c) From the date hereof, there shall not have occurred any Material Adverse Effect.

SECTION 8.03 *Conditions to Obligation of Seller.* The obligation of Seller to consummate the Closing is subject to the satisfaction (or valid waiver) at or prior to the Closing of the following further conditions:

(a) the representations and warranties of Buyer contained in Article 4 shall be true and correct on and as of the Closing Date with the same effect as though such representations and warranties had been made on and as of the Closing Date (provided that representations and warranties which speak to a specified date shall speak only as of such date) except where the failure to be so true and correct (without giving effect to any limitation or qualification as to “materiality” (including the word “material”) or similar term set forth therein) would not, individually or in the aggregate, prevent, materially impede or delay the consummation of the Closing in accordance with its terms and Seller shall have received a certificate of Buyer to such effect signed by a duly authorized officer of Buyer;

(b) the material covenants and agreements that Buyer is required to perform or to comply with pursuant to this Agreement at or prior to the Closing shall have been

performed and complied with in all material respects and Seller shall have received a certificate of Buyer to such effect signed by a duly authorized officer of Buyer; and

(c) Buyer shall have delivered (or caused to be delivered) each of the documents and instruments to be delivered by Buyer at the Closing pursuant to Section 2.06.

ARTICLE 9

SURVIVAL

SECTION 9.01 *Survival*. The Parties, intending to modify any applicable statute of limitations, agree that (a) (i) the representations and warranties in this Agreement and in any certificate delivered pursuant hereto and (ii) the covenants in this Agreement only requiring performance prior to the Closing shall, in each case, terminate and be of no further force and effect effective as of the Closing and shall not survive the Closing for any purpose, and thereafter there shall be no Liability on the part of, nor shall any claim be made by or on behalf of, any Party or any Party's Affiliates in respect thereof and (b) the covenants in this Agreement that contemplate performance at or after the Closing or expressly by their terms survive the Closing shall survive the Closing in accordance with their respective terms (the "**Surviving Post-Closing Covenants**"). Except with respect to the Surviving Post-Closing Covenants, no other remedy shall be asserted or sought by Buyer, and Buyer shall cause its Affiliates not to assert or seek any other remedy, against Seller or any of its Affiliates under any contract, misrepresentation, tort, strict liability, or statutory or regulatory Law or theory or otherwise, all such remedies being hereby knowingly and expressly waived and relinquished to the fullest extent permitted under applicable law.

ARTICLE 10

TERMINATION

SECTION 10.01 *Grounds for Termination*. This Agreement may be terminated at any time prior to the Closing:

- (a) by mutual written agreement of Seller and Buyer;
- (b) by either Seller or Buyer, if the Closing shall not have been consummated on or before November 14, 2021 (the "**End Date**"); provided, however, that the right to terminate this Agreement pursuant to this Section 10.01(b) shall not be available to a Party whose breach of any of its representations, warranties, covenants or agreements contained herein has been the primary cause of the failure of the Closing to occur on or before the End Date;
- (c) by either Seller or Buyer, if at the end of the Auction for the Purchased Assets (if any), Buyer is not determined by the Debtors to be either the "Successful Bidder" or "Backup Bidder" (each as defined in the Bid Procedures Order);
- (d) by Seller, if Seller is not then in material breach of its obligations under this Agreement and Buyer breaches or fails to perform any of its representations, warranties,

covenants or agreements contained in this Agreement and such breach or failure to perform (i) would prevent the satisfaction of a condition set forth in Section 8.01 or Section 8.03, (ii) cannot be, or has not been, cured within ten (10) Business Days following delivery of written notice to Buyer of such breach or failure to perform and (iii) has not been waived by Seller;

(e) by Buyer, if Buyer is not then in material breach of its obligations under this Agreement and Seller breaches or fails to perform any of its representations, warranties, covenants or agreements contained in this Agreement and such breach or failure to perform (i) would prevent the satisfaction of a condition set forth in Section 8.01 or Section 8.02, (ii) cannot be, or has not been, cured within ten (10) Business Days following delivery of written notice to the Company of such breach or failure to perform and (iii) has not been waived by Buyer;

(f) by either Seller or Buyer upon the conversion of any of Seller's Chapter 11 Cases to cases under Chapter 7 of the Bankruptcy Code, the dismissal of any of Seller's Chapter 11 Cases, or if a trustee or examiner with expanded powers to operate or manage the financial affairs of Seller is appointed;

(g) by either Seller or Buyer, if the Bankruptcy Court enters a final, non-appealable order that precludes the consummation of the transactions contemplated hereby on the terms and conditions set forth in this Agreement;

by either Seller or Buyer, if any court of competent jurisdiction or other competent Governmental Authority shall have enacted or issued a Law or decree or taken any other action permanently restraining, enjoining or otherwise prohibiting the consummation of the transactions contemplated by this Agreement and such Law or decree or other action shall have become final and non-appealable; provided, however, that the right to terminate this Agreement under this 0 shall not be available to a Party if the failure to consummate the Closing because of such action by a Governmental Authority shall be due to the failure of such Party to have fulfilled, in any material respect, any of its obligations under this Agreement;

(h) by either Seller or Buyer, if the Bankruptcy Court enters an order approving an Alternative Transaction with one or more Persons other than Buyer;

(i) by Buyer, if any of the Milestones are not met; or

(j) by Seller, if Seller or its board of directors (or similar governing body), based on the advice of counsel, 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 applicable law.

The Party desiring to terminate this Agreement pursuant to this Section 10.01 (other than pursuant to Section 10.01(a)) shall give written notice of such termination to the other Party in accordance with Section 11.01.

SECTION 10.02 *Effect of Termination.*

(a) If this Agreement is terminated as permitted by Section 10.01, (i) this Agreement shall become null and void and of no further force and effect, except for the provisions of Section 2.04, Section 6.01, Section 7.06, Section 10.03, Article 11 and this Section 10.02, which shall survive such termination of this Agreement and (ii) no Party (nor any stockholder, director, officer, employee, agent, consultant or Representative of any such Party) shall thereafter have any Liability hereunder; provided, nothing in this Section 10.02 shall be deemed to release any Party from any Liability (x) for any breach of any covenants contained in this Agreement occurring prior to its termination and (y) that may otherwise be provided in, or contemplated by, the provisions of Section 2.04 or Section 10.02(b).

(b) If this Agreement is terminated pursuant to Section 10.01(d), the Good Faith Deposit (together with any interest accrued thereon) shall be retained by Debtors for their own account as damages, and the Parties acknowledge and agree that such payment of the Good Faith Deposit to Debtors shall constitute liquidated damages (and not a penalty) and shall be the sole and exclusive remedy of Seller and any other Person against Buyer and its Affiliates arising under this Agreement in connection with any such termination, and upon payment of the Good Faith Deposit to the Debtors, neither seller nor any other Person shall be entitled to bring or maintain any other Action against Buyer or any of its Affiliates and neither Buyer nor any of its Affiliates shall have any further liability or obligation to Seller arising out of this Agreement, the transactions contemplated by this Agreement or any matters forming the basis of such termination. The Parties acknowledge and agree that (i) the agreements contained in this Section 10.01(b) are an integral part of this Agreement and the transactions contemplated hereby and (ii) in light of the difficulty of accurately determining actual damages with respect to the foregoing, the right to any such receipt of the Good Faith Deposit constitutes a reasonable estimate of the damages that will compensate Seller in the circumstances in which such fee is payable for the efforts and resources expended and the opportunities forgone while negotiating this Agreement and in reliance on this Agreement and on the expectation of the consummation of the transactions contemplated hereby. If this Agreement is terminated pursuant to any provision of Section 10.01 (other than Section 10.01(d)), Debtors shall promptly (but in any event within two (2) Business Days of such termination) return the Good Faith Deposit (together with any interest accrued thereon) to Buyer by wire transfer of immediately available funds.

SECTION 10.03 *Costs and Expenses.*

(a) Except as otherwise expressly provided in this Agreement, including as set forth in Section 10.02(b) whether or not the transactions contemplated by this Agreement are consummated, all costs and expenses incurred in connection with this Agreement shall be paid by the Party incurring such cost or expense.

(b) All transfer, sales, use, value added, excise, stock transfer, stamp, recording, registration and any similar Tax that become payable in connection with the transactions contemplated hereby and not exempted by the Bankruptcy Code shall be paid one-half by Seller and one-half by Buyer.

ARTICLE 11

MISCELLANEOUS

SECTION 11.01 *Notices.* All notices, requests and other communications to any Party hereunder shall be in writing and shall be delivered to the addresses set forth below (or pursuant to such other address(es) as may be designated in writing by the Party to receive such notice):

if to Buyer (or after the Closing, the Company):

DL Business Management
244 West 54th Street - 9th Floor
New York, NY 10019
Attention: David Levin, CPA, Esq.
E-mail: davidlevin@dlbm.com

with a copy, which shall not constitute notice, to:

Littman Krooks LLP
655 Third Avenue, 20th Floor
New York, NY 10017
Attention: Mitchell C. Littman, Esq.
E-mail: mlittman@littmankrooks.com

and to:

Culhane Meadows, PLLC
3411 Silverside Road
Baynard Building, Suite 104-13
Wilmington, Delaware 19810
Attention: Mette H. Kurth, Esq.
E-mail: mkurth@cm.law

if to Seller (or prior to the Closing, the Company):

Sequential Brands Group, Inc.
1407 Broadway, 38th Floor
New York, NY 10001
Attention: Eric Gul
Email: EGul@sbg-ny.com

with a copy, which shall not constitute notice, to:

Gibson, Dunn & Crutcher LLP
200 Park Avenue
New York, NY 10166-0193

Attention: Joshua Brody, Esq; Saeed Muzumdar, Esq.
Email: jbrody@gibsondunn.com; smuzumdar@gibsondunn.com

All such notices, requests and other communications shall be deemed received (a) if delivered prior to 5:00 p.m. New York time on a day which is a Business Day, then on such date of delivery if delivered personally, or, if by e-mail, upon written confirmation of delivery by e-mail (which may be electronic), and if delivered after 5:00 p.m. New York time (whether personally or by email) then on the next succeeding Business Day, (b) on the first (1st) Business Day following the date of dispatch if delivered utilizing a next-day service by a recognized next-day courier or (c) on the earlier of confirmed receipt or the fifth (5th) Business Day following the date of mailing if delivered by registered or certified mail, return receipt requested, postage prepaid.

SECTION 11.02 *Amendments and Waivers.*

(a) Any provision of this Agreement may be amended or waived if, but only if, such amendment or waiver is in writing and is signed by each of Buyer and Seller.

(b) No failure or delay by any Party in exercising any right, power or privilege hereunder shall operate as a waiver thereof nor shall any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any other right, power or privilege. The rights and remedies herein provided shall be cumulative and not exclusive of any rights or remedies provided by Law.

SECTION 11.03 *Successors and Assigns.* The provisions of this Agreement shall be binding upon and inure to the benefit of the Parties and their respective successors and assigns. Buyer, on the one hand, may not assign, delegate or otherwise transfer any of its rights or obligations under this Agreement without the prior written consent of Seller, and Seller, on the other hand, may not assign, delegate or otherwise transfer any of their respective rights or obligations under this Agreement without the prior written consent of Buyer; provided, however, that Buyer may assign any or all of its rights and obligations under this Agreement (including the right to receive the Purchased Assets) to one or more subsidiaries of Buyer, in each case, without the prior written consent of Seller; provided, further, that no such assignment will relieve Buyer of its obligations hereunder. Any attempted assignment in violation of this Section 11.03 shall be null and void, *ab initio*.

SECTION 11.04 *Governing Law.* This Agreement shall be governed by and construed in accordance with the Laws of the State of Delaware, without regard to the conflicts of law rules of such State.

SECTION 11.05 *Jurisdiction.* Without limiting any Party's right to appeal any order of the Bankruptcy Court, (i) the Bankruptcy Court will retain exclusive jurisdiction to enforce the terms of this Agreement and to decide any claims or disputes which may arise or result from, or be connected with, this Agreement, any breach or default hereunder, or the transactions contemplated hereby, and (ii) any and all proceedings related to the foregoing will 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 for such purposes and will receive notices at such

locations as indicated in Section 11.01; provided, however, that if the Chapter 11 Cases have been closed pursuant to Section 350 of the Bankruptcy Code, the Parties agree to unconditionally and irrevocably submit to the exclusive jurisdiction of the United States District Court for the Southern District of New York, or in the event (but only in the event) that such court does not have subject matter jurisdiction over such Action, in the Supreme Court of the State of New York, New York County, for the resolution of any such claim or dispute. The Parties hereby irrevocably waive, to the fullest extent permitted by applicable Law, any objection which they may now or hereafter have to the laying of venue of any such Action brought in such court or any defense of inconvenient forum for the maintenance of such dispute. Each of the Parties agrees that a judgment in any such dispute may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by Law. Process in any such Action may be served on any party anywhere in the world, whether within or without the jurisdiction of the Bankruptcy Court, the United States District Court for the District of New York or any state court of the State of New York. Without limiting the foregoing, each Party agrees that service of process on such Party as provided in Section 11.01 shall be deemed effective service of process on such Party.

SECTION 11.06 *WAIVER OF JURY TRIAL.* TO THE EXTENT NOT PROHIBITED BY APPLICABLE LAW THAT CANNOT BE WAIVED, EACH PARTY HEREBY WAIVES, AND COVENANTS THAT IT WILL NOT ASSERT (WHETHER AS PLAINTIFF, DEFENDANT OR OTHERWISE), ANY RIGHT TO TRIAL BY JURY IN ANY FORUM IN RESPECT OF ANY ISSUE, CLAIM, DEMAND, ACTION OR CAUSES OF ACTION ARISING IN WHOLE OR IN PART UNDER, RELATED TO, BASED ON OR IN CONNECTION WITH THIS AGREEMENT OR ANY ANCILLARY DOCUMENT OR THE SUBJECT MATTER HEREOF OR THEREOF, WHETHER NOW EXISTING OR HEREAFTER ARISING AND WHETHER SOUNDING IN TORT OR CONTRACT OR OTHERWISE. ANY PARTY HERETO MAY FILE AN ORIGINAL COUNTERPART OR A COPY OF THIS SECTION 11.06 WITH ANY COURT AS WRITTEN EVIDENCE OF THE CONSENT OF EACH SUCH PARTY TO THE WAIVER OF ITS RIGHT TO TRIAL BY JURY.

SECTION 11.07 *Counterparts; Third Party Beneficiaries.* This Agreement may be signed in any number of counterparts, each of which shall be an original, with the same effect as if the signatures thereto and hereto were upon the same instrument. This Agreement shall become effective when each Party shall have received a counterpart hereof signed by the other Party. Delivery of a .pdf version of one or more signatures to this Agreement shall be deemed adequate delivery for purposes of this Agreement. No provision of this Agreement is intended to confer upon any Person other than the Parties any rights, benefits, Causes of Action or remedies hereunder.

SECTION 11.08 *Specific Performance.* It is understood and agreed by the Parties that money damages (even if available) would not be a sufficient remedy for any breach of this Agreement by Seller or Buyer and as a consequence thereof, Seller and Buyer shall each be entitled to seek specific performance and injunctive or other equitable relief as a remedy for any such breach or threatened breach in addition to any other remedy to which such Party may be entitled in Law or in equity, including an Order of the Bankruptcy Court or other court of competent jurisdiction requiring Buyer or Seller, as may be applicable, to comply promptly with any of their obligations hereunder. Each of the Parties agrees that it will not oppose the granting of an injunction, specific performance and other equitable relief on the basis that the other Party has an

adequate remedy at Law or that any award of specific performance is not an appropriate remedy for any reason at Law or in equity. Any Party seeking an injunction or injunctions to prevent breaches of this Agreement and to enforce specifically the terms and provisions of this Agreement shall not be required to provide any bond or other security in connection with such Order.

SECTION 11.09 *Entire Agreement.* This Agreement and the other Transaction Documents (together with the Schedules and Exhibits hereto and thereto), and the Confidentiality Agreement, constitutes the entire agreement between the Parties with respect to the subject matter hereof and thereof and supersede all prior agreements and understandings, both oral and written, between the Parties with respect to such subject matter. No Party to this Agreement shall be liable or bound to any other Party in any manner by any representations, warranties, covenants or agreements relating to such subject matter except as specifically set forth herein and therein. In the event an ambiguity or question of intent or interpretation arises with respect to this Agreement, the terms and provisions of the execution version of this Agreement will control and prior drafts of this Agreement and the documents referenced herein will not be considered or analyzed for any purpose (including in support of parol evidence proffered by any Person in connection with this Agreement), will be deemed not to provide any evidence as to the meaning of the provisions hereof or the intent of the Parties with respect hereto and will be deemed joint work product of the Parties.

SECTION 11.10 *No Strict Construction.* Buyer, on the one hand, and Seller, on the other hand, participated jointly in the negotiation and drafting of this Agreement, and, in the event an ambiguity or question of intent or interpretation arises, this Agreement shall be construed as jointly drafted by Buyer, on the one hand, and Seller, on the other hand, and no presumption or burden of proof shall arise favoring or disfavoring any Party by virtue of the authorship of any provision of this Agreement. Without limitation as to the foregoing, no rule of strict construction construing ambiguities against the draftsman shall be applied against any Person with respect to this Agreement.

SECTION 11.11 *Severability.* If any term, provision, covenant or restriction of this Agreement is held by a court of competent jurisdiction or other authority to be invalid, void or unenforceable, the remainder of the terms, provisions, covenants and restrictions of this Agreement shall remain in full force and effect and shall in no way be affected, impaired or invalidated so long as the economic or legal substance of the transactions contemplated hereby is not affected in any manner materially adverse to any Party. Upon such a determination, the Parties shall negotiate in good faith to modify this Agreement so as to effect the original intent of the Parties as closely as possible in a mutually acceptable manner in order that the transaction contemplated hereby be consummated as originally contemplated to the fullest extent possible.

SECTION 11.12 *Disclosure Schedules.* The representations and warranties of Seller set forth in this Agreement are made and given subject to the disclosures in the Disclosure Schedules. Where a reference is made only to a particular disclosed document, the full contents of the document are deemed to be disclosed. Inclusion of information in the Disclosure Schedules will not be construed as an admission that such information is material to the business, operations or condition (financial or otherwise) of Seller, in whole or in part, or as an admission of Liability or obligation of Seller to any third Person. The specific disclosures set forth in the Disclosure Schedules have been organized to correspond to section references in this Agreement to which the disclosure is most likely to relate, together with appropriate cross-references when disclosure is

applicable to other sections of this Agreement; provided, however, that any disclosure in any section of the Disclosure Schedules will apply to and will be deemed to be disclosed in any other section of the Disclosure Schedules, so long as the applicability of such disclosure is reasonably apparent on its face. It is understood and agreed that the specification of any dollar amount in the representations and warranties or covenants contained in this Agreement or the inclusion of any specific item in the Disclosure Schedules is not intended to imply that such amounts or higher or lower amounts, or the items so included or other items, are or are not material, and no Party or other Person shall use the fact of the setting of such amounts or the fact of the inclusion of any such item in the Disclosure Schedules in any dispute or controversy as to whether any obligation, item or matter not described in this Agreement or included in the Disclosure Schedules is or is not material for purposes of this Agreement. Nothing in this Agreement (including the Disclosure Schedules) shall be deemed an admission by either Party or any of its Affiliates, in any Causes of Action, that such Party or any such Affiliate, or any third party, is or is not in breach or violation of, or in default in, the performance or observance of any term or provisions of any Contract or Law.

[Signature Pages Follow]

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

SEQUENTIAL BRANDS GROUP, INC.

By: 
Name: Lorraine DiSanto
Title: Chief Financial Officer

WITH YOU, INC.


By: _____
Name: Jessica Simpson
Title: CEO

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

SEQUENTIAL BRANDS GROUP, INC.

By: _____
Name: Lorraine DiSanto
Title: Chief Financial Officer

WITH YOU, INC.

DocuSigned by:

28D17768D6FC4FA...

By: _____
Name: Jessica Simpson
Title: CEO

Exhibit 2

Assumed Contracts Exhibit

ASSUMED CONTRACTS AND CURE COSTS

1. Creative Services Agreement, dated as of April 2, 2015 by and between Sequential Brands Group, Inc. and Ms. Tina Simpson, as amended on June 25, 2018 and by the email amendments dated April 3, 2020, July 17, 2020, September 30, 2020, December 29, 2020, and August 3, 2021.

Cure Costs: \$0

2. Amended and Restated Operating Agreement, dated as of April 8, 2015, by and between Sequential Brands Group, Inc. and With You, Inc., as amended on April 1, 2019.

Cure Costs: Waived

Exhibit 4

Proposed Sale Order re: JJWHP, LLC

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

In re:	:	Chapter 11
	:	Case No. 21-11194 (JTD)
Sequential Brands Group, Inc., <u>et al.</u> , ¹	:	(Jointly Administered)
	:	
Debtors.	:	

**ORDER (I) AUTHORIZING THE SALE OF CERTAIN ASSETS OF
THE DEBTORS TO JJWHP, LLC FREE AND CLEAR OF ALL LIENS, CLAIMS,
INTERESTS AND ENCUMBRANCES, (II) AUTHORIZING THE ASSUMPTION AND
ASSIGNMENT OF CERTAIN EXECUTORY CONTRACTS IN
CONNECTION THEREWITH, AND (III) GRANTING RELATED RELIEF**

Upon the motion, dated August 31, 2021 (the “Motion”),² of Sequential Brands Group, Inc., William Rast Licensing, LLC (the “Seller”) and certain of their affiliates, as debtors and debtors in possession in the above-captioned cases (each, a “Debtor” and collectively, the “Debtors”), pursuant to Bankruptcy Code sections 105(a), 363 and 365 of title 11 of the United States Code (the “Bankruptcy Code”) and 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”), seeking entry of, among other things, (i) an order (the “Bidding Procedures Order”) (a) approving the bidding procedures (the

¹ The Debtors, along with the last four digits of each Debtor’s tax identification number, are: Sequential Brands Group, Inc. (2789), SQBG, Inc. (9546), Sequential Licensing, Inc. (7108), William Rast Licensing, LLC (4304), Heeling Sports Limited (0479), Brand Matter, LLC (1258), SBG FM, LLC (8013), Galaxy Brands LLC (9583), The Basketball Marketing Company, Inc. (7003), American Sporting Goods Corporation (1696), LNT Brands LLC (3923), Joe’s Holdings LLC (3085), Gaiam Brand Holdco, LLC (1581), Gaiam Americas, Inc. (8894), SBGGaiam Holdings, LLC (8923), SBG Universe Brands, LLC (4322), and GBT Promotions LLC (7003). The Debtors’ corporate headquarters and the mailing address for each Debtor is 1407 Broadway, 38th Floor, New York, NY 10018.

² Capitalized terms used but not defined herein shall have the meaning ascribed to them in the Motion or the William Rast APA (as defined herein), as applicable.

“Bidding Procedures”) in connection with the sale or disposition (each, a “Sale”) of all or substantially all of the Debtors assets (including the Purchased Assets (as defined the William Rast APA, as defined below)), (b) authorizing the Debtors to enter into one or more stalking horse agreements and to provide bidding protections thereunder, (c) scheduling an auction (the “Auction”) and approving the form and manner of notice thereof, (d) approving procedures for the assumption and assignment of certain executory contracts, (e) scheduling a sale hearing (the “Sale Hearing”) to approve the Sale and approving the form and manner of notice thereof; and (ii) an order (a) approving the Sale and other transactions contemplated by the William Rast APA free and clear of all liens, Claims (as defined below), liabilities, rights, Interests (as defined below) and Encumbrances (as defined in the William Rast APA) (other than Permitted Encumbrances, as defined in the William Rast APA) in accordance with the terms of the William Rast APA, (b) approving the assumption and assignment of certain executory contracts and unexpired leases, and (c) granting certain related relief; and the Debtors having executed that certain Asset Purchase Agreement by and among JJWHP, LLC, as Buyer, and William Rast Licensing, LLC, as Seller, dated as of October 28, 2021 (as may be amended from time to time in accordance with the terms thereof and this Order, the “William Rast APA”), attached hereto as **Exhibit 1**, contemplating the sale of the Purchased Assets to JJWHP, LLC (“Buyer”) free and clear of any Claims, Interests, or Encumbrances (other than any Permitted Encumbrances) (the “Sale Transaction”); and the Court having entered the Bidding Procedures Order on September 24, 2021 [Docket No. 138]; and the Auction having been cancelled in accordance with the Bidding Procedures; and the Sale Hearing having been held on November 4, 2021; and the Court having reviewed and considered the relief sought in the Motion, the William Rast APA, all objections to the Motion, and the arguments of counsel made, and the evidence proffered or adduced at the Sale Hearing; and all parties in interest

having been heard or having had the opportunity to be heard regarding the Sale Transaction and the relief requested in this Order; and due and sufficient notice of the Sale Hearing and the relief sought therein having been given under the particular circumstances of these chapter 11 cases and in accordance with the Bidding Procedures Order; and it appearing that no other or further notice need be provided; and it appearing that the relief requested in the Motion is in the best interests of the Debtors, their estates, their creditors and all other parties in interest; and it appearing that the Court has jurisdiction over this matter; and it further appearing that the legal and factual bases set forth in the Motion and the Herbert Declaration [Docket No. 134] and at the Sale Hearing establish just cause for the relief granted herein; and after due deliberation thereon,

THE COURT HEREBY FINDS THAT:³

Jurisdiction and Venue

A. This Court has jurisdiction to hear and determine the Motion pursuant to 28 U.S.C. §§ 157 and 1334, the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware dated as of February 29, 2012, and this matter is a core proceeding pursuant to 28 U.S.C. § 157(b). Venue of these cases and proceedings is proper in this District and this Court under 28 U.S.C. §§ 1408 and 1409.

Statutory Predicates

B. The statutory predicates for the relief requested in the Motion are Bankruptcy Code sections 105, 363 and 365. Such relief is also warranted pursuant to Bankruptcy Rules 2002, 6004, 6006, 9007, 9008 and 9014 and Local Rules 2002-1 and 6004-1.

³ The findings and conclusions set forth herein constitute this 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.

Final Order

C. This Order constitutes a final and appealable order within the meaning of 28 U.S.C. § 158(a).

Notice of the William Rast APA, Assumption and Assignment of Assumed Contracts, Sale Transaction, Sale Hearing and Bidding Procedures Order

D. On August 31, 2021 (the “Petition Date”), the Debtors commenced these chapter 11 cases (the “Chapter 11 Cases”) by filing a voluntary petition for relief under chapter 11 of the Bankruptcy Code. Since the Petition Date, the Debtors have continued to operate and manage their businesses as debtors-in-possession pursuant to Bankruptcy Code sections 1107(a) and 1108.

E. The Debtors gave due and proper notice of the Sale on September 24, 2021 [Docket No. 139] (the “Sale Notice”). The Sale Notice constituted good, sufficient, and appropriate notice of the Sale under the particular circumstances and no further notice need be given with respect to the proposed Sale. As provided by the Sale Notice, a reasonable opportunity to object or be heard regarding the requested relief has been afforded to all interested persons and entities. Other parties interested in bidding on the Purchased Assets were provided, pursuant to the Bidding Procedures Order, sufficient information to make an informed judgment on whether to bid.

F. The Debtors also gave due and proper notice of the potential assumption and assignment of each executory contract or unexpired lease available to be assumed by the Debtors and assigned to the Buyer to each non-debtor party under each such executory contract or unexpired lease as reflected on the notices of assumption, sale and assignment of the Assumed Contracts (as defined in the William Rast APA) filed on September 29, 2021 [Docket No. 148], October 8, 2021 [Docket No. 175], and October 20, 2021 [Docket No. 225] (together, the “Assumption Notice”). Such notice was good, sufficient, and appropriate under the particular circumstances, and the counterparties to the Assumed Contracts are hereby deemed to consent to

the relief granted herein unless otherwise provided in this Order.

G. As evidenced by the affidavits of service [Docket Nos. 151, 152, 179, 181, 188, 247, 253, 254, 260, 262] and publication [Docket No. 147] previously filed with this Court, and based on the representations of counsel at the Sale Hearing, due, proper, timely, adequate and sufficient notice of the Motion, the Bidding Procedures Order, the Auction, the Sale Hearing, the assumption and assignment of the Assumed Contracts, the William Rast APA, this Order and the Sale Transaction has been provided in accordance with Bankruptcy Code sections 102(1) and 363, Bankruptcy Rules 2002, 9007, 9008 and 9014, and Local Rules 2002-1 and 6004-1. The Debtors have complied with all obligations to provide notice of the Motion, the Bidding Procedures Order, the Auction, the Sale Hearing, the assumption and assignment of the Assumed Contracts, the William Rast APA, this Order and the Sale Transaction as required by the Bidding Procedures Order. The aforementioned notices are good, sufficient and appropriate under the circumstances, and no other or further notice of the Motion, the Bidding Procedures Order, the Auction, the Sale Hearing, the assumption and assignment of the Assumed Contracts, the William Rast APA, this Order or the Sale Transaction is or shall be required.

H. A reasonable opportunity to object or be heard regarding the relief requested in the Motion and provided in this Order was afforded to all parties in interest.

Compliance with the Bidding Procedures Order

I. As demonstrated by the evidence proffered or adduced at the Sale Hearing and the representations of counsel at the Sale Hearing, the Debtors have complied in all material respects with the Bidding Procedures Order. The Debtors and their professionals have adequately and appropriately marketed the Purchased Assets in compliance with the Bidding Procedures and the Bidding Procedures Order, and in accordance with the Debtors' fiduciary duties. Based upon the record of these proceedings, creditors, other parties in interest and prospective purchasers were afforded a reasonable and fair opportunity to bid for the Purchased Assets.

J. The Bidding Procedures were substantively and procedurally fair to all parties and all potential bidders and afforded notice and a full, fair and reasonable opportunity for any person to make a higher or otherwise better offer to purchase the Purchased Assets. The Debtors conducted the sale process without collusion and in accordance with the Bidding Procedures.

K. The Bidding Procedures Order is incorporated herein by reference.

L. The Buyer is the Successful Bidder, and the William Rast APA is the Successful Bid, for the Purchased Assets in accordance with the Bidding Procedures Order. The Buyer has complied in all respects with the Bidding Procedures Order and all other applicable orders of this Court in negotiating and entering into the William Rast APA, and the Sale Transaction and the William Rast APA likewise comply with the Bidding Procedures Order and all other applicable orders of this Court.

Business Judgment

M. The William Rast APA, including the form and total consideration to be realized by the Debtors under the William Rast APA, (i) constitutes the highest and best offer received by

the Debtors for the Purchased Assets; (ii) is fair and reasonable; and (iii) is in the best interests of the Debtors, their estates, their creditors and all other parties in interest.

N. The Debtors' determination that the consideration provided by the Buyer under the William Rast APA constitutes the highest and best offer for the Purchased Assets constitutes a valid and sound exercise of the Debtors' business judgment.

O. Consistent with their fiduciary duties, the Debtors have demonstrated good, sufficient and sound business reasons and justifications for entering into the Sale Transaction and the performance of their obligations under the William Rast APA, including, but not limited to, the fact that (i) the consideration provided by the Buyer under the William Rast APA will provide a greater recovery for the Debtors' estates than would be provided by any other available alternative, including a separate liquidation of the Purchased Assets; and (ii) unless the Sale Transaction is concluded expeditiously as provided for in the Motion and pursuant to the William Rast APA, recoveries of creditors will be diminished.

Corporate Authority

P. Subject to entry of this Order, the Debtors (i) have full corporate power and authority to execute and deliver the William Rast APA and all other documents contemplated thereby, (ii) have all of the necessary corporate power and authority to consummate the transactions contemplated by the William Rast APA, including, without limitation, the Sale Transaction and the assumption and assignment of the Assumed Contracts, (iii) have taken all corporate action necessary to authorize and approve the William Rast APA and the consummation by the Debtors of the transactions contemplated thereby, including, without limitation, the Sale Transaction and the assumption and assignment of the Assumed Contracts, and (iv) subject to entry of this Order, need no consents or approvals, including any consents or approvals from any non-

Debtor entities, other than those expressly set forth in the William Rast APA or this Order, to consummate the transactions contemplated thereby, including, without limitation, the Sale Transaction and the assumption and assignment of the Assumed Contracts.

Good Faith

Q. The sales process engaged in by the Debtors and the Buyer, including, without limitation, the Auction, which was conducted in accordance with the Bidding Procedures and the Bidding Procedures Order, and the negotiation of the William Rast APA, was at arm's length, non-collusive, in good faith, and substantively and procedurally fair to all parties in interest. None of the Debtors or the Buyer has engaged in any conduct that would cause or permit the William Rast APA or the Sale Transaction to be avoided, or costs or damages to be imposed, under Bankruptcy Code section 363(n).

R. The Debtors and the Buyer have complied, in good faith, in all respects with the Bidding Procedures Order and the Bidding Procedures. The Debtors and the Seller, and their respective management, board of directors, board of managers (or comparable governing authority), employees, agents, and representatives, and the Buyer and its employees, agents, advisors and representatives, each actively participated in the bidding process and in the Auction, and each acted in good faith and without collusion or fraud of any kind. Buyer subjected its bid to competitive bidding in accordance with the Bidding Procedures and was designated the Successful Bidder for the Purchased Assets in accordance with the Bidding Procedures and the Bidding Procedures Order.

S. The Buyer is a good faith buyer within the meaning of Bankruptcy Code section 363(m), and is therefore entitled to the full protection of that provision in respect of the Sale Transaction, each term of the William Rast APA (and any ancillary documents executed in

connection therewith) and each term of this Order, and otherwise has proceeded in good faith in all respects in connection with this proceeding. None of the Debtors or the Buyer has engaged in any conduct that would prevent the application of Bankruptcy Code section 363(m). The Debtors were free to deal with any other party interested in buying or selling some or all of the Purchased Assets on behalf of the Debtors' estates. The protections afforded by Bankruptcy Code section 363(m) are integral to the Sale Transaction and the Buyer would not consummate the Sale Transaction without such protections.

T. The form and total consideration to be realized by the Debtors under the William Rast APA constitutes fair value, fair, full and adequate consideration, reasonably equivalent value and reasonable market value for the Purchased Assets.

U. Neither the Buyer nor any of its affiliates, officers, directors, managers, shareholders, members or any of their respective successors or assigns is an "insider" of any of the Debtors, as that term is defined under Bankruptcy Code section 101(31). No common identity of directors, managers, controlling shareholders, or members exists between the Debtors and the Buyer.

No Fraudulent Transfer

V. The consideration provided by the Buyer for the Purchased Assets pursuant to the William Rast APA (i) is fair and reasonable, (ii) is the highest and best offer for the Purchased Assets, (iii) will provide a greater recovery for the Debtors' creditors and estates than would be provided by any other practical available alternative, and (iv) constitutes reasonably equivalent value and fair consideration under the Bankruptcy Code and under the laws of the United States, and each state, territory, possession and the District of Columbia.

W. The William Rast APA was not entered into, and none of the Debtors or the Buyer has entered into the William Rast APA or proposes to consummate the Sale Transaction, for the purpose of (i) escaping liability for any of the Debtors' debts or (ii) hindering, delaying or defrauding the Debtors' present or future creditors, for the purpose of statutory and common law fraudulent conveyance and fraudulent transfer claims whether under the Bankruptcy Code or under the laws of the United States, any state, territory, possession thereof or the District of Columbia or any other applicable jurisdiction with laws substantially similar to the foregoing.

Free and Clear

X. The transfer of the Purchased Assets to the Buyer will be legal, valid, and effective transfers of the Purchased Assets, and will vest the Buyer with all right, title, and interest of the Seller to the Purchased Assets free and clear of all claims, liens (including, without limitation, any statutory lien on real and personal property and any and all "liens" as that term is defined and used in the Bankruptcy Code, including section 101(37) thereof), liabilities, interests, rights and encumbrances, including, without limitation, the following: all mortgages, restrictions (including, without limitation, any restriction on the use, voting rights, transfer rights, claims for receipt of income or other exercise of any attributes of ownership), hypothecations, charges, indentures, loan agreements, instruments, leases, licenses, sublicenses, options, deeds of trust, security interests, equity interests, conditional sale rights or other title retention agreements, pledges, judgments, demands, rights of first refusal, consent rights, offsets, contract rights, rights of setoff, recoupment rights, rights of recovery, reimbursement rights, contribution claims, indemnity rights, exoneration rights, product liability claims, alter-ego claims, environmental rights and claims (including, without limitation, toxic tort claims), labor rights and claims, employment rights and claims, pension rights and claims, tax claims, regulatory violations by any governmental entity, decrees of

any court or foreign or domestic governmental entity, charges of any kind or nature, debts arising in any way in connection with any agreements, acts, or failures to act, reclamation claims, obligation claims, demands, guaranties, option rights or claims, rights, contractual or other commitment rights and claims, and all other matters of any kind and nature, whether known or unknown, choate or inchoate, filed or unfiled, scheduled or unscheduled, noticed or unnoticed, recorded or unrecorded, perfected or unperfected, allowed or disallowed, contingent or non-contingent, liquidated or unliquidated, matured or unmatured, material or non-material, disputed or undisputed, whether arising prior to or subsequent to the commencement of the Chapter 11 Cases, and whether imposed by agreement, understanding, law, equity or otherwise, including claims otherwise arising under any theory, law or doctrine of successor or transferee liability or related theories (all of the foregoing, including, without limitation, liens and liabilities, but excluding Assumed Liabilities, collectively being referred to in this Order as “Claims” and, as used in this Order, the term “Claims” includes, without limitation, any and all “claims” as that term is defined and used in the Bankruptcy Code, including section 101(5) thereof); provided, however, that such transfer shall not be free and clear of any Permitted Encumbrances.

Y. The Debtors, to the extent permitted by applicable law, may transfer the Purchased Assets free and clear of all Claims, other interests of any kind or nature whatsoever (“Interests”), and Encumbrances, other than any Permitted Encumbrances, including, without limitation, rights or claims based on any successor or transferee liability, because, in each case, one or more of the standards set forth in Bankruptcy Code section 363(f)(1)-(5) has been satisfied.

Z. Those (a) holders of Claims and (b) non-Debtor parties to the Assumed Contracts, who did not object or who withdrew their objections to the Motion, are deemed to have consented pursuant to section Bankruptcy Code 363(f)(2). Those (i) holders of Claims and (ii) non-Debtor

parties to the Assumed Contracts who did object, fall within one or more of the other subsections of Bankruptcy Code section 363(f).

AA. Each of (i) the DIP Parties and (ii) the Prepetition Secured Parties (each as defined in the DIP Orders) has consented to the sale of the Purchased Assets to the Buyer pursuant to the William Rast APA free and clear of any Claims, Interests, or Encumbrances (other than the Permitted Encumbrances) of the DIP Parties and the Prepetition Secured Parties against the Purchased Assets (the “Secured Lenders’ Liens”), and any reference herein to Claims, Interests, or Encumbrances shall include the Secured Lenders’ Liens.

BB. The Debtors have, to the extent necessary, satisfied the requirements of section 363(b)(1) of the Bankruptcy Code.

CC. The Buyer would not have entered into the William Rast APA and would not consummate the transactions contemplated thereby, including, without limitation, the Sale Transaction and the assumption and assignment of the Assumed Contracts, (i) if the transfer of the Purchased Assets were not free and clear of all Claims, Interests, and Encumbrances (other than any Permitted Encumbrances), or (ii) if the Buyer would, or in the future could, be liable for any such Claims (other than any Permitted Encumbrances). The Buyer will not consummate the transactions contemplated by the William Rast APA, including, without limitation, the Sale Transaction and the assumption and assignment of the Assumed Contracts, unless this Court expressly orders that none of the Buyer, its respective affiliates, its respective present or contemplated members or shareholders, or the Purchased Assets will have any liability whatsoever (other than any Permitted Encumbrances) with respect to, or be required to satisfy in any manner, whether at law or equity, or by payment, setoff, or otherwise, directly or indirectly, any Claims.

DD. Not transferring the Purchased Assets free and clear of all Claims, Interests, and Encumbrances (other than any Permitted Encumbrances) would adversely impact the Debtors' efforts to maximize the value of their estates, and the transfer of the Purchased Assets other than pursuant to a transfer that is free and clear of all Claims, Interests, and Encumbrances (other than any Permitted Encumbrances) would be of substantially less benefit to the Debtors' estates.

EE. Neither the Buyer nor any of its affiliates are a mere continuation of the Debtors or their estates, there is no continuity or common identity between the Buyer, any of its affiliates and any of the Debtors, and there is no continuity of enterprise between the Buyer, any of its affiliates and any of the Debtors. Neither the Buyer nor any of its affiliates are holding themselves out to the public as a continuation of any of the Debtors. Neither the Buyer nor any of its affiliates are a successor to any of the Debtors or their estates and none of the transactions contemplated by the William Rast APA, including, without limitation, the Sale Transaction and the assumption and assignment of the Assumed Contracts amounts to a consolidation, merger, or *de facto* merger of the Buyer or any of its affiliates with or into any of the Debtors.

FF. Without limiting the generality of the foregoing, and other than as may be set forth in the William Rast APA, none of the Buyer, its affiliates, its and their respective present or contemplated members or shareholders, or the Purchased Assets will have any liability whatsoever with respect to, or be required to satisfy in any manner, whether at law or equity, or by payment, setoff, or otherwise, directly or indirectly, any Claims relating to any U.S. federal, state or local income tax liabilities, that the Debtors may incur in connection with consummation of the transactions contemplated by the William Rast APA, including, without limitation, the Sale Transaction and the assumption and assignment of the Assumed Contracts, or that the Debtors

have otherwise incurred prior to the consummation of the transactions contemplated by the William Rast APA.

Validity of Transfer

GG. The consummation of the transactions contemplated by the William Rast APA, including, without limitation, the Sale Transaction and the assumption and assignment of the Assumed Contracts is legal, valid and properly authorized under all applicable provisions of the Bankruptcy Code, including, without limitation, Bankruptcy Code sections 105(a), 363(b), 363(f), 363(m), 365(b) and 365(f), and all of the applicable requirements of such sections have been complied with in respect of the transactions contemplated under the William Rast APA.

HH. The Purchased Assets constitute property of the Debtors' estates and good title to the Purchased Assets of the Debtors is vested in the Debtors' estates within the meaning of Bankruptcy Code section 541(a). The Debtors are the sole and lawful owners of the Purchased Assets, and no other person has any ownership right, title, or interest therein.

II. The William Rast APA has been duly and validly executed and delivered by the Debtors and, subject to the terms of the William Rast APA, shall constitute a valid and binding obligation of the Debtors, enforceable against the Debtors in accordance with its terms. The William Rast APA, the Sale Transaction, and the consummation thereof shall be specifically enforceable against and binding upon (without posting any bond) the Debtors and any chapter 7 or chapter 11 trustee appointed in these chapter 11 cases, and shall not be subject to rejection or avoidance by the foregoing parties or any other person.

JJ. The sale, conveyance, assignment and transfer of any personally identifiable information pursuant to the terms of the William Rast APA and this Order complies with the terms of the Debtors' policy regarding the transfer of such personally identifiable information as of the

Petition Date and, as a result, consummation of the Sale Transaction is permitted pursuant to section 363(b)(1)(A) of the Bankruptcy Code. Accordingly, appointment of a consumer privacy ombudsman in accordance with sections 363(b)(1) or 332 of the Bankruptcy Code is not required with respect to the Sale Transaction.

Assumed Contracts

KK. The assumption and assignment of the Assumed Contracts pursuant to the Assumption Notice, the terms of this Order and the William Rast APA is integral to the transactions contemplated by the William Rast APA and is in the best interests of the Debtors, their estates and creditors, and all other parties in interest, and represents a reasonable exercise of the Debtors' sound and prudent business judgment.

LL. Pursuant to the terms of the William Rast APA and this Order, on or before the Closing Date, as applicable pursuant to the terms of this Order, the Debtors or the Buyer, as applicable, shall have, except as otherwise provided in the William Rast APA or this Order, or as otherwise expressly agreed to between the Debtors or the Buyer, as applicable, and such counterparty: (i) cured, or provided adequate assurance of cure of, any monetary default existing as of and including the Closing Date under any of the Assumed Contracts, within the meaning of Bankruptcy Code section 365(b)(1)(A), (ii) provided compensation, or adequate assurance of compensation, to any party for actual pecuniary loss to such party resulting from a monetary default existing as of and including the Closing Date under any of the Assumed Contracts, within the meaning of Bankruptcy Code section 365(b)(1)(B), and (iii) provided adequate assurance of future performance under the Assumed Contracts within the meaning of Bankruptcy Code sections 365(b)(1)(C), 365(b)(3) (to the extent applicable) and 365(f)(2)(B).

MM. [Reserved].

Application of Proceeds

NN. Pursuant to the interim and final orders authorizing and approving the Debtors' debtor in possession financing and use of cash collateral [Docket Nos. 70 and 110] (together, the "DIP Orders"), the Purchased Assets constitute Cash Collateral, Prepetition Collateral and DIP Collateral (each as defined in the DIP Orders) and are subject to the Adequate Protection Liens, Prepetition Liens and DIP Liens (each as defined in the DIP Orders). Subject to the "Payment in Full" (as defined in the DIP Orders) of the Prepetition BAML Obligations (as defined in the DIP Orders), pursuant to DIP Orders and the DIP Loan Documents (as defined in the DIP Orders), the Debtors are required to apply all consideration received from the sale of the Purchased Assets as follows: first, to the holders of the DIP Obligations as of the date of the initial funding under the DIP Credit Facility (as defined in the DIP Orders) (or as otherwise agreed to between the Buyer and such holders of the DIP Obligations) until such time as such DIP Obligations are paid in full in cash (or as otherwise agreed by the DIP Agent as directed by the Required DIP Lenders (as defined in the DIP Loan Documents)) and all commitments to lend under the DIP Loan Documents have been terminated, and second, to the Prepetition Term B Agent (as defined in the DIP Orders) for distribution to the holders of the Prepetition Term B Obligations as of the Petition Date (or as otherwise agreed to between the Buyer and such holders of the Prepetition Term B Obligations) in accordance with the Prepetition Term B Credit Agreement (as defined in the DIP Orders) until the Prepetition Term B Obligations (as defined in the DIP Orders) have been paid in full in cash (or as otherwise agreed by the Prepetition Term B Agent (as defined in the DIP Orders) as directed by the Required Lenders (as defined in the Prepetition Term B Loan Documents)). The application of the consideration from the sale of the Purchased Assets pursuant to the immediately preceding

sentence complies with the requirements of the DIP Orders and the DIP Loan Documents and is supported by good, sufficient and sound business reasons.

Compelling Circumstances for an Immediate Sale

OO. To maximize the value of the Purchased Assets, it is essential that the transactions contemplated by the William Rast APA, including, without limitation, the Sale Transaction and the assumption and assignment of the Assumed Contracts, occur within the time constraints set forth in the William Rast APA. Time is of the essence in consummating the transactions contemplated by the William Rast APA, including, without limitation, the Sale Transaction and the assumption and assignment of the Assumed Contracts. Accordingly, there is cause to waive the stays contemplated by Bankruptcy Rules 6004 and 6006.

PP. The Debtors have demonstrated compelling circumstances and a good, sufficient, and sound business purpose and justification for the immediate approval and consummation of the transactions contemplated by the William Rast APA, including, without limitation, the Sale Transaction and the assumption and assignment of the Assumed Contracts prior to, and outside of, a chapter 11 plan because, among other things, the Debtors' estates will suffer irreparable harm if the relief requested in the Motion is not granted on an expedited basis. The transactions contemplated by the William Rast APA, including, without limitation, the Sale Transaction and the assumption and assignment of the Assumed Contracts, neither impermissibly restructure the rights of the Debtors' creditors nor impermissibly dictates the terms of a chapter 11 plan for the Debtors, and therefore, do not constitute a *sub rosa* plan.

QQ. The legal and factual bases set forth in the Motion and the Herbert Declaration filed in support thereof, and presented at the Sale Hearing establish just cause for the relief granted herein.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED THAT:

General Provisions

1. The Motion is granted as provided herein, and entry into and performance under, and in respect of, the William Rast APA attached hereto as **Exhibit 1** and the consummation of the transactions contemplated thereby, including, without limitation, the Sale Transaction and the assumption and assignment of the Assumed Contracts is authorized and approved.

2. Any objections and responses to the Motion or the relief requested therein that have not been withdrawn, waived, settled, or resolved, and all reservation of rights included in such objections and responses, are overruled on the merits and denied with prejudice. All persons and entities given notice of the Motion that failed to timely object thereto are deemed to consent to the relief granted herein, including for purposes of sections 363(f)(2), 365(c)(1), and 365(e)(2) of the Bankruptcy Code.

Approval of the William Rast APA

3. The William Rast APA, all ancillary documents, the transactions contemplated thereby, including, without limitation, the Sale Transaction and the assumption and assignment of the Assumed Contracts (but subject to the Buyer's rights with respect thereto pursuant to the William Rast APA) and all the terms and conditions thereof, are approved. The failure specifically to include any particular provision of the William Rast APA in this Order shall not diminish or impair the effectiveness of such provision, it being the intent of the Court that the William Rast APA be authorized and approved in its entirety.

4. The Debtors and their respective officers, employees and agents are authorized and directed to take any and all actions necessary, appropriate or reasonably requested by the Buyer to perform, consummate, implement and close the Sale Transaction, including, without limitation,

(a) the sale to the Buyer of all Purchased Assets, in accordance with the terms and conditions set forth in the William Rast APA and this Order; and (b) execution, acknowledgment and delivery of such deeds, assignments, conveyances and other assurance, documents and instruments of transfer and any action for purposes of assigning, transferring, granting, conveying and confirming to the Buyer, or reducing to possession, the Purchased Assets, all without further order of this Court. The Debtors are further authorized to pay, without further order of this Court, whether before, at or after the Closing Date, any expenses or costs that are required to be paid by the Debtors under the William Rast APA, this Order or the Bidding Procedures Order, in order to consummate the Sale Transaction or perform their obligations under the William Rast APA.

5. All persons and entities, including, without limitation, the Debtors, the Debtors' estates, all debt security holders, equity security holders, governmental tax and regulatory authorities, lenders, customers, vendors, employees, former employees, litigation claimants, trustees, trade creditors, and any other creditors (or agent of any of the foregoing) who may or do hold Claims (whether legal or equitable, secured or unsecured, matured or unmatured, contingent or noncontingent, senior or subordinated) against the Debtors or the Purchased Assets owned by the Debtors, arising under or out of, in connection with, or in any way relating to, the Debtors, the Purchased Assets owned by the Debtors, the operation or ownership of the Purchased Assets by the Debtors prior to the Closing Date, or the Sale Transaction, are hereby prohibited, forever barred, estopped, and permanently enjoined from asserting or pursuing such Claims against Buyer, its affiliates, successors, assigns, its property or the Purchased Assets, including, without limitation, taking any of the following actions with respect to any Claims: (a) commencing or continuing in any manner any action, whether at law or in equity, in any judicial, administrative, arbitral, or any other proceeding, against Buyer, its affiliates, successors, assigns, assets (including

the Purchased Assets), and/or properties; (b) enforcing, attaching, collecting, or recovering in any manner any judgment, award, decree, or order against Buyer, its affiliates, successors, assigns, assets (including the Purchased Assets), and/or properties; (c) creating, perfecting, or enforcing any Claim against Buyer, its affiliates, any of their respective successors, assigns, assets (including the Purchased Assets), and/or properties; (d) asserting a Claim as a setoff, right of subrogation, or recoupment of any kind against any obligation due against Buyer, its affiliates or any of their respective successors or assigns; or (e) commencing or continuing any action in any manner or place that does not comply, or is inconsistent, with the provisions of this Order, the William Rast APA, or the agreements or actions contemplated or taken in respect thereof, including the Debtors' ability to transfer the Purchased Assets to the Buyer in accordance with the terms of this Order and the William Rast APA. No such Person shall assert or pursue against Buyer or its affiliates, successors or assigns any such Claim.

6. The sale of the Purchased Assets to the Buyer under the William Rast APA constitutes a transfer for reasonably equivalent value and fair consideration under the Bankruptcy Code and laws of all applicable jurisdictions, including, without limitation, the laws of each jurisdiction in which the Purchased Assets are located, and the sale of the Purchased Assets to the Buyer may not be avoided under any statutory or common law fraudulent conveyance and fraudulent transfer theories whether under the Bankruptcy Code or under the laws of the United States, any state, territory, possession thereof or the District of Columbia or any other applicable jurisdiction with laws substantially similar to the foregoing.

7. In accordance with, and pursuant to, section 11.03 of the William Rast APA, at any time prior to the Closing Date, Buyer may assign any or all of its rights and obligations under the William Rast APA (including the right to receive the Purchased Assets) without the prior written

consent of the Debtors and without further order of this Court to any Affiliate of Buyer (the “Assignee”) provided that no such assignment will relieve Buyer of its obligations under the William Rast APA. Following such assignment, the Assignee shall have the benefit of all factual findings, orders, and other provisions of this Order related to the Buyer.

Transfer of the Purchased Assets Free and Clear

8. Pursuant to Bankruptcy Code sections 105(a) and 363(f), the Purchased Assets shall be sold free and clear of all Claims, Interests, and Encumbrances (other than any Permitted Encumbrances), including, for the avoidance of doubt, the Secured Lenders’ Liens, with all such Claims to attach to the proceeds of the Sale Transaction to be received by the Debtors with the same validity, force, priority and effect which they now have as against the Purchased Assets, subject to any claims and defenses the Debtors may possess with respect thereto; provided, however, that setoff rights will be extinguished to the extent there is no longer mutuality after the consummation of the Sale Transaction.

9. At Closing, all of the Debtors’ right, title and interest in and to, and possession of, the Purchased Assets shall be immediately vested in the Buyer pursuant to Bankruptcy Code sections 105(a), 363(b), and 363(f) free and clear of any and all Claims, Interests, and Encumbrances (other than any Permitted Encumbrances). Such transfer shall constitute a legal, valid, binding and effective transfer of, and shall vest the Buyer with good and marketable title to, the Purchased Assets. All person or entities, presently or on or after the Closing Date, in possession of some or all of the Purchased Assets are directed to surrender possession of the Purchased Assets to the Buyer or its designees on the Closing Date or at such time thereafter as the Buyer may request.

10. This Order is and shall be binding upon and govern the acts of all entities, including, without limitation, all filing agents, filing officers, title agents, title companies, recorders of mortgages, recorders of deeds, registrars of deeds, registrars of patents, trademarks or other intellectual property, administrative agencies, governmental departments, secretaries of state, federal and local officials and all other persons and entities who may be required by operation of law, the duties of their office or contract, to accept, file, register or otherwise record or release any documents or instruments; and each of the foregoing persons and entities is hereby authorized to accept for filing any and all of the documents and instruments necessary and appropriate to consummate the Sale Transaction contemplated by the William Rast APA.

11. Except as otherwise expressly provided in the William Rast APA or this Order, all persons and entities (and their respective successors and assigns), including, but not limited to, all debt security holders, equity security holders, affiliates, foreign, federal, state and local governmental, tax and regulatory authorities, lenders, customers, vendors, employees, trade creditors, litigation claimants and other creditors holding Claims against the Debtors or the Purchased Assets arising under or out of, in connection with, or in any way relating to, the Debtors, the Debtors' predecessors or affiliates, the Purchased Assets, the ownership, sale or operation of the Purchased Assets prior to Closing or the transfer of the Purchased Assets to the Buyer, are hereby forever barred, estopped and permanently enjoined from asserting or prosecuting any cause of action or any process or other act or seeking to collect, offset, or recover on account of any Claims against the Buyer, its successors or assigns, their property or the Purchased Assets. Following the Closing, no holder of any Claim or Encumbrance (other than Permitted Encumbrances) shall interfere with the Buyer's title to or use and enjoyment of the Purchased Assets based on or related to any such Claim or Encumbrance (other than Permitted

Encumbrances), or based on any action or omission of the Debtors, including any action or omission the Debtors may take in the Chapter 11 Cases.

12. The Debtors are authorized and directed to execute such documents as may be necessary to release any Claims, Interests, or Encumbrances (other than Permitted Encumbrances) of any kind against the Purchased Assets as such Claims, Interests, or Encumbrances (other than Permitted Encumbrances) may have been recorded or may otherwise exist. If any person or entity that has filed financing statements, *lis pendens* or other documents or agreements evidencing Claims, Interests, or Encumbrances (other than Permitted Encumbrances) against or in the Purchased Assets shall not have delivered to the Debtors prior to the Closing of the Sale Transaction, in proper form for filing and executed by the appropriate parties, termination statements, instruments of satisfaction, releases of all Claims, Interests, or Encumbrances (other than Permitted Encumbrances) that the person or entity has with respect to the Purchased Assets, (a) the Debtors are hereby authorized and directed to execute and file such statements, instruments, releases and other documents on behalf of the person or entity with respect to the Purchased Assets; (b) the Buyer is hereby authorized to file, register or otherwise record a certified copy of this Order, which, once filed, registered or otherwise recorded, shall constitute conclusive evidence of the release of all such Claims, Interests, or Encumbrances (other than Permitted Encumbrances) against the Buyer and the applicable Purchased Assets; (c) the Debtors' creditors and the holders of any Claims, Interests, or Encumbrances (other than Permitted Encumbrances) are authorized and directed to execute such documents and take all other actions as may be necessary to terminate, discharge or release their Claims, Interests, or Encumbrances (other than Permitted Encumbrances) in the Purchased Assets and (d) the Buyer may seek in this Court or any other court to compel appropriate parties to execute termination statements, instruments of satisfaction and releases of

all such Claims, Interests, or Encumbrances (other than Permitted Encumbrances) with respect to the Purchased Assets. This Order is deemed to be in recordable form sufficient to be placed in the filing or recording system of each and every federal, state, or local government agency, department or office, and such agencies, departments and offices are authorized and directed to accept this Order for filing or recording. Notwithstanding the foregoing, the provisions of this Order authorizing the sale and assignment of the Purchased Assets free and clear of Claims, Interests, and Encumbrances (other than any Permitted Encumbrances) shall be self-executing, and none of the Debtors or the Buyer shall be required to execute or file releases, termination statements, assignments, consents or other instruments in order to effectuate, consummate and implement the provisions of this Order.

13. To the maximum extent permitted under applicable law, the Buyer shall be authorized, as of the Closing Date, to operate under any license, permit, registration and governmental authorization or approval of the Debtors with respect to the Purchased Assets, and all such licenses, permits, registrations and governmental authorizations and approvals are deemed to have been, and hereby are, directed to be transferred to the Buyer with respect to the Purchased Assets as of the Closing Date. To the extent the Buyer cannot operate under any such license, permit, registration and governmental authorization or approval in accordance with the previous sentence, such licenses, permits, registrations and governmental authorizations and approvals shall be in effect while the Buyer, with assistance from the Debtors (and at the Buyer's sole cost and expense), works promptly and diligently to apply for and secure all necessary government approvals for new issuance of such licenses, permits, registrations and governmental authorizations and approvals to the Buyer.

14. No governmental unit (as defined in Bankruptcy Code section 101(27)) or any representative thereof may deny, revoke, suspend or refuse to renew any permit, license or similar grant relating to the operation of the Purchased Assets on account of the filing or pendency of the Chapter 11 Cases or the consummation of the Sale Transaction to the extent that any such action by a governmental unit or any representative thereof would violate Bankruptcy Code section 525.

No Successor or Transferee Liability

15. Upon the Closing Date, except as provided in the William Rast APA, the entrance of this Order and the William Rast APA shall mean that the Buyer (and any of its affiliates, successors, or assigns), as a result of any action taken in connection with the William Rast APA, the consummation of the transactions contemplated by the William Rast APA, including, without limitation, the Sale Transaction and the assumption and assignment of the Assumed Contracts, or the transfer or operation of the Purchased Assets, shall not be deemed to: (a) be a legal successor or successor employer to the Debtors, or otherwise be deemed a successor to the Debtors, and shall instead be, and be deemed to be, a new employer with respect to all federal or state unemployment laws, including any unemployment compensation or tax laws, or any other similar federal or state laws; (b) have, *de facto*, or otherwise, merged or consolidated with or into the Debtors; or (c) be an alter ego or a mere continuation or substantial continuation of the Debtors or the enterprise(s) of the Debtors, including, in the case of each of (a)-(c), without limitation, (x) within the meaning of any foreign, federal, state or local revenue law, pension law, the Employee Retirement Income Security Act, the Consolidated Omnibus Budget Reconciliation Act, the WARN Act (29 U.S.C. §§ 2101 et seq.) (“WARN”), Comprehensive Environmental Response Compensation and Liability Act (“CERCLA”), the Fair Labor Standard Act, Title VII of the Civil Rights Act of 1964 (as amended), the Age Discrimination and Employment Act of 1967 (as amended), the Federal

Rehabilitation Act of 1973 (as amended), the National Labor Relations Act, 29 U.S.C. § 151, et seq. or (y) in respect of (i) any environmental liabilities, debts, claims or obligations arising from conditions first existing on or prior to the Closing Date (including, without limitation, the presence of hazardous, toxic, polluting, or contaminating substances or wastes), which may be asserted on any basis, including, without limitation, under CERCLA, (ii) any liabilities, penalties, costs, debts or obligations of or required to be paid by the Debtors for any taxes of any kind for any period, labor, employment, or other law, rule or regulation (including, without limitation, filing requirements under any such laws, rules or regulations), or (iii) any products liability law or doctrine with respect to the Debtors' liability under such law, rule or regulation or doctrine.

16. Without limiting the generality of the foregoing, and except as otherwise provided in the William Rast APA and this Order, neither the Buyer nor any of its affiliates shall have any responsibility for (a) any liability or other obligation of the Debtors related to the Purchased Assets or (b) any Claims against the Debtors or any of their predecessors or affiliates. By virtue of the Buyer's purchase of the Purchased Assets, neither the Buyer nor any of its affiliates shall have any liability whatsoever with respect to the Debtors' (or their predecessors' or affiliates') respective businesses or operations or any of the Debtors' (or their predecessors' or affiliates') obligations based, in whole or part, directly or indirectly, on any theory of successor or vicarious liability of any kind or character, or based upon any theory of antitrust, environmental (including, but not limited to CERCLA), successor or transferee liability, *de facto* merger or substantial continuity, labor and employment (including, but not limited to, WARN) or products liability law, whether known or unknown as of the Closing, now existing or hereafter arising, asserted or unasserted, fixed or contingent, liquidated or unliquidated, including any liabilities or non-monetary obligations on account of any settlement or injunction or any liabilities

on account of any taxes arising, accruing or payable under, out of, in connection with, or in any way relating to the operation of the Purchased Assets prior to the Closing or such later time as Buyer is assigned and assumes any Assumed Contract (collectively, with the potential claims set forth in paragraph 15, “Successor or Transferee Liability”). The Buyer would not have acquired the Purchased Assets but for the foregoing protections against Successor or Transferee Liability.

17. None of the Buyer or its affiliates, successors, assigns, equity holders, employees or professionals shall have or incur any liability to, or be subject to any action by any of the Debtors or any of their estates, predecessors, successors or assigns, arising out of the negotiation, investigation, preparation, execution, delivery of the William Rast APA and the entry into and consummation of the sale of the Purchased Assets, except as expressly provided in the William Rast APA and this Order.

18. Nothing in this Order or the William Rast APA shall require the Buyer or any of its affiliates to (a) continue or maintain in effect, or assume any liability in respect of any employee, collective bargaining agreement, pension, welfare, fringe benefit or any other benefit plan, trust arrangement or other agreements to which the Debtors are a party or have any responsibility therefor including, without limitation, medical, welfare and pension benefits payable after retirement or other termination of employment; or (b) assume any responsibility as a fiduciary, plan sponsor or otherwise, for making any contribution to, or in respect of the funding, investment or administration of any employee benefit plan, arrangement or agreement (including but not limited to pension plans) or the termination of any such plan, arrangement or agreement.

19. No bulk sales law or similar law of any state or other jurisdiction shall apply in any way to the transactions with the Debtors that are approved by this Order, including, without limitation, the William Rast APA and the Sale Transaction.

Good Faith; Arm's Length Sale

20. The William Rast APA has been negotiated and executed, and the transactions contemplated thereby, including, without limitation, the Sale Transaction, the assumption and assignment of the Assumed Contracts, are and have been undertaken, by Debtors, the Buyer and their respective representatives at arm's length, without collusion and in "good faith," as that term is defined in Bankruptcy Code section 363(m). Accordingly, the reversal or modification on appeal of the authorization provided herein to consummate the Sale Transaction shall not affect the validity of the Sale Transaction or any term of the William Rast APA, and shall not permit the unwinding of the Sale Transaction. The Buyer is a good faith purchaser within the meaning of Bankruptcy Code section 363(m) and, as such, is entitled to the full protections of Bankruptcy Code section 363(m).

21. None of the Debtors or the Buyer has engaged in any conduct that would cause or permit the William Rast APA or the transactions contemplated thereby, including, without limitation, the Sale Transaction, the assumption and assignment of the Assumed Contracts, to be avoided or costs, or damages or costs, to be imposed, under Bankruptcy Code section 363(n). The consideration provided by the Buyer for the Purchased Assets under the William Rast APA is fair and reasonable, and the Sale Transaction may not be avoided under Bankruptcy Code section 363(n).

Assumption and Assignment of the Assumed Contracts

22. Except as otherwise expressly provided in the William Rast APA or this Order, upon the Closing Date, pursuant to Bankruptcy Code sections 105(a), 363, and 365, the Debtors are authorized to (a) assume each of the Assumed Contracts and assign the Assumed Contracts, set forth in **Exhibit 2** (the "Assumed Contracts Exhibit") attached hereto, which may be subsequently

modified at any time prior to the date that is twenty-one (21) days prior to the Closing Date and upon Buyer's delivery of written notice to the Debtors, to add or remove certain contracts pursuant to the terms of the William Rast APA, to the Buyer free and clear of all Claims, Interests, and Encumbrances (other than any Permitted Encumbrances) and (b) execute and deliver to the Buyer such documents or other instruments as may be reasonably requested by Buyer to assign and transfer the Assumed Contracts to the Buyer.

23. The Cure Costs (as defined in the William Rast APA) listed on the Assumption Notice and Assumed Contracts Exhibit are the sole amounts necessary to be paid upon assumption of the Assumed Contracts under Bankruptcy Code sections 365(b)(1)(A) and (B) and 365(f)(2)(A). All Cure Costs, if any, shall be paid by the Buyer. Upon the payment of the Cure Costs, if any, by the Buyer, the Assumed Contracts shall remain in full force and effect, and no default shall exist under the Assumed Contracts nor shall there exist any event or condition which, with the passage of time or giving of notice, or both, would constitute such a default. The Cure Costs shall not be subject to further dispute or audit, including, without limitation, any based on performance prior to the Closing Date, irrespective of whether such Assumed Contract contains an audit clause. After the payment of the Cure Costs by the Buyer, none of the Debtors or the Buyer shall have any further liabilities to the counterparties to the Assumed Contracts other than the Debtors' obligations under the Assumed Contracts that accrue and become due and payable on or after the Closing Date.

24. In the event of a dispute as of, or after, the Closing Date regarding assumption and assignment or Cure Cost of any executory contract or unexpired lease proposed to be an Assumed Contract, the assumption and assignment of such executory contract or unexpired lease, and payment of any applicable Cure Costs, shall be made following the entry of an order of the Court resolving any such dispute (or upon the consensual resolution of such dispute as may be agreed by

the Buyer and such counterparty and, solely with respect to disputes regarding Cure Costs, the Debtors). Upon an election of the Buyer to designate an executory contract or unexpired lease as an Excluded Contract, the Buyer shall have no liability whatsoever to the counterparty to such executory contract or unexpired lease or the Debtors.

25. To the extent any non-Debtor counterparty to an Assumed Contract has failed to timely object to a proposed Cure Cost, such Cure Cost has been and shall be deemed to be finally determined as the Cure Cost listed on the Assumption Notice and Assumed Contracts Exhibit and any such non-Debtor counterparty shall be prohibited from challenging, objecting to, or denying the validity and finality of the Cure Cost at any time. The non-Debtor counterparty to an Assumed Contract is forever bound by the applicable Cure Cost and, upon payment of the Cure Costs as provided herein and in the William Rast APA, is hereby enjoined from taking any action against Buyer with respect to any claim for cure under the Assumed Contract.

26. Any provisions in any Assumed Contract that prohibit or condition the assignment of such Assumed Contract or allow the party to such Assumed Contract to terminate, recapture, impose any penalty, condition on renewal or extension or modify any term or condition upon assignment of such Assumed Contract, constitute unenforceable anti-assignment provisions that are void and of no force and effect.

27. Any party that may have had the right to consent to the assignment of an Assumed Contract is deemed to have consented to such assignment, including for purposes of Bankruptcy Code sections 365(c)(1)(B) and 365(e)(2)(A)(ii) and otherwise, if such party failed to object to the assumption and assignment of such Assumed Contract.

28. Each Assumed Contract constitutes an executory contract or unexpired lease under the Bankruptcy Code and all requirements and conditions under Bankruptcy Code sections 363

and 365 for the assumption by the Debtors and assignment to the Buyer of the Assumed Contracts have been, or will be, satisfied. Upon the Buyer's assumption of the Assumed Contracts in accordance with the terms hereof, in accordance with Bankruptcy Code sections 363 and 365, (a) the Buyer shall be fully and irrevocably vested with all rights, title and interest of the Debtors under the Assumed Contracts, (b) the Buyer shall be deemed to be substituted for the Debtors as a party to the applicable Assumed Contracts, and (c) the Debtors shall be relieved, pursuant to Bankruptcy Code section 365(k), from any further liability under the Assumed Contracts.

29. The Buyer has demonstrated adequate assurance of future performance under the relevant Assumed Contracts within the meaning of Bankruptcy Code sections 365(b)(1)(C) and 365(f)(2)(B).

30. There shall be no rent accelerations, assignment fees, increases or any other fees charged to the Debtors or the Buyer as a result of the assumption, assignment and sale of the Assumed Contracts. Subject to the terms of the William Rast APA, the validity of the transactions contemplated by the William Rast APA, including, without limitation, the Sale Transaction and the assumption and assignment of the Assumed Contracts, shall not be affected by any dispute between any of the Debtors or their affiliates, and another party to an Assumed Contract regarding the payment of any amount. Upon assignment to the Buyer, the Assumed Contracts shall be valid and binding, in full force and effect and enforceable by the Buyer in accordance with their respective terms.

31. Pursuant to Bankruptcy Code sections 105(a), 363, and 365, all counterparties to the Assumed Contracts are forever barred and permanently enjoined from raising or asserting against the Debtors or the Buyer any assignment fee, default, breach or claim of pecuniary loss, or condition to assignment, arising under or related to the Assumed Contracts existing as of and

including the Closing Date under the William Rast APA or arising by reason of the consummation of transactions contemplated by the William Rast APA, including, without limitation, the Sale Transaction, the assumption and assignment of the Assumed Contracts.

32. All counterparties to the Assumed Contracts shall cooperate and expeditiously execute and deliver, upon the reasonable requests of the Buyer, and shall not charge the Debtors or the Buyer for any instruments, applications, consents or other documents which may be required or requested by any public or quasi-public authority or other party or entity to effectuate the applicable transfers in connection with the Sale of the Purchased Assets.

Application of Proceeds

33. Subject to the “Payment in Full” of the Prepetition BAML Obligations, the Debtors are authorized and directed to distribute the consideration received by the Debtors from the sale of the Purchased Assets as follows: first, to the holders of the DIP Obligations as of the date of the initial funding under the DIP Credit Facility (or as otherwise agreed to between the Buyer and such holders of the DIP Obligations) until such time as the DIP Obligations are paid in full in cash (or as otherwise agreed by the DIP Agent as directed by the Required Lenders) and all commitments to lend under the DIP Loan Documents have been terminated, and second, to the Prepetition Term B Agent for distribution to the holders of the Prepetition Term B Obligations as of the Petition Date (or as otherwise agreed to between the Buyer and such holders of the Prepetition Term B Obligations) in accordance with the Prepetition Term B Credit Agreement until the Prepetition Term B Obligations have been paid in full in cash (or as otherwise agreed by the Prepetition Term B Agent as directed by the Required Lenders). The application of the consideration from the sale of the Purchased Assets pursuant to the immediately preceding sentence complies with the

requirements of the DIP Orders and the DIP Loan Documents and is supported by good, sufficient and sound business reasons.

Related Relief

34. Each and every federal, state and governmental agency or department, and any other person or entity, is hereby authorized to accept any and all documents and instruments in connection with or necessary to consummate the Sale Transaction contemplated by the William Rast APA.

35. No governmental unit may revoke or suspend any right, license, copyright, patent, trademark or other permission relating to the use of the Purchased Assets sold, transferred or conveyed to the Buyer on account of the filing or pendency of these Chapter 11 Cases or the consummation of the sale of the Purchased Assets.

36. Except as expressly provided in the William Rast APA, nothing in this Order shall be deemed to waive, release, extinguish or estop the Debtors or their estates from asserting, or otherwise impair or diminish, any right (including, without limitation, any right of recoupment), claim, cause of action, defense, offset or counterclaim in respect of any Excluded Asset.

37. All entities that are presently, or on the Closing Date may be, in possession of some or all of the Purchased Assets are hereby directed to surrender possession of the Purchased Assets to the Buyer on or prior to the Closing Date or such later date that such party and Buyer mutually agree.

38. To the extent this Order is inconsistent with any prior order or pleading filed in these Chapter 11 Cases related to the Motion, the terms of this Order shall govern. To the extent there is any inconsistency between the terms of this Order and the terms of the William Rast APA, the terms of this Order shall govern.

39. This Order and the William Rast APA shall be binding in all respects upon all pre-petition and post-petition creditors of the Debtors, all interest holders of the Debtors, all non-Debtor parties to the Assumed Contracts, any Court-appointed committee, all successors and assigns of the Debtors and their affiliates and subsidiaries, and any trustees, examiners, “responsible persons” or other fiduciaries appointed in these Chapter 11 Cases or upon a conversion of the Debtors’ cases to those under chapter 7 of the Bankruptcy Code, including a chapter 7 trustee, and the William Rast APA and Sale Transaction shall not be subject to rejection or avoidance under any circumstances by any party. If any order under Bankruptcy Code section 1112 is entered, such order shall provide (in accordance with Bankruptcy Code sections 105 and 349) that this Order and the rights granted to the Buyer hereunder shall remain effective and, notwithstanding such dismissal, shall remain binding on parties in interest. For the avoidance of doubt, the Debtors’ inability to satisfy in full all administrative expense claims of the Debtors’ estates shall not be a basis for termination, rejection or avoidance (as applicable) of the William Rast APA or the Sale Transaction.

40. This Court shall retain jurisdiction to, among other things, interpret, implement, and enforce the terms and provisions of this Order and the William Rast APA, all amendments thereto and any waivers and consents thereunder and each of the agreements executed in connection therewith to which the Debtors are a party or which has been assigned by the Debtors to the Buyer, and to adjudicate, if necessary, any and all disputes concerning or relating in any way to the Sale Transaction, including any and all disputes with any counterparty to any executory contract or unexpired lease of the Debtors (including, without limitation, disputes with respect to assumption and assignment of any Assumed Contracts or any cure disputes) and any party that has, or asserts, possession, control or other rights in respect of any of the Purchased Assets;

provided, however, that, in the event the Court abstains from exercising or declines to exercise such jurisdiction with respect to the William Rast APA, the Bidding Procedures Order, or this Order, such abstention, refusal, or lack of jurisdiction shall have no effect upon and shall not control, prohibit, or limit the exercise of jurisdiction of any other court having competent jurisdiction with respect to any such matter. This Court retains jurisdiction to compel delivery of the Purchased Assets, to protect the Debtor and its assets, including the Purchased Assets, against any Claims and successor and transferee liability and to enter orders, as appropriate, pursuant to Bankruptcy Code sections 105(a) or 363 (or other applicable provisions) necessary to transfer the Purchased Assets to the Buyer.

41. At any time prior to the Closing Date, the Buyer or the Debtors may terminate the William Rast APA pursuant to the terms thereof without any penalty or liability to the Buyer or the Debtors (or their estates), except as set forth in the William Rast APA.

42. The William Rast APA and any related agreements, documents, or other instruments may be modified, amended or supplemented by the parties thereto and in accordance with the terms thereof, without further order of the Court.

43. This Order constitutes a final order within the meaning of 28 U.S.C. § 158(a). Notwithstanding any provision in the Bankruptcy Rules to the contrary, including but not limited to Bankruptcy Rules 6004(h) and 6006(d), the Court expressly finds there is no reason for delay in the implementation of this Order and, accordingly: (a) the terms of this Order shall be immediately effective and enforceable upon its entry; (b) the Debtors are not subject to any stay of this Order or in the implementation, enforcement or realization of the relief granted in this Order; and (c) the Debtors and the Buyer may, in their discretion and without further delay, take any action and perform any act authorized under this Order.

44. The Buyer shall not be required to seek or obtain relief from the automatic stay under Bankruptcy Code section 362, to give any notice permitted by the William Rast APA or to enforce any of its remedies under the William Rast APA or any other sale-related document. The automatic stay imposed by Bankruptcy Code section 362 is modified solely to the extent necessary to implement the preceding sentence; provided however, that this Court shall retain exclusive jurisdiction over any and all disputes with respect thereto.

45. The provisions of this Order are non-severable and mutually dependent.

46. Notwithstanding the provisions of Bankruptcy Rules 6004(h) and 6006(d) or any applicable provisions of the Local Rules, this Order shall not be stayed after the entry hereof, but shall be effective and enforceable immediately upon entry, and the 14-day stay provided in Bankruptcy Rules 6004(h) and 6006(d) is hereby expressly waived and shall not apply. Time is of the essence in closing the Sale Transaction and the Debtors and the Buyer intend to close the Sale Transaction as soon as practicable.

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

Exhibit 1

William Rast APA

ASSET PURCHASE AGREEMENT

by and between

JJWHP, LLC

as Buyer

and

William Rast Licensing, LLC,

as Seller

October 28, 2021

TABLE OF CONTENTS

	<u>PAGE</u>
ARTICLE 1 DEFINITIONS.....	1
SECTION 1.01 Definitions.....	1
SECTION 1.02 Construction.....	6
ARTICLE 2 PURCHASE AND SALE	7
SECTION 2.01 Purchase and Sale	7
SECTION 2.02 Assumed Liabilities	8
SECTION 2.03 Excluded Liabilities	9
SECTION 2.04 Excluded Assets.....	9
SECTION 2.05 Assignment of Contracts and Rights.....	9
SECTION 2.06 Purchase Price.....	10
SECTION 2.07 Purchase Price Allocation.....	11
SECTION 2.08 Good Faith Deposit.....	11
SECTION 2.09 Closing.....	11
ARTICLE 3 REPRESENTATIONS AND WARRANTIES OF SELLER.....	13
SECTION 3.01 Organization and Qualification.....	13
SECTION 3.02 Corporate Authorization	13
SECTION 3.03 Execution and Delivery; Enforceability.....	13
SECTION 3.04 Consents and Approvals	13
SECTION 3.05 No Conflicts	14
SECTION 3.06 Litigation.....	14
SECTION 3.07 Title to the Purchased Assets	14
SECTION 3.08 Intellectual Property.....	14
SECTION 3.09 Taxes.....	15
SECTION 3.10 Assumed Contracts	15
SECTION 3.11 No Other Representations or Warranties	16
ARTICLE 4 REPRESENTATIONS AND WARRANTIES OF BUYER.....	16
SECTION 4.01 Corporate Existence and Power	16
SECTION 4.02 Corporate Authorization	16
SECTION 4.03 Execution and Delivery; Enforceability.....	16
SECTION 4.04 No Conflicts.....	16
SECTION 4.05 Availability of Funds; Solvency	16
SECTION 4.06 Litigation.....	17
SECTION 4.07 Buyer’s Knowledge.	17
SECTION 4.08 Brokers.....	17
SECTION 4.09 Condition of Purchased Assets; Representations.....	17

ARTICLE 5 COVENANTS OF SELLER.....	18
SECTION 5.01 Conduct of the Business.....	18
SECTION 5.02 Access to Information.....	19
SECTION 5.03 Update of Disclosure Schedules	19
SECTION 5.04 Use of Name	20
SECTION 5.05 Notices of Certain Events	20
ARTICLE 6 COVENANTS OF BUYER.....	20
SECTION 6.01 Confidentiality	20
SECTION 6.02 Notices of Certain Events	20
SECTION 6.03 Preservation of Books and Records	21
SECTION 6.04 Insurance.....	21
SECTION 6.05 Communication.....	21
SECTION 6.06 Release	21
SECTION 6.07 Buyer’s Knowledge	22
ARTICLE 7 COVENANTS OF BUYER AND SELLER	22
SECTION 7.01 Further Assurances.....	22
SECTION 7.02 Certain Filings.....	22
SECTION 7.03 Public Announcements	23
SECTION 7.04 Tax Matters	23
SECTION 7.05 Misallocated Assets	23
SECTION 7.06 Payments from Third Parties after Closing.....	24
SECTION 7.07 Bulk Transfer Laws.....	24
SECTION 7.08 Bankruptcy Court Approval.....	24
ARTICLE 8 CONDITIONS TO CLOSING.....	26
SECTION 8.01 Conditions to Obligations of Buyer and Seller	26
SECTION 8.02 Conditions to Obligation of Buyer.....	27
SECTION 8.03 Conditions to Obligation of Seller	27
ARTICLE 9 SURVIVAL	28
SECTION 9.01 Survival.....	28
ARTICLE 10 TERMINATION.....	28
SECTION 10.01 Grounds for Termination	28
SECTION 10.02 Effect of Termination.....	30
SECTION 10.03 Costs and Expenses.....	30
ARTICLE 11 MISCELLANEOUS	30
SECTION 11.01 Notices	30

SECTION 11.02	Amendments and Waivers	31
SECTION 11.03	Successors and Assigns.....	31
SECTION 11.04	Governing Law	32
SECTION 11.05	Jurisdiction.....	32
SECTION 11.06	WAIVER OF JURY TRIAL.....	32
SECTION 11.07	Counterparts; Third Party Beneficiaries	33
SECTION 11.08	Specific Performance	33
SECTION 11.09	Entire Agreement	33
SECTION 11.10	No Strict Construction	33
SECTION 11.11	Severability	33
SECTION 11.12	Disclosure Schedules	34

EXHIBITS

Exhibit A	Form of Assignment and Assumption Agreements
Exhibit B	Form of Bills of Sale
Exhibit C	Form of Assignment of Trademarks
Exhibit D	Form of Assignment of Domain Names
Exhibit E	Form of Assignment of Other Intellectual Property
Exhibit F	Bid Procedures Order

SCHEDULES

Schedule 1.01(a)	Knowledge of Seller
Schedule 2.01(a)	Trademarks
Schedule 2.01(c)	Domain Names, Websites and Social Media Handles
Schedule 2.05(a)	Assumed Contracts and Cure Costs
Schedule 3.04	Consents and Approvals
Schedule 3.06	Litigation
Schedule 3.08(a)	Material Intellectual Property
Schedule 3.08(f)	Certain Intellectual Property Contracts
Schedule 3.10	Transferred Seller Contracts
Schedule 5.01	Conduct of the Business

ASSET PURCHASE AGREEMENT

THIS **ASSET PURCHASE AGREEMENT** dated as of October 28, 2021 (the “**Agreement**”), is made and entered into by and between JJWHP, LLC, a Delaware limited liability company (“**Buyer**”), and William Rast Licensing, LLC, a Delaware limited liability company (the “**Company**” or “**Seller**”). Seller and Buyer are sometimes referred to collectively herein as the “**Parties**” and individually as a “**Party**”. Capitalized terms used herein and not otherwise defined herein have the meanings set forth in Article 1.

WITNESSETH:

WHEREAS, subject to the terms and conditions set forth in this Agreement, Seller desires to sell, assign, transfer, and convey to Buyer, and Buyer desires to, and shall, (i) purchase and acquire from Seller, all of Seller’s right, title and interest in and to the Purchased Assets (as defined below) and (ii) assume all of the Assumed Liabilities (as defined below); and

WHEREAS, Seller, and certain of its affiliates (the “**Debtors**”) have sought relief under Chapter 11 of Title 11, §§ 101-1330 of the United States Code (as amended, the “**Bankruptcy Code**”) by filing cases (the “**Chapter 11 Cases**”) in the United States Bankruptcy Court for the District of Delaware (the “**Bankruptcy Court**”) and intend to seek approval of the Bankruptcy Court to consummate the transactions contemplated by this Agreement.

NOW, THEREFORE, in consideration of the premises and the mutual promises herein made, and in consideration of the foregoing and of the representations, warranties, covenants, agreements and conditions herein contained, the receipt and sufficiency of which are hereby acknowledged, the Parties, intending to be legally bound hereby, agree as follows:

ARTICLE 1

DEFINITIONS

SECTION 1.01 *Definitions.*

(a) The following terms, as used herein, have the following meanings:

“**Action**” means any claim, action, suit, arbitration or proceeding by or before any Governmental Authority.

“**Affiliate**” means, with respect to any Person, another Person that, directly or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with, such Person, where “control” means the possession, directly or indirectly, of the power to direct the management and policies of a Person whether through the ownership of voting securities, by contract or otherwise. For the avoidance of doubt, ownership of more than fifty percent (50%) of the voting securities shall be deemed to be “control” for purposes of this definition.

“**Alternative Transaction**” means any reorganization, merger, transaction, consolidation, business combination, joint venture, partnership, sale of assets, financing (debt or equity), or restructuring or similar transaction of or by Seller involving any of the Purchased Assets; provided,

however, that an Alternative Transaction shall not include (a) a sale for the Purchased Assets determined by the Debtors to be higher or otherwise better in accordance with the Bid Procedures (as defined in the Bid Procedures Order), or (b) pursuit of confirmation of a Chapter 11 plan of liquidation, confirmation of which plan shall take place solely following the Bankruptcy Court's entry of the Sale Order, with the occurrence of any "effective date" or similar concept under such plan subject to the occurrence of the Closing Date.

"Auction" means any auction for the sale of Debtors' assets conducted pursuant to the terms and conditions of the Bid Procedures and the Bid Procedures Order.

"Backup Bidder" has the meaning set forth in the Bid Procedures Order.

"Bankruptcy Rules" means the Federal Rules of Bankruptcy Procedure.

"Bid Procedures" means the bidding procedures for the solicitation and submission of bids for a sale, reorganization, or other disposition of the Debtors, any portion of, or all or substantially all of their assets approved by the Bankruptcy Court pursuant to the Bid Procedures Order.

"Bid Procedures Motion" means the motion seeking entry of the Bid Procedures Order and the Sale Order.

"Bid Procedures Order" means an order of the Bankruptcy Court attached hereto as Exhibit F.

"Brand" means the William Rast brand.

"Business" means all activities by Seller or any Affiliate of Seller associated with the ownership, licensing, and marketing of the Purchased Assets.

"Business Day" means a day other than Saturday, Sunday or other day on which commercial banks in New York, New York are authorized or required by law to close.

"Buyer's Licenses" means (i) the Exclusive License by and between Omega Apparel Ltd. and William Rast Licensing, LLC dated as of August 12, 2020, and (ii) Exclusive License by and between Millennium Apparel Group LLC and William Rast Licensing, LLC dated as of September 30, 2020.

"Causes of Action" means any Claim, action, suit, arbitration or proceeding by or before any Governmental Authority.

"Claim" means a "claim" as defined in Section 101 of the Bankruptcy Code.

"Closing Date" means the date of the Closing.

"Code" means the Internal Revenue Code of 1986, as amended.

“**Confidentiality Agreements**” means (i) the Confidentiality and Nondisclosure Agreement, dated August 16, 2021, by and between Millennial Apparel Group LLC and Sequential Brands Group, Inc and (ii) the Confidentiality and Nondisclosure Agreement, dated August 17, 2021, by and between Omega Apparel Ltd and Sequential Brands Group, Inc.

“**Contract**” means any contract, agreement, license, sublicense, sales order, purchase order, instrument or other commitment, that is binding on any Person under applicable Law.

“**COVID-19**” means SARS-CoV-2 or COVID-19, and any evolutions thereof or related or associated epidemics, pandemic or disease outbreaks.

“**Cure Costs**” means with respect to any Assumed Contract, the Liabilities that must be paid or otherwise satisfied to cure all monetary defaults under such Assumed Contract to the extent required by Section 365(b) of the Bankruptcy Code.

“**Disclosure Schedules**” means the Disclosure Schedules attached hereto, as may be supplemented and amended pursuant to Section 5.03.

“**Encumbrance**” means any mortgage, lien, pledge, security interest, charge, easement, covenant, right of way, claim, title defect, or other survey defect.

“**Excluded Contract**” means any Contract of Seller that is not an Assumed Contract.

“**Final Order**” means a judgment or Order of the Bankruptcy Court (or any other court of competent jurisdiction) entered by the clerk of the Bankruptcy Court (or such other court) on the docket in the Chapter 11 Cases (or the docket of such other court), which has not been modified, amended, reversed, vacated or stayed (other than such modifications or amendments that are consented in writing to by Buyer); provided that the possibility that a motion under Rule 60 of the Federal Rules of Civil Procedures, or any analogous rule under the Federal Rules of Bankruptcy Procedure, may be filed relating to such Order, shall not cause an Order not to be a Final Order.

“**Governmental Authority**” means any (a) multinational, federal, state, municipal, local or other governmental or public department, court, tribunal, bureau, agency or instrumentality of government, domestic or foreign, (b) any subdivision or authority of any of the foregoing or (c) any regulatory or administrative authority.

“**Intellectual Property**” means any and all intellectual property of every kind, whether protected or arising under the Laws of the United States or any other jurisdiction, including all intellectual or industrial property rights in any of the following: (a) the Trademarks, Domain Names, and all rights under Contracts relating to the foregoing and (b) all other intellectual property owned by Seller as of the Closing Date that is used or held for use by Seller exclusively in the conduct of the Business (all such intellectual property described in the foregoing clause (b), the “**Other Intellectual Property**”).

“**Knowledge of Seller**” means the actual knowledge of the individuals set forth on Schedule 1.01(a) hereto after reasonable inquiry of such other Persons who would reasonably be expected to know such information.

“**Law**” means any law, treaty, statute, ordinance, code, decree, Order, rule or regulation of any Governmental Authority.

“**Liability**” means any and all debts, liabilities, commitments and obligations of any kind, whether fixed, contingent or absolute, matured or unmatured, liquidated or unliquidated, accrued or not accrued, asserted or not asserted, known or unknown, determined, determinable or otherwise, whenever or however arising (including, whether arising out of any Contract or tort based on negligence or strict liability) and whether or not the same would be required to be reflected in financial statements or disclosed in the notes thereto.

“**Material Adverse Effect**” means any change, effect, event, circumstance, occurrence or state of facts that, individually or in the aggregate, has had a material adverse effect on the Purchased Assets, taken as a whole, excluding, however, any change, effect, event, circumstance, occurrence or state of facts that results from or arises out of: (i) the execution and delivery of this Agreement or the announcement thereof or the pendency or consummation of the transactions contemplated by this Agreement and the other Transaction Documents; (ii) general changes or developments in global or national political, economic, business, monetary, financial or capital or credit market conditions or trends; (iii) general political, economic, business, monetary, financial or capital or credit market conditions or trends (including interest rates); (iv) geopolitical conditions or any outbreak or escalation of hostilities, acts of terrorism or war, civil unrest, epidemic, pandemic, disease outbreak or other health crisis or public health event (including COVID-19), regional, national or international emergency, earthquakes, floods, hurricanes, tornadoes, wildfires, natural disasters or any other acts of God or similar force majeure events, or any escalation or worsening of the foregoing; (v) the failure of the financial or operating performance of Seller or its business to meet internal, Buyer or analyst or other external projections, forecasts or budgets for any period (it being understood that the underlying cause of such failure to meet such projections and forecasts may be taken into account in determining whether a Material Adverse Effect has occurred); (vi) any action taken or omitted to be taken after the date hereof by or at the written request of Buyer, or in compliance with applicable Law or the express covenants and agreements contained in this Agreement; (vii) changes in (or proposals to change) Laws or accounting regulations or principles; (viii) any existing event, occurrence or circumstance of which Buyer has knowledge as of the date hereof; or (ix) the Chapter 11 Cases, including the Auction and any announced liquidation of Seller or any of its assets; provided, that any change, effect, event, circumstance, occurrence or state of facts described in clauses (ii), (iii), (iv) and (vii) shall be taken into account in determining whether a Material Adverse Effect has occurred or would reasonably be expected to occur to the extent that such change, effect, event, circumstance, occurrence or state of facts has a materially disproportionate effect on the Purchased Assets, taken as a whole, as compared to the effects on other participants in the same industry as Seller.

“**Milestones**” has the meaning set forth in the Bid Procedures Motion.

“**Order**” means any award, writ, injunction, judgment, order, ruling, decision, subpoena, precept, directive, consent, approval, award, decree or similar determination or finding entered, issued, made or rendered by any Governmental Authority.

“Permitted Encumbrances” means the following Encumbrances: (a) Encumbrances for Taxes, assessments or other governmental charges or levies that are not yet due or payable or that are being contested in good faith by appropriate Causes of Action; (b) Encumbrances that will be released at the Closing with no Liability to Buyer or its Affiliates; (c) Encumbrances incurred by or at the written direction of Buyer at the Closing; and (d) outbound Intellectual Property licenses, covenants not to sue and similar rights that are subject to Section 365(n) of the Bankruptcy Code or other outbound non-exclusive licenses to Intellectual Property entered into in the ordinary course of business that are in each case Assumed Contracts hereunder.

“Person” means any individual, corporation (including any non-profit corporation), partnership, limited liability company, joint venture, unincorporated organization, estate, trust, association, organization or other legal entity or group (as defined in Section 13(d)(3) of the Securities Exchange Act of 1934, as amended) or Governmental Authority.

“Pre-Closing Tax Period” means any taxable period ending on or before the Closing Date and, with respect to any Straddle Period, the portion of such taxable period ending on and including the Closing Date.

“Sale Order” means an Order by the Bankruptcy Court, in form and substance reasonably acceptable to Buyer and Seller, among other things, (a) approving this Agreement, (b) authorizing the sale of the Purchased Assets to Buyer pursuant to section 363 of the Bankruptcy Code, pursuant to the terms and conditions set forth herein, free and clear of any Encumbrances (other than Permitted Encumbrances), (c) authorizing the assumption and assignment to Buyer of the Assumed Contracts and the Assumed Liabilities pursuant to section 365 of the Bankruptcy Code and (d) authorizing the other transactions contemplated by this Agreement.

“Successful Bidder” has the meaning set forth in the Bid Procedures Order.

“Tax” means (a) all federal, state, local or foreign income, gross receipts, franchise, estimated, alternative minimum, add-on minimum, sales, use, transfer, real property gains, registration, value added, excise, natural resources, severance, stamp, occupation, premium, windfall profit, environmental, customs, duties, real property, special assessment, personal property, capital stock, social security, unemployment, disability, payroll, license, employee or other withholding tax, or any other taxes, fees, assessments or charges of any kind whatsoever including any interest, penalties or additions to tax or additional amounts in respect of the foregoing; (b) any Liability for payment of amounts described in clause (a), whether as a result of transferee Liability, of being a member of an affiliated, consolidated, combined or unitary group for any period or otherwise through operation of law; and (c) any Liability for the payment of amounts described in clauses (a) or (b) as a result of any tax sharing, tax indemnity, tax receivable or tax allocation agreement or express or implied obligation (other than any such agreement or obligation entered into in the ordinary course of business that is not primarily related to Taxes).

“Tax Return” means any report, return, election, extension or similar document (including schedules or any related or supporting information) filed or required to be filed with respect to Taxes with any Governmental Authority or other authority in connection with the determination, assessment or collection of any Tax or the administration of any Laws or administrative

requirements relating to any Tax, including any information return, claim for refund, amended return or declaration of estimated Taxes.

“**Transaction Document**” means this Agreement, Assignment Agreements, Bills of Sale, Assignment of Trademarks, Assignment of Domain Names and any other agreements, instruments or documents entered into pursuant to, or as contemplated by, this Agreement.

(b) Each of the following terms is defined in the Section set forth opposite such term:

<u>Term</u>	<u>Section</u>
Agreement	Preamble
Allocation Schedule	Section 2.07
Assignment of Trademarks	Section 2.09(a)(iv)
Assignment of Domain Names	Section 2.09(a)(iv)
Assumed Contracts	Section 2.01(b)
Assumed Liabilities	Section 2.02
Assignment and Assumption Agreements	Section 2.09(a)(ii)
Assignment of Other Intellectual Property	Section 2.09(a)(iv)
Bankruptcy and Equity Exception	Section 3.03
Bankruptcy Code	Recitals
Bankruptcy Court	Recitals
Bills of Sale	Section 2.09(a)(iii)
Buyer	Preamble
Chapter 11 Cases	Recitals
Closing	Section 2.09
Closing Cash Consideration	Section 2.06
Company	Preamble
Debtors	Preamble
Domain Names	Section 2.01(c)
End Date	Section 10.01(b)
Excluded Liabilities	Section 2.03
Good Faith Deposit	Section 2.08(a)
Joe’s APA	Section 2.06
Party or Parties	Preamble
Petition Date	Section 7.08(a)
Purchased Assets	Section 2.01
Purchased Intellectual Property	Section 3.08(a)
Purchase Price	Section 2.06
Receivables	Section 7.06(a)
Seller	Preamble
Straddle Period	Section 7.04(a)(i)
Surviving Post-Closing Covenants	Section 9.01
Trademarks	Section 2.01(a)
Transfer Consent	Section 2.05(c)

SECTION 1.02 *Construction*. In construing this Agreement, including the Exhibits and Schedules hereto, the following principles shall be followed: (a) the terms “herein,” “hereof,”

“hereby,” “hereunder” and other similar terms refer to this Agreement as a whole and not only to the particular Article, Section or other subdivision in which any such terms may be employed unless otherwise specified; (b) except as otherwise set forth herein, references to Articles, Sections, Schedules and Exhibits refer to the Articles, Sections, Schedules and Exhibits of this Agreement, which are incorporated in and made a part of this Agreement; (c) a reference to any Person shall include such Person’s successors and assigns; (d) the word “includes” and “including” and their syntactical variants mean “includes, but is not limited to” and “including, without limitation,” and corresponding syntactical variant expressions; (e) a defined term has its defined meaning throughout this Agreement, regardless of whether it appears before or after the place in this Agreement where it is defined, including in any Schedule; (f) the word “dollar” and the symbol “\$” refer to the lawful currency of the United States of America; (g) unless the context of this Agreement clearly requires otherwise, words importing the masculine gender shall include the feminine and neutral genders and vice versa, (h) the words “to the extent” shall mean “the degree by which” and not “if”; (i) the word “will” will be construed to have the same meaning and effect as the word “shall,” and the words “shall,” “will,” or “agree(s)” are mandatory, and “may” is permissive, (j) where a word is defined herein, references to the singular will include references to the plural and vice versa, (k) all references to a day or days will be deemed to refer to a calendar day or calendar days, as applicable, unless Business Days are expressly specified, (l) any reference to any agreement or Contract will be a reference to such agreement or Contract, as amended, modified, supplemented or waived; (m) any reference to any particular Code section or any Law will be interpreted to include any amendment to, revision of or successor to that section or Law regardless of how it is numbered or classified; provided that, for the purposes of the representations and warranties set forth herein, with respect to any violation of or non-compliance with, or alleged violation of or non-compliance, with any Code section or Law, the reference to such Code section or Law means such Code section or Law as in effect at the time of such violation or non-compliance or alleged violation or non-compliance; (n) references to “written” or “in writing” include in electronic form; (o) the headings contained in this Agreement and the other Transaction Documents are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement and the other Transaction Documents; (p) 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 shall be excluded and if the last day of such period is not a Business Day, the period shall end on the next succeeding Business Day; and (q) the word “or” shall not be exclusive.

ARTICLE 2

PURCHASE AND SALE

SECTION 2.01 *Purchase and Sale.* Subject to the entry of the Bid Procedures Order and the Sale Order and upon the terms and subject to the conditions of this Agreement and the Sale Order, on the Closing Date, Seller shall sell, transfer, assign, convey and deliver, or cause to be sold, transferred, assigned, conveyed and delivered, to Buyer, and Buyer shall purchase, acquire and accept from Seller, free and clear of all Encumbrances (other than Permitted Encumbrances), all of Seller’s right, title and interest in the following assets, properties, interests and rights (collectively, the “**Purchased Assets**”), other than, for the avoidance of doubt, the Excluded Assets, which, notwithstanding the foregoing provisions of this Section 2.01 to the contrary, will remain, as applicable, the assets, properties, interests and rights of Seller:

(a) all trademarks and service marks owned by Seller and all registrations, renewals and applications therefor that are set forth on Schedule 2.01(a) and, in each case, all worldwide rights, title and interest associated with the foregoing, together with the goodwill associated with any of the foregoing, in each case, that are exclusively associated with the Brand (collectively, the “**Trademarks**”);

(b) all Contracts set forth on Schedule 2.05(b) (as described below), under the heading “Assumed Contracts” (collectively, the “**Assumed Contracts**”);

(c) the domain names, websites, and social media handles owned by Seller that are utilized in connection with the Business, including related passwords (collectively, the “**Domain Names**”), as set forth on Schedule 2.01(c); and

(d) all Other Intellectual Property;

(e) other than as set forth in Section 2.01(g), all claims (including counterclaims), rights, causes of action, privileges, demands, indemnification rights, and defense rights of Seller, in each case, to the extent related to Buyer’s ownership, licensing, and marketing of the Purchased Assets, whether arising or related to periods before, at or following the Closing;

(f) all associated income, royalties, damages, and payments due from or payable by any third party, in each case, solely to the extent arising (in whole or in part, but if in part, only to the extent of such part) after the Closing and exclusively related to Buyer’s ownership, licensing, and marketing of the Purchased Assets, including under the Assumed Contracts, following the Closing; and

(g) all accounts receivable and other receivables arising under or pursuant to any Assumed Contract solely to the extent arising (in whole or in part, but if in part, only to the extent of such part) after the Closing and exclusively related to Buyer’s ownership, licensing, and marketing of the Purchased Assets following the Closing, it being understood and agreed that none of Seller’s right to, interest in or entitlement to any fees, payments or any other amounts payable to Seller by Buyer or its Affiliates in their capacity as a licensee under any of the Assumed Contracts, including, without limitation, the Buyer’s Licenses that relate to the provision of any license thereunder prior to the Closing and that remain unpaid as of the Closing shall be included in Purchased Assets or be offset or credited by Buyer against any amounts payable under any of the Buyer’s Licenses following the Closing.

SECTION 2.02 *Assumed Liabilities.* Upon the terms and subject to the conditions of this Agreement, Buyer agrees, effective at the time of the Closing, to assume the following Liabilities of Seller (the “**Assumed Liabilities**”):

(a) all Liabilities of Seller relating to or arising out of the Assumed Contracts solely to the extent arising (in whole or in part, but if in part, only to the extent of such part) after the Closing;

(b) all Cure Costs related to the Assumed Contracts; and

(c) all Liabilities relating to or arising out of the Purchased Assets solely to the extent arising (in whole or in part, but if in part, only to the extent of such part) after the Closing.

For the avoidance of doubt, the fact that a Liability may be excluded under one clause of this Section 2.02 does not imply that it is not intended to be included under another clause.

SECTION 2.03 *Excluded Liabilities.* Notwithstanding any provision in this Agreement to the contrary, Buyer shall not assume or be liable for hereunder any Liabilities of Seller other than the Assumed Liabilities, and Seller shall retain and be responsible for all other Liabilities of Seller (other than the Assumed Liabilities), including the following (collectively, the “**Excluded Liabilities**”):

(a) any and all Liabilities for Taxes (i) of or imposed on Seller (or any member or Affiliate of Seller) or (ii) related or attributable to (but solely to the extent related or attributable to) the Purchased Assets or the Business for any Pre-Closing Tax Period (including any Taxes with respect to a Straddle Period allocated to Seller pursuant to Section 7.04(a));

(b) any indebtedness for borrowed money, bank loans or facilities or any other debt instruments of Seller, other than accounts payable or accrued expenses of Seller with respect to the Business incurred or accrued in the ordinary course of business;

(c) all Liabilities related to any Action to the extent relating to the ownership or operation of the Purchased Assets or the Business prior to the Closing Date;

(d) all Liabilities under the Assumed Contracts arising prior to the Closing Date to the extent relating to the period prior to the Closing Date;

(e) all Liabilities arising under or relating to any Excluded Asset; and

(f) any brokerage, commission, finders or similar fees, which is payable in connection with the transactions contemplated by this Agreement or otherwise, pursuant to any arrangement entered into by Seller or any Affiliate thereof.

SECTION 2.04 *Excluded Assets.* Notwithstanding anything contained in Section 2.01 to the contrary, Seller is not selling, and Buyer is not purchasing, any assets other than those specifically listed or described in Section 2.01 (including the Excluded Contracts, such assets that are not Purchased Assets, the “**Excluded Assets**”). For the avoidance of doubt, all Intellectual Property of Seller that is not Purchased Intellectual Property is excluded from the Purchased Assets.

SECTION 2.05 *Assignment of Contracts and Rights.*

(a) Schedule 2.05(a) sets forth a list of all Assumed Contracts to which Seller is party and that Buyer intends to have Seller assume and assign to Buyer on the Closing Date, together with the applicable Cure Costs, if any, for each such Assumed Contract as reasonably estimated in good faith by Seller. At any time prior to the date that is twenty-one (21) days prior to the Closing Date, Buyer may, by written notice to Seller, designate in writing any Contract related to the Business not designated as an Assumed Contract and, upon such designation, such Assumed Contract will constitute a Purchased Asset and will be conveyed to Buyer under, and in accordance

with the terms of, this Agreement at Closing (and, if applicable, will cease to constitute an Excluded Asset). All Contracts of Seller which do not constitute Assumed Contracts or which otherwise cannot be assumed and assigned to Buyer shall not be considered Purchased Assets and shall automatically be deemed Excluded Contracts.

(b) Seller shall use its reasonable best efforts to assign, or cause to be assigned, the Assumed Contracts to Buyer so long as Buyer pays all Cure Costs associated with the assumption and assignment of such Assumed Contracts. If Buyer does not pay all Cure Costs associated with the assignment and assumption of an Assumed Contract, it shall become an Excluded Contract. Notwithstanding anything to the contrary herein, Seller shall not be obligated to assume and assign any such Contract pursuant to this Section 2.05 with respect to which Buyer fails to pay any Cure Costs or to satisfy the Bankruptcy Court as to adequate assurance of future performance.

(c) Except as to Assumed Contracts assigned pursuant to Section 365 of the Bankruptcy Code, this Agreement shall not constitute an agreement to assign any Purchased Asset or any right thereunder if an attempted assignment, without the consent of a third party or Governmental Authority (each, a “**Transfer Consent**”), would constitute a breach or in any way adversely affect the rights of Buyer or Seller thereunder. If such Transfer Consent is not obtained or such assignment is not attainable pursuant to Section 365 of the Bankruptcy Code, to the extent permitted and subject to any approval of the Bankruptcy Court that may be required, Seller and Buyer will reasonably cooperate in a mutually agreeable arrangement (at Buyer’s sole cost and expense) under which Buyer would obtain the benefits and assume the obligations thereunder in accordance with this Agreement.

(d) At Closing, (i) Seller shall, pursuant to the Sale Order and the 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 and the consideration for which is included in the Purchase Price, (ii) Buyer shall pay promptly all Cure Costs in connection with such assumption and assignment, and (iii) Buyer shall assume and perform and discharge the Assumed Liabilities under the Assumed Contracts, pursuant to the Sale Order and the Assignment and Assumption Agreement.

(e) To the extent that Buyer makes a valid designation with respect to any Contract pursuant to Section 2.05(a), the applicable exhibits and schedules to this Agreement will be deemed to have automatically been updated (without action of any Party or Person) to reflect such designation. If Buyer exercises its rights in clause (a) above to designate a Contract as an Assumed Contract or an Excluded Contract, as applicable, then the Parties acknowledge and agree that there will be no reduction in, or increase to, the Purchase Price as a result of such designation or change in designation; provided, however, that such designation may increase or decrease (as applicable) the extent of the Assumed Liabilities, Purchased Assets and/or Excluded Contracts.

(f) Buyer shall reimburse Seller for the remaining portion of the pre-paid Dash Hudson subscription fee and enter into a new subscription services agreement with Dash Hudson Inc. for the remainder of the term, as more particularly described on Schedule 2.05(a).

SECTION 2.06 *Purchase Price*. On the terms and subject to the conditions contained herein, the purchase price (the “**Purchase Price**”) for the Purchased Assets shall consist of (a) an

amount in cash that, when combined with the Cash Consideration as defined in, and payable under, that certain Second Amended and Restated Asset Purchase Agreement, by and among Centric Brands LLC and Joe's Holdings LLC, dated as of October 28, 2021 (the "**Joe's APA**"), equals \$48,500,000 (the "**Cash Consideration**") and (b) the assumption of the Assumed Liabilities.

SECTION 2.07 Purchase Price Allocation. No later than thirty (30) days prior to the Closing Date, Seller shall deliver to Buyer a schedule allocating the Purchase Price (and any adjustments thereto as determined for U.S. federal income tax purposes) among the Purchased Assets and Assumed Liabilities (the "**Allocation Schedule**"). The Allocation Schedule shall be prepared in accordance with Section 1060 of the Code. The Allocation Schedule shall be deemed final unless Buyer notifies Seller in writing that Buyer objects to one or more items reflected in the Allocation Schedule within fifteen (15) Business Days after delivery of the Allocation Schedule to Buyer. In the event of any such objection, Buyer and Seller shall negotiate in good faith to resolve such dispute. If Buyer and Seller reach an agreement regarding the Allocation Schedule, the Parties shall file all Tax Returns, including Form 8594 (Asset Acquisition Statement under Code Section 1060), in a manner consistent with the Allocation Schedule and shall not take any position inconsistent therewith upon examination of any Tax Return, in any Tax refund claim, in any Action related to Taxes, or otherwise unless otherwise required by applicable Law. If Buyer and Seller are unable to reach a timely resolution of any dispute regarding the Allocation Schedule, each of the Parties shall be entitled to adopt its own position regarding the Allocation Schedule and to report the federal, state and local income and other Tax consequences of the purchase and sale contemplated hereby in a manner consistent with its own position regarding the Allocation Schedule.

SECTION 2.08 Good Faith Deposit.

(a) No later than one (1) Business Day following the date of this Agreement, Buyer shall deposit (or cause to be deposited) in a trust account maintained on behalf of Seller (and to be designated by Seller prior to the date hereof) cash in an amount that, when combined with the Good Faith Deposit as defined in, and payable under, the Joe's APA, equals \$4,850,000 (the "**Good Faith Deposit**") to be held in escrow in accordance with the terms of this Agreement, to be released as provided in Section 2.08(b).

(b) If the Closing occurs, the Good Faith Deposit (and any interest accrued thereon) shall be transferred to and retained by Seller at the Closing as a credit against the Closing Cash Consideration. If this Agreement is terminated in accordance with the terms hereof, the Good Faith Deposit (together with any interest accrued thereon) shall be treated in the manner set forth in Section 10.02(b).

SECTION 2.09 Closing. The closing (the "**Closing**") of the purchase and sale of the Purchased Assets and the assumption of the Assumed Liabilities hereunder shall take place remotely by conference call and by exchange of signature pages by email or fax as soon as possible following entry of the Sale Order, but in no event later than three (3) Business Days, after satisfaction of the conditions set forth in Article 8, or at such other time or place as Buyer and Seller may agree in writing. At the Closing:

(a) Buyer shall deliver to Seller:

(i) the Closing Cash Consideration (less the Good Faith Deposit as set forth in Section 2.08(b)) plus, if applicable, any amounts contemplated to be paid to Seller by Section 4.07, by wire transfer of immediately available funds, to the bank account(s) designated in writing by Seller at least one (1) day prior to the Closing Date;

(ii) one or more assignment and assumption agreements, in the form attached hereto as Exhibit A (the “**Assignment and Assumption Agreements**”), duly executed by Buyer;

(iii) a Bill of Sale, in the form attached hereto as Exhibit B (the “**Bill of Sale**”), duly executed by Buyer;

(iv) instruments of assignment of Trademarks (the “**Assignment of Trademarks**”), Domain Names (the “**Assignment of Domain Names**”), and Other Intellectual Property (the “**Assignment of Other Intellectual Property**”) that are included in the Purchased Assets, if any, duly executed by Seller in a form appropriate for recordation with the appropriate Governmental Authorities in the form of Exhibits C, D, and E respectively, in each case duly executed by Buyer;

(v) each other Transaction Document to which Buyer is a party, duly executed by Buyer; and

(vi) such other assignments and other good and sufficient instruments of assumption and transfer, in form satisfactory to Buyer and Seller, as Seller may reasonably request to transfer and assign the Purchased Assets and Assumed Liabilities to Buyer.

(b) Seller shall deliver to Buyer:

(i) the Assignment and Assumption Agreements, duly executed by Seller;

(ii) the Bill of Sale, duly executed by Seller;

(iii) Assignment of Trademarks and Assignment of Domain Names, in each case duly executed by Seller;

(iv) each other Transaction Document to which Seller is a party, duly executed by each applicable Seller;

(v) certificate of non-foreign status executed by Seller (or, if applicable, a direct or indirect owner of a Seller) for U.S. federal income tax purposes, prepared in accordance with Treasury Regulation Section 1.1445-2(b) and a properly executed IRS Form W-9; and

(vi) such other deeds, bills of sale, assignments and other good and sufficient instruments of conveyance and assignment, in form satisfactory to Buyer and Seller, as Buyer may reasonably request to vest in Buyer all right, title and interest in, to and under the Purchased Assets.

ARTICLE 3

REPRESENTATIONS AND WARRANTIES OF SELLER

Except as set forth in the Disclosure Schedules, Seller hereby represents and warrants to Buyer as of the date of this Agreement as follows:

SECTION 3.01 *Organization and Qualification.* Seller has been duly organized and is validly existing and in good standing (where applicable) under the Laws of its jurisdiction of incorporation, with the requisite power and authority to own its properties and conduct its business as currently conducted, except for any failure of good standing as would not, individually or in the aggregate, have a Material Adverse Effect.

SECTION 3.02 *Corporate Authorization.* Subject to entry of the Sale Order, the execution, delivery and performance by Seller of this Agreement and the consummation of the transactions contemplated hereby have been, or prior to the Closing will be, duly authorized by all necessary corporate or other action on the part of Seller. Subject to entry of the Sale Order, Seller has all necessary power and authority to execute and deliver this Agreement and each agreement, certificate, document and instrument to be executed and delivered by it pursuant to this Agreement, as applicable, and to consummate the transactions contemplated hereby and thereby and to perform its obligations hereunder and thereunder.

SECTION 3.03 *Execution and Delivery; Enforceability.* This Agreement has been duly and validly executed and delivered by Seller and, subject to the Bankruptcy Court's entry of the Bid Procedures Order and the Sale Order and subject to the effect of any Laws relating to bankruptcy, reorganization, insolvency, moratorium, fraudulent conveyance or preferential transfers, or similar Laws relating to or affecting creditors' rights generally and subject, as to enforceability, to the effect of general principles of equity (regardless of whether such enforceability is considered in any Causes of Action in equity or at Law) (the "**Bankruptcy and Equity Exception**") will constitute the valid and binding obligation of Seller, enforceable against Seller in accordance with its terms.

SECTION 3.04 *Consents and Approvals.* No consent, approval, authorization or Order of or with any third party, or Governmental Authority having jurisdiction over Seller or any of its properties is required for the execution and delivery by Seller of this Agreement and performance of and compliance by Seller with all of the provisions hereof and the consummation of the transactions contemplated herein, except (a) for any Transfer Consents, the failure of which to obtain would not, individually or in the aggregate, be material to the Business or the Purchased Assets, taken as a whole, (b) as set forth on Schedule 3.04, (c) the entry of the Sale Order and the expiration, or waiver by the Bankruptcy Court, of the fourteen (14) day period set forth in Rules 6004(h) and 3020(e) of the Federal Rules of Bankruptcy Procedure, as applicable, (d) for notices, filings and consents required in connection with the Chapter 11 Cases; and (e) for such consents, approvals, authorizations and Orders, the failure of which to provide, make or obtain, would not, individually or in the aggregate, be material to the Business or the Purchased Assets, taken as a whole.

SECTION 3.05 *No Conflicts*. The execution, delivery and performance by Seller of this Agreement and the other Transaction Documents to which it is or will be a party and the consummation by Seller of the transactions contemplated hereby and thereby do not and will not (a) conflict with or violate any of the organizational documents of Seller; (b) conflict with or violate any Law applicable to Seller; (c) result in any breach of, constitute a default (or an event that, with notice or lapse of time or both, would become a default) under or require any consent of any Person pursuant to, any note, bond, mortgage, indenture, agreement, lease, license, permit, franchise, instrument, obligation or other contract to which Seller is a party; or (d) subject to entry of the Sale Order, require any consent or approval of, registration or filing with, or notice to any Governmental Authority, except, in the causes of clauses (b)-(d), as would not, individually or in the aggregate, be material to the Business or the Purchased Assets, taken as a whole, or to Seller.

SECTION 3.06 *Litigation*. Except as set forth on Schedule 3.06, as of the date hereof, there are no Causes of Action to which Seller is a party pending, or, to the Knowledge of Seller, threatened (a) to restrain or prevent the transactions contemplated by this Agreement, or (b) otherwise affecting the Purchased Assets. Except as set forth on Schedule 3.06, Seller is not a party to any outstanding Order relating to the Business.

SECTION 3.07 *Title to the Purchased Assets*. Seller has good and valid title to all of the Purchased Assets, and all of the Purchased Assets are free and clear of Encumbrances (other than Permitted Encumbrances). Upon delivery to Buyer on the Closing Date of the instruments of transfer contemplated by Section 2.09, and subject to the terms of the Sale Order, Seller will thereby transfer to Buyer, all of Seller's right, title and interest in and to the Purchased Assets free and clear of all Encumbrances (other than Permitted Encumbrances).

SECTION 3.08 *Intellectual Property*.

(a) Seller exclusively owns all right, title and interest in and to the Intellectual Property that constitute Purchased Assets (the "**Purchased Intellectual Property**"). To the Knowledge of Seller, Seller is listed in the applicable records of the appropriate federal, state, or foreign agency or registry as the sole owner of record for any registered Purchased Intellectual Property. The Purchased Intellectual Property constitutes all of the Intellectual Property owned by Seller and its Affiliates that is exclusively used in the Business. Other than as set forth on Schedule 3.08(a), to the Knowledge of Seller, no third party Intellectual Property is material to the Business as currently conducted.

(b) Trademarks:

(i) Schedule 2.01(a) contains a complete and accurate list of all registered and applied for Trademarks, including for each the applicable trademark or service mark, application number, filing date, trademark registration number and registration date, as applicable, owned by Seller and its Affiliates that is exclusively used in the Business.

(ii) To the Knowledge of Seller, all of the registered Trademarks are subsisting and in full force and effect. To the Knowledge of Seller, all necessary maintenance and renewal documentation and fees in connection with the registered Trademarks have been

timely filed with the appropriate authorities and paid, except as would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

(iii) There are no pending or, to the Knowledge of Seller, threatened oppositions, invalidation or cancellation proceedings or Causes of Action involving the Trademarks.

(c) To the Knowledge of Seller, all registered or issued Purchased Intellectual Property is valid and enforceable, and all the filing, examination, issuance, post-registration, maintenance, renewal, and other fees that have become due prior to the Closing Date have been paid, in each case except as would not be material to the Business, taken as a whole.

(d) To the Knowledge of Seller, no third party is infringing, misappropriating, or otherwise violating any Purchased Intellectual Property.

(e) To the Knowledge of Seller, neither the Intellectual Property included in the Purchased Assets, nor the conduct or operation of the Business, infringes, misappropriates or otherwise violates any Intellectual Property rights of any third party. There is no pending dispute, including any pending claim or, to the Knowledge of Seller, threatened claim, with respect to the Purchased Intellectual Property challenging the ownership, use, validity or enforceability of any such Intellectual Property.

(f) Schedule 3.08(f) contains a listing of all Contracts to which Seller is a party and pursuant to which any third party is granted a right to use any Purchased Intellectual Property, other than non-exclusive licenses entered into by Seller in the ordinary course of business. Schedule 3.08(f) also contains a listing of all executory Contracts to which Seller is a party covering the settlement of any claims related to the Purchased Intellectual Property (such as a co-existence agreement). To the Knowledge of Seller, the Contracts listed on Schedule 3.08(f) remain valid and binding on Seller and, to the Knowledge of Seller, the other parties thereto and/or any successor or assignees. Except in connection with the Chapter 11 Cases or as listed on Schedule 3.08(f), there is no pending dispute, including any claim or, to the Knowledge of Seller, threatened claim indicating that Seller or any other party thereto is in material breach or default of any terms or conditions of such Contracts.

SECTION 3.09 *Taxes.*

(a) There are no Encumbrances on any of the Purchased Assets that arose in connection with any failure (or alleged failure) of Seller to pay any Tax, other than Encumbrances for Taxes not yet due and payable.

SECTION 3.10 *Assumed Contracts.* Schedule 2.05(a) sets forth a complete list, as of the date hereof, of each Assumed Contract and the Cure Costs with respect thereto. Except as set forth on Schedule 3.10, Seller has not assigned, delegated or otherwise transferred to any third party any of its rights or obligations with respect to any such Contract. Each Assumed Contract is in full force and effect and is a valid and binding obligation of Seller in accordance with its terms and conditions, in each case except as such enforceability may be limited by the Bankruptcy and Equity Exception. Upon entry of the Sale Order and Buyer's payment of the Cure Costs, (a) Seller will not be in breach or default of its obligations under any Assumed Contract, (b) no condition exists that (either with or without notice or lapse of time or both) would constitute a default by Seller under any

Assumed Contract and (c) to the Knowledge of Seller, no other party to any Assumed Contract is in breach or default thereunder. The Cure Cost amounts calculated by Seller with respect to each of the Assumed Contract and set forth on Schedule 2.05(a) are, to the Knowledge of Seller, true and correct.

SECTION 3.11 *No Other Representations or Warranties.* Buyer acknowledges that, except for the representations and warranties expressly set forth in this Article 3, neither Seller nor any other Person or representative acting on behalf of Seller or otherwise makes any express or implied representation or warranty with respect to Seller or with respect to any information provided by or on behalf of Seller to Buyer.

ARTICLE 4

REPRESENTATIONS AND WARRANTIES OF BUYER

Buyer represents and warrants to Seller as of the date of this Agreement as follows:

SECTION 4.01 *Corporate Existence and Power.* Buyer is a limited liability company duly formed, validly existing and in good standing under the laws of the State of New York and has all power and authority to carry on its business as presently conducted.

SECTION 4.02 *Corporate Authorization.* The execution, delivery and performance by Buyer of this Agreement and all other Transaction Documents to which Buyer is or will be a party and the consummation of the transactions contemplated hereby and thereby are within the corporate powers of Buyer and have been duly authorized by all necessary corporate action on the part of Buyer.

SECTION 4.03 *Execution and Delivery; Enforceability.* This Agreement and all other Transaction Documents to which Buyer is or will be a party have been duly and validly executed and delivered by Buyer, and constitute the valid and binding obligation of Buyer, enforceable against Buyer in accordance with its terms subject to the Bankruptcy and Equity Exception.

SECTION 4.04 *No Conflicts.* The execution, delivery and performance by Buyer of this Agreement and the other Transaction Documents to which it is or will be a party and the consummation by Buyer of the transactions contemplated hereby and thereby do not and will not (a) conflict with or violate any of the organizational documents of Buyer; (b) conflict with or violate any Law applicable to Buyer; (c) result in any breach of, constitute a default (or an event that, with notice or lapse of time or both, would become a default) under or require any consent of any Person pursuant to, any note, bond, mortgage, indenture, agreement, lease, license, permit, franchise, instrument, obligation or other contract to which Buyer is a party; or (d) require any consent or approval of, registration or filing with, or notice to any Governmental Authority, except for such consents or approvals that would not, individually or in the aggregate, reasonably be expected to have a materially adverse effect on Buyer's ability to consummate the transactions contemplated by this Agreement.

SECTION 4.05 *Availability of Funds; Solvency.* Buyer has and will have through the Closing unrestricted cash in immediately available funds sufficient to pay all of the Closing Cash Consideration and any other costs, fees and expenses which may be required to be paid by or on

behalf of Buyer under this Agreement and the other Transaction Documents. Notwithstanding anything to the contrary contained herein, Buyer acknowledges and agrees that its obligations to consummate the transactions contemplated hereby are not contingent upon its ability to obtain any third party financing. As of the Closing and immediately after consummating the transactions contemplated by this Agreement and the other transactions contemplated by the Transaction Documents, Buyer and its subsidiaries (taken as a whole) will not, (a) be insolvent (either because their financial condition is such that the sum of their debts is greater than the fair value of their assets or because the present fair value of their assets will be less than the amount required to pay their Liability (calculated as the amount that would reasonably be expected to become an actual and matured Liability) on their debts as they become absolute and matured); (b) have unreasonably small capital with which to engage in their respective businesses; or (c) have incurred or plan to incur debts beyond their ability to repay such debts as they become absolute and matured.

SECTION 4.06 *Litigation.* There are no Actions to which Buyer is a party pending, or, to the knowledge of Buyer, threatened (a) to restrain or prevent the transactions contemplated by this Agreement or any other Transaction Documents, or (b) that would affect in any material respect Buyer's ability to perform its obligations under this Agreement or any other Transaction Documents or to consummate the transactions contemplated hereby or thereby.

SECTION 4.07 *Buyer's Knowledge.* As of the date hereof, Buyer is not aware of (a) any default or breach by Seller under or related to Buyer's Licenses, or (b) any infringement, misappropriation or other violation by any third party related to, or arising from, Buyer's Licenses.

SECTION 4.08 *Brokers.* No broker, finder or agent will have any claim against Seller for any fees or commissions in connection with the transactions contemplated by this Agreement or any other Transaction Document based on arrangements made by or on behalf of Buyer.

SECTION 4.09 *Condition of Purchased Assets; Representations.* **BUYER HAS CONDUCTED ITS OWN INDEPENDENT REVIEW AND ANALYSIS OF SELLER AND THE BUSINESS, INCLUDING THE OPERATIONS, ASSETS, LIABILITIES, RESULTS OF OPERATIONS, FINANCIAL CONDITION, SOFTWARE, TECHNOLOGY AND PROSPECTS OF SELLER AND ITS BUSINESS, AND ACKNOWLEDGES THAT IT HAS BEEN PROVIDED ACCESS TO THE PERSONNEL, PROPERTIES, PREMISES AND RECORDS OF SELLER FOR SUCH PURPOSE. IN ENTERING INTO THIS AGREEMENT, BUYER HAS RELIED SOLELY UPON ITS OWN INVESTIGATION AND ANALYSIS, AND SELLER'S REPRESENTATIONS AND WARRANTIES SET FORTH IN ARTICLE 3 AND: (A) ACKNOWLEDGES THAT NEITHER SELLER NOR ANY OF ITS AFFILIATES OR REPRESENTATIVES MAKES OR HAS MADE ANY REPRESENTATION OR WARRANTY, EITHER EXPRESS OR IMPLIED, AS TO THE ACCURACY OR COMPLETENESS OF ANY OF THE INFORMATION PROVIDED OR MADE AVAILABLE TO BUYER OR ITS REPRESENTATIVES (INCLUDING ANY INFORMATION PROVIDED OR MADE AVAILABLE TO BUYER IN ANY "DATA ROOM", EXCEPT AS EXPRESSLY PROVIDED IN ARTICLE 3). EXCEPT AS SPECIFICALLY SET FORTH IN ARTICLE 3, (I) SELLER MAKES NO REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, AT LAW OR IN EQUITY, IN RESPECT OF OR OTHERWISE IN ANY WAY RELATING TO SELLER OR ITS LIABILITIES OR OPERATIONS, OR ITS BUSINESS, INCLUDING WITH RESPECT**

TO VALUE, CONDITION (INCLUDING ENVIRONMENTAL CONDITION) OR PERFORMANCE OR MERCHANTABILITY, NONINFRINGEMENT OR FITNESS FOR ANY PURPOSE (BOTH GENERALLY OR FOR ANY PARTICULAR PURPOSE) AND WITH RESPECT TO FUTURE REVENUE, PROFITABILITY OR THE SUCCESS OF SELLER AND ITS BUSINESS AND (II) ANY SUCH OTHER REPRESENTATIONS OR WARRANTIES ARE HEREBY EXPRESSLY DISCLAIMED. BUYER ACKNOWLEDGES THAT, SHOULD THE CLOSING OCCUR, BUYER SHALL ACQUIRE THE PURCHASED ASSETS, THE ASSUMED LIABILITIES AND THE BUSINESS WITHOUT ANY WARRANTY AS TO MERCHANTABILITY OR FITNESS THEREOF FOR ANY PARTICULAR PURPOSE, IN AN “AS IS” CONDITION AND ON A “WHERE IS” BASIS.

ARTICLE 5

COVENANTS OF SELLER

SECTION 5.01 *Conduct of the Business.*

(a) Except (t) as may be reasonably advisable to carry out any of the transactions contemplated by the Transaction Documents or as set forth on Schedule 5.01, (u) as may be reasonably advisable to satisfy the cure requirements of any of the Assumed Contracts (in consultation with Buyer), (v) as consented to by Buyer (which consent shall not be unreasonably withheld, conditioned or delayed), (w) as expressly permitted pursuant to the Bid Procedures Motion, Bid Procedures Order, and Bid Procedures or this Agreement, (x) as required or approved by the Bankruptcy Code or any Orders entered by the Bankruptcy Court in the Chapter 11 Cases, including, without limitation, any debtor-in-possession financing order or any order permitting the use of cash collateral, (y) as otherwise reasonably necessary to comply with applicable Law, or (z) for any actions taken in good faith as reasonably necessary to respond to COVID-19, from the date hereof until the Closing Date, Seller shall use commercially reasonable efforts to conduct the Business in the ordinary course of business. In addition, except as otherwise contemplated by the immediately precedent sentence, without the prior written consent of Buyer (which consent shall not be unreasonably withheld, conditioned or delayed), Seller shall not:

(i) other than in the ordinary course of business, sell, lease, license on an exclusive basis or otherwise encumber or dispose of any Purchased Assets;

(ii) make any modification, amendment, or extension to, or terminate or reject, or grant or agree to any renewal of, any Assumed Contract;

(iii) cancel, abandon, or allow to lapse or expire any Purchased Intellectual Property, other than in response to expiration following the applicable statutory period for protection of registered Intellectual Property in the ordinary course of business, provided that Seller shall take all commercially reasonable steps, such as payment of fees, to prevent such cancellation, abandonment or allowance to lapse or expire;

(iv) waive, cancel, compromise or release any accounts receivable or other payables, or release any rights or claims of value, in each case, relating to or arising under the Assumed Contracts that is in excess of \$10,000;

(v) take any action to waive or compromise any material Claims which are included in the Purchased Assets; or

(vi) agree or commit to do any of the foregoing.

SECTION 5.02 *Access to Information.*

(a) From the date of the execution of this Agreement until the Closing Date, Seller will use commercially reasonable efforts, subject to the terms of the Confidentiality Agreements, (i) to give, on reasonable prior written notice and during normal business hours, Buyer, its counsel, and financial advisors, reasonable access to the offices, properties, books and records of such Seller relating (and solely to the extent relating) to the Purchased Assets and (ii) to furnish to Buyer, its counsel, financial advisors, auditors and other authorized representatives such financial and operating data and other information relating (and solely to the extent relating) to the Purchased Assets as such Persons may reasonably request. Buyer agrees that any investigation undertaken pursuant to the access granted under this Section 5.02(a) shall be conducted in such a manner as not to unreasonably interfere with the operation of Seller's business. Notwithstanding anything to the contrary in this Agreement, Seller shall not be required to provide access to, or otherwise furnish, any information if Seller determines, in its reasonable discretion, that (i) such access would be reasonably likely to jeopardize any attorney-client or other similar privilege, (ii) such access would contravene any applicable Laws, fiduciary duty or binding agreement entered into prior to the date of this Agreement, (iii) the information to be accessed is pertinent to any existing or potential litigation between Seller or any of their Affiliates, on the one hand, and Buyer or any of its Affiliates, on the other hand or (iv) any information, guidance or advice received by Seller and its Affiliates related to the transactions contemplated by this Agreement. Notwithstanding anything in this Section 5.02 to the contrary, Seller shall not be required to grant Buyer access to its Tax Returns for any reason.

(b) All requests for access or information by or on behalf of Buyer shall be submitted to Stifel, Nicolaus & Co. or such other person(s) as Seller may designate in writing, and none of Buyer or any of its Affiliates or representatives shall communicate with any other employees or officers of Seller without the prior written consent of Seller. For the avoidance of doubt, and notwithstanding anything contained herein to the contrary, Buyer shall not have access to personnel records of Seller relating to individual performance or evaluation records, medical histories or other information related to employees of Seller.

(c) At and following the Closing, Seller may retain copies of the books and records or any other materials included, in the Purchased Assets to the extent Seller determines, in its sole discretion, that Seller (i) should retain them to comply with applicable Law or (ii) may require such copies for Tax purposes.

SECTION 5.03 *Update of Disclosure Schedules.* Until the Closing Date, Seller may deliver any new schedules or supplement or amend the Disclosure Schedules with respect to any matter that, if existing, occurring or known as of the date hereof, would have been required to be set forth or described in the Disclosure Schedules. Any such supplement or amendment shall be deemed to modify the Disclosure Schedules for purposes of this Agreement, except to the extent that, absent such modification(s) to the Disclosure Schedules, Seller would then be in breach of the

representations, warranties, covenants or other agreements contained herein such that the condition to Closing set forth in Section 8.02(a) would not then be satisfied; provided, however, that if the matter being disclosed in such supplement or amendment relates to any of the Buyer's Licenses, and Buyer had knowledge of such matter as of the date of this Agreement, such supplement or amendment shall modify the Disclosure Schedules for all purposes of this Agreement.

SECTION 5.04 *Use of Name.* After the Closing, Seller shall not, and shall cause its Affiliates not to, use, authorize the use, register, or attempt to register the name "William Rast" as a Trademark, Domain Name, or any other form of Intellectual Property.

SECTION 5.05 *Notices of Certain Events.* Seller shall promptly (and in any event within five (5) Business Days) notify Buyer in writing (which notice shall include, to the extent reasonably practicable, any relevant details and information in Seller's possession or control) of (a) the occurrence of any change, effect, event, circumstance, occurrence or state of facts of which it is or becomes aware, which does, or which could be reasonably be expected to, cause any condition set forth in Article 8 to fail to be satisfied or which would otherwise prevent, delay or impede the Closing, (b) any written notice or other communication from any Governmental Authority (other than the Bankruptcy Court) related to or in connection with the transactions contemplated by this Agreement and (c) the receipt of any notice or other communication from any Person alleging that the consent of such Person is or may be required in connection with the transactions contemplated by this Agreement. Any required to provide notice to be provided under this Section 5.05 may be fully satisfied by providing notice to counsel to Buyer at the email address for such counsel as set forth in Section 11.01.

ARTICLE 6

COVENANTS OF BUYER

SECTION 6.01 *Confidentiality.* Buyer acknowledges and agrees that at any time prior to the Closing Date and after any termination of this Agreement, the Confidentiality Agreements shall remain in full force and effect and Buyer and its Affiliates shall remain bound thereby during such periods.

SECTION 6.02 *Notices of Certain Events.* Buyer shall promptly (and in any event within five (5) Business Days) notify Seller in writing (which notice shall include, to the extent reasonably practicable, any relevant details and information in Buyer's possession or control) of (a) the occurrence of any change, effect, event, circumstance, occurrence or state of facts of which it is or becomes aware, which does, or which could be reasonably be expected to, cause any condition set forth in Article 8 to fail to be satisfied or which would otherwise prevent, delay or impede the Closing, (b) any written notice or other communication from any Governmental Authority (other than in or related to the Bankruptcy Court) related to or in connection with the transactions contemplated by this Agreement and (c) the receipt of any notice or other communication from any Person alleging that the consent of such Person is or may be required in connection with the transactions contemplated by this Agreement. Any requirement to provide notice under this Section 6.02 may be fully satisfied by provided notice to counsel to Seller at the email address for such counsel as set forth in Section 11.01.

SECTION 6.03 *Preservation of Books and Records.* After the Closing Date, Buyer shall provide to Seller and its Affiliates and representatives (without charge to Seller other than the costs of copying, if any) reasonable access to, including the right to make copies of, all books and records included in and otherwise related to the Purchased Assets, to the extent necessary to permit Seller to determine any matter relating to their respective rights and obligations hereunder or to any period ending on or before the Closing Date (for example, for purposes of any Tax or accounting audit or any claim or litigation matter) or otherwise related to the Excluded Assets, for periods prior to the Closing and shall preserve such books and records until the latest of (a) such period as shall be consistent with Buyer's records retention policy in effect from time to time, (b) the retention period required by applicable Law, (c) the conclusion of all bankruptcy proceedings relating to the Chapter 11 Cases, including the closing of the Chapter 11 Cases and (d) in the case of books and records relating to Taxes, the expiration of the statute of limitations applicable to such Taxes. Such access shall include access to any information in electronic form to the extent reasonably available. Buyer acknowledges that Seller has the right to retain originals or copies of all of books and records included in or related to the Purchased Assets for periods prior to the Closing.

SECTION 6.04 *Insurance.* From and after the Closing, the Business, the Purchased Assets, the Assumed Liabilities, and the operations and assets and Liabilities in respect thereof, shall cease to be insured by Seller's or its Affiliates' insurance policies or by any of their self-insured programs, and neither Buyer nor its Affiliates (including their respective businesses) shall have any access, right, title or interest to or in any such insurance policies (including to all claims and rights to make claims and all rights to proceeds) to cover the business of Seller (as acquired and operated by Buyer and its Affiliates after the Closing), the Purchased Assets, the Assumed Liabilities, or the operations or assets or Liabilities in respect thereof. Prior to, on or after the Closing, Seller or its Affiliates may amend any insurance policies in the manner they deem appropriate to give effect to this Section 6.04. From and after the Closing, Buyer shall be responsible for securing all insurance it considers appropriate for the Business, the Purchased Assets, the Assumed Liabilities, and the operations and assets and Liabilities in respect thereof.

SECTION 6.05 *Communication.* On and after the date hereof and through the Closing Date, Buyer shall not (and shall not permit any of Buyer's representatives or Affiliates to) contact or communicate with the employees, licensees, customers, service providers and vendors of Seller without the prior consultation with and written approval of Seller; provided, that this Section 6.05 shall not prohibit ordinary course communications, subject to Section 6.01, that are unrelated to this Agreement or the transactions contemplated hereby.

SECTION 6.06 *Release.* Effective as of the Closing, Buyer, on its own behalf and on behalf of its direct and indirect Affiliates, hereby absolutely, irrevocably and unconditionally releases and forever discharges Seller and its direct and indirect Affiliates from, and agrees not to assert any cause of action or proceeding with respect to, any losses or Liabilities whatsoever, of any kind or nature, whether at law or in equity, which have been or could have been asserted against Seller or its Affiliates, which Buyer or its Affiliates has or ever had, which arises out of or in any way relates to events, circumstances or actions occurring, existing or taken prior to or as of the Closing Date in respect of Buyer's Licenses; provided, that the foregoing release shall not cover any losses or Liabilities arising out of or related to this Agreement or the Transaction Documents.

SECTION 6.07 *Buyer's Knowledge*. Notwithstanding anything herein to the contrary, Buyer acknowledges and agrees that, in the event that Buyer has entered into this Agreement with any knowledge by Buyer or any Affiliate of Buyer of any breach by Seller of any representation, warranty or covenant in this Agreement relating to Buyer's Licenses, Buyer shall not have any claim or recourse against Seller or any of its Affiliates with respect to such breach under this Agreement, including under Article 8 and Article 10.

ARTICLE 7

COVENANTS OF BUYER AND SELLER

SECTION 7.01 *Further Assurances*.

(a) At and after the Closing, and without further consideration therefor, Seller and Buyer shall execute and deliver such further instruments and certificates (including deeds, bills of sale, instruments of conveyance, powers of attorney, assignments, assumptions and assurances) and use commercially reasonable efforts to take, or cause to be taken, all actions, and do or cause to be done all things as may be reasonably necessary, to effectuate the purposes and intent of and consummate the transactions contemplated by this Agreement and the other Transaction Documents. Without limiting the foregoing, as reasonably requested by Buyer and at Buyer's sole cost and expense, Seller shall use commercially reasonable efforts to take all actions and execute all required paperwork as reasonably required to assign, transfer, and convey all Purchased Assets, including, but not limited to, all Purchased Intellectual Property, to Buyer as of the Closing. Subject to Section 2.05(c), to the extent that any Purchased Intellectual Property has not been assigned, transferred or otherwise conveyed to Buyer as of the Closing, at Buyer's sole cost and expense, Seller shall use its commercially reasonable efforts to execute and deliver such instruments and take such action as Seller and Buyer mutually reasonably determine is necessary to transfer, convey, and assign such assets to Buyer and to confirm Buyer's title to or interest in the Purchased Intellectual Property, to confirm Buyer's ownership over the Purchased Intellectual Property, and put Buyer in actual possession and control thereof and to assist Buyer in exercising all rights with respect thereto.

(b) The Parties agree to (and shall cause each of their respective Affiliates to) provide each other with such information and assistance as is reasonably necessary for the preparation of any Tax Returns or for the defense of any Tax claim or assessment, whether in connection with an audit or otherwise, including the furnishing or making available on a timely basis of records, personnel (as reasonably required), books of account, or other necessary materials.

SECTION 7.02 *Certain Filings*. Seller and Buyer shall use their commercially reasonable efforts to take, or cause to be taken, all actions and to do, or cause to be done, all things necessary under applicable Law to consummate and make effective the transactions contemplated by this Agreement, including furnishing all information required by applicable Law in connection with approvals of or filings with any Governmental Authority, and filing, or causing to be filed, as promptly as practicable, any required notification and report forms under other applicable competition Laws with the applicable Governmental Authority.

SECTION 7.03 *Public Announcements.* On and after the date hereof and through the Closing Date, the Parties shall consult with each other before issuing any press release or otherwise making any public statements with respect to this Agreement or the transactions contemplated hereby, and neither Party shall issue any press release or make any public statement prior to obtaining, with respect to Seller, Buyer's, and with respect to Buyer, Seller's, prior written consent (which consent, in each case, shall not be unreasonably withheld, conditioned or delayed); provided, however, that that no such prior consultation or consent shall be required for disclosure by either Party (a) to its current, former or prospective lenders and their respective representatives, provided that the recipient of such information is subject to a customary confidentiality obligation, (b) in earnings releases or earnings calls or as otherwise advised by accountants, or (c) as required by applicable Law or applicable securities exchange rules.

SECTION 7.04 *Tax Matters.*

(a) Allocation of Straddle Period Taxes.

(i) For purposes of this Agreement, in order to apportion appropriately any Taxes relating to a taxable period beginning before and ending after the day immediately prior to the Closing Date (a "**Straddle Period**"), the amount of Taxes that are allocable to the portion of the Straddle Period ending on and including the day immediately prior to the Closing Date shall be:

(A) in the case of Taxes imposed on a periodic basis with respect to the business or assets of a Seller (such as ad valorem and property Taxes) and exemptions, allowances or deductions that are calculated on an annual basis, such as depreciation, the amount of such Taxes, exemptions, allowances or deductions for the entire Straddle Period multiplied by a fraction, the numerator of which is the number of calendar days in the portion of the Straddle Period ending on and including the Closing Date, and the denominator of which is the number of calendar days in the entire Straddle Period (provided that any Tax exemption or allowance with respect to an annual period shall be pro-rated on an equal daily basis between the pre-Closing Tax period and the remainder of the Straddle Period); and

(B) in the case of all other Taxes, determined on a "closing of the books basis" as if the taxable period ended on the Closing Date.

(b) Tax Cooperation. The Parties shall furnish or cause to be furnished to each other, upon request, and at the sole cost of the requesting Party, as promptly as practicable, such information and assistance relating to the Purchased Assets as is reasonably necessary for the filing of Tax Returns and the preparation for, or the prosecution or defense of, any audit, claim, demand, proposed adjustment or deficiency relating to Taxes, and any other matter or proceeding relating to Taxes.

SECTION 7.05 *Misallocated Assets.* If, following the Closing, Buyer or its Affiliates own or hold any Excluded Asset, Buyer shall transfer, or shall cause its Affiliate to transfer such Excluded Asset as soon as practicable to Seller. If, following the Closing, Seller or any of its Affiliates owns any Purchased Asset, Seller shall transfer, or shall cause their respective Affiliates

to transfer, such Purchased Asset as soon as practicable to Buyer or an Affiliate designated by Buyer.

SECTION 7.06 *Payments from Third Parties after Closing.*

(a) The Parties acknowledge and agree that accounts receivable and other receivables arising under or pursuant to any Assumed Contract (“**Receivables**”) that relate to any period prior to the Closing Date are Excluded Assets. From and after the Closing, with respect to Receivables that relate to any period prior to the Closing Date, (i) to the extent that such Receivables are paid to and actually collected by Buyer or any of its Affiliates, Buyer shall promptly remit, or cause its Affiliates to promptly remit to Seller such payments in accordance with Section 7.06(b), and (ii) in furtherance of the foregoing, (A) Seller and its Affiliates shall be entitled to initiate or proceed with any collection efforts with respect to such pre-Closing Receivables directly from any past or present licensee.

(b) In the event that Seller receives any payment from a third party (other than Buyer or any of its Affiliates) after the Closing Date pursuant to any of the Assumed Contracts (or with respect to the operation by Buyer of the Business or any Purchased Asset after the Closing) and to the extent such payment is not made in connection with an Excluded Asset or an Excluded Liability, Seller shall forward such payment, as promptly as practicable but in any event within thirty (30) days after such receipt, to Buyer (or other entity nominated by Buyer in writing to Seller) and notify such third party to remit all future payments (in each case, to the extent such payment is in respect of any post-Closing period with respect to the Business and is not in respect of an Excluded Asset or an Excluded Liability) pursuant to the Assumed Contracts to Buyer (or such other entity). Notwithstanding anything to the contrary in this Agreement, in the event that Buyer or any of its Affiliates receives any payment from a third party after the Closing on account of, or in connection with, any Excluded Asset (which includes, for the avoidance of doubt, any Receivables of the Business with respect to any pre-Closing period), Buyer shall forward such payment, as promptly as practicable but in any event within thirty (30) days after such receipt, to Seller (or other entity nominated by Seller in writing to Buyer) and notify such third party to remit all future payments on account of or in connection with the Excluded Assets to Seller (or such other entity as Seller may designate). For the avoidance of doubt, following the Closing, any fees, payments or other amounts payable to the Seller by the Buyer in its capacity as licensee under the Buyer’s Licenses that relate to the provision of any license thereunder prior to the Closing and that remain unpaid as of the Closing shall be paid by Buyer to the Seller as promptly as practicable.

SECTION 7.07 *Bulk Transfer Laws.* The Parties intend that pursuant to section 363(f) of the Bankruptcy Code, the transfer of the Purchased Assets shall be free and clear of any security interests in the Purchased Assets, including any liens or claims arising out of the bulk transfer Laws, and the Parties shall take such steps as may be necessary or appropriate to so provide in the Sale Order. In furtherance of the foregoing, each Party hereby waives compliance by the other Parties with the “bulk sales,” “bulk transfers” or similar Laws and all other similar Laws in all applicable jurisdictions in respect of the transactions contemplated by this Agreement.

SECTION 7.08 *Bankruptcy Court Approval.*

(a) Reserved.

(b) Debtors and Buyer shall cooperate in good faith to obtain the Bankruptcy Court's entry of the Sale Order and any other Order reasonably necessary in connection with the transactions contemplated by this Agreement, including furnishing affidavits, nonconfidential financial information, or other documents or information for filing with the Bankruptcy Court and making such advisors of Debtors and Buyer and their respective Affiliates available to testify before the Bankruptcy Court for the purposes of, among other things, providing adequate assurances of performance by Buyer as required under Section 365 of the Bankruptcy Code, and demonstrating that Buyer is a "good faith" purchaser under Section 363(m) of the Bankruptcy Code. Buyer agrees that it will promptly take such actions as are reasonably requested by Seller to assist in obtaining entry of the Bid Procedures Order, the Sale Order, and any other Order reasonably necessary, consistent with the above.

(c) The Debtors shall give notice under the Bankruptcy Code and the Bankruptcy Rules of the request for the relief specified in the Bid Procedures and Sale Motion to all Persons entitled to such notice, including all Persons that have asserted Encumbrances on the Purchased Assets and all non-debtor parties to the Assumed Contracts, and other appropriate notice as required by the Bankruptcy Rules and the local rules of the Bankruptcy Court, 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 or the transactions contemplated hereby. Debtors shall be responsible for making all appropriate filings relating to this Agreement with the Bankruptcy Court.

(d) In the event the entry of the Sale Order or any other Orders of the Bankruptcy Court relating to this Agreement or the transactions contemplated hereby shall be appealed by any Person (or if any petition for certiorari or motion for reconsideration, amendment, clarification, modification, vacation, stay, rehearing or reargument shall be filed with respect to the Sale Order or other such Order), the Parties shall each use commercially reasonable efforts to defend such appeal.

(e) The Debtors and Buyer acknowledge that this Agreement and the transactions contemplated hereby are subject to (i) entry of the Sale Order and (ii) the consideration by the Debtors and Seller of higher or better competing bids (whether through any and all types of consideration, including, without limitation, cash, assumed liabilities or credit bid) in respect of a sale, reorganization, or other disposition of the Debtors or Seller, the Business or the Purchased Assets. In the event of any discrepancy between this Agreement and the Bid Procedures Order and the Sale Order, the Bid Procedures Order and the Sale Order shall govern.

(f) Notwithstanding anything to the contrary herein, from the date hereof until the transactions contemplated hereby are consummated, Buyer agrees and acknowledges that Seller, Debtors and their Affiliates, including through their representatives, are and may continue soliciting and/or responding to inquiries, proposals or offers from third parties in connection with any Alternative Transaction, including, without limitation, inquiries, proposals or offers related to the Purchased Assets, and may facilitate (and perform any and all other acts related thereto), including, without limitation, furnishing any information (subject to entering into a customary confidentiality agreement) with respect to, any effort or attempt by any Person to seek to do any of the foregoing in connection with an Alternative Transaction.

(g) The Sale Order 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, (B) the sale of the Purchased Assets to Buyer on the terms set forth herein and free and clear of all Encumbrances (other than Encumbrances included in the Assumed Liabilities and Permitted Encumbrances), and (C) the performance by Debtors of their respective obligations under this Agreement; (ii) authorize and empower Seller to assume and assign to Buyer the Assumed Contracts; (iii) find that Buyer is a “good faith” buyer within the meaning of section 363(m) of the Bankruptcy Code, find that Buyer is not a successor to any Seller, and grant Buyer the protections of section 363(m) of the Bankruptcy Code; (iv) find that Buyer shall have no Liability or responsibility for any Liability or other obligation of Seller arising under or related to the Purchased Assets other than as expressly set forth in this Agreement, including successor or vicarious Liabilities of any kind or character, including any theory of antitrust, successor, or transferee Liability, labor law, de facto merger, or substantial continuity; (v) find that Buyer has provided adequate assurance (as that term is used in section 365 of the Bankruptcy Code) of future performance in connection with the assumption of the Assumed Contracts; and (vi) find that Buyer shall have no Liability for any Excluded Liability.

(h) Debtors shall comply with the Milestones.

(i) If an Auction is conducted, and Buyer is not the Successful Bidder at the Auction but is the next highest bidder after the Successful Bidder at the Auction, Buyer shall serve as a Backup Bidder and keep its bid to consummate the transactions contemplated by this Agreement on the terms and conditions set forth in this Agreement (as the same may be improved upon in the Auction) open and irrevocable, notwithstanding any right of Buyer to otherwise terminate this Agreement pursuant to Article 10 hereof, until the earlier of (i) the Backup Bid Expiration Date (as defined in the Bid Procedures) or (ii) the first Business Day after the closing of a transaction with a Successful Bidder for the Purchased Assets that is not Buyer; provided, however, that if prior to the Backup Bid Expiration Date, a Successful Bidder for the Purchased Assets that is not Buyer fails to consummate its transaction as a result of a breach or failure to perform on the part of such Successful Bidder, or because a condition in such Successful Bidder’s purchase agreement cannot otherwise be met, and the purchase agreement with such Successful Bidder is terminated, Buyer (as the Backup Bidder) will be deemed to have the new prevailing bid, and Seller will be authorized, without further order of the Bankruptcy Court, to, and Buyer (as the Backup Bidder) shall, subject to the terms and conditions of this Agreement, consummate the transactions contemplated by this Agreement by the later of (x) ten (10) days of becoming the Successful Bidder and (ii) the Backup Bid Expiration Date, on the terms and conditions set forth in this Agreement (as the same may be improved upon in the Auction).

ARTICLE 8

CONDITIONS TO CLOSING

SECTION 8.01 *Conditions to Obligations of Buyer and Seller.* The obligations of each of Buyer and Seller to consummate the Closing are subject to the satisfaction or valid waiver at or prior to the Closing of the following conditions:

(a) no provision of any applicable Law and no judgment, injunction or Order shall then be in effect prohibiting or making illegal the consummation of the Closing; and

(b) the Bankruptcy Court shall have entered the Sale Order and the Sale Order shall be a Final Order.

SECTION 8.02 *Conditions to Obligation of Buyer.* The obligation of Buyer to consummate the Closing is subject to the satisfaction (or valid waiver) at or prior to the Closing of the following further conditions:

(a) (i) each of the representations and warranties of Seller contained in Section 3.01, Section 3.02 and Section 3.03 shall be true and correct in all respects (except for any failure to be so true and correct that is de minimis in nature) on and as of the date hereof and on and as of the Closing Date with the same effect as though such representations and warranties had been made on and as of the Closing Date (provided that representations and warranties which speak to a specified date shall speak only as of such date) and (ii) each other representation and warranty of Seller contained in Article 3 shall be true and correct on and as of the date hereof and as of Closing Date with the same effect as though such representations and warranties had been made on and as of the Closing Date (provided that representations and warranties which speak to a specified date shall speak only as of such date) except where the failure to be so true and correct (without giving effect to any limitation or qualification as to “materiality” (including the word “material”) or “Material Adverse Effect” or other similar term set forth therein) would not, individually or in the aggregate, have a Material Adverse Effect and Buyer shall have received a certificate of the Company certifying as to the matters set forth in this Section 8.02(a) signed by a duly authorized representative of the Company;

(b) the material covenants and agreements that Seller is required to perform or to comply with pursuant to this Agreement at or prior to the Closing shall have been performed and complied with in all material respects and Buyer shall have received a certificate of Seller to such effect signed by a duly authorized representative of Seller; and

(c) the closing of the transactions contemplated by that certain Amended and Restated Asset Purchase Agreement, dated as of September 23, 2021, by and between Centric Brands LLC, a Delaware limited liability company, and Joe’s Holdings LLC, a Delaware limited liability company (as amended, restated, supplemented, or otherwise modified from time to time in accordance with the terms thereof, the “JJ Asset Purchase Agreement”).

SECTION 8.03 *Conditions to Obligation of Seller.* The obligation of Seller to consummate the Closing is subject to the satisfaction (or valid waiver) at or prior to the Closing of the following further conditions:

(a) the representations and warranties of Buyer contained in Article 4 shall be true and correct on and as of the Closing Date with the same effect as though such representations and warranties had been made on and as of the Closing Date (provided that representations and warranties which speak to a specified date shall speak only as of such date) except where the failure to be so true and correct (without giving effect to any limitation or qualification as to “materiality” (including the word “material”) or similar term set forth therein) would not, individually or in the

aggregate, prevent, materially impede or delay the consummation of the Closing in accordance with its terms and Seller shall have received a certificate of Buyer to such effect signed by a duly authorized officer of Buyer; and

(b) the material covenants and agreements that Buyer is required to perform or to comply with pursuant to this Agreement at or prior to the Closing shall have been performed and complied with in all material respects and Seller shall have received a certificate of Buyer to such effect signed by a duly authorized officer of Buyer.

ARTICLE 9

SURVIVAL

SECTION 9.01 *Survival*. The Parties, intending to modify any applicable statute of limitations, agree that (a) (i) the representations and warranties in this Agreement and in any certificate delivered pursuant hereto and (ii) the covenants in this Agreement only requiring performance prior to the Closing shall, in each case, terminate and be of no further force and effect effective as of the Closing and shall not survive the Closing for any purpose, and thereafter there shall be no Liability on the part of, nor shall any claim be made by or on behalf of, any Party or any Party's Affiliates in respect thereof and (b) the covenants in this Agreement that contemplate performance at or after the Closing or expressly by their terms survive the Closing shall survive the Closing in accordance with their respective terms (the "**Surviving Post-Closing Covenants**"). Except with respect to the Surviving Post-Closing Covenants, following the Closing, no other remedy shall be asserted or sought by Buyer or Seller, and neither Seller nor Buyer shall cause its Affiliates to assert or seek any other remedy, against Seller or any of its Affiliates under any contract, misrepresentation, tort, strict liability, or statutory or regulatory Law or theory or otherwise, all such remedies being hereby knowingly and expressly waived and relinquished to the fullest extent permitted under applicable law.

ARTICLE 10

TERMINATION

SECTION 10.01 *Grounds for Termination*. This Agreement may be terminated at any time prior to the Closing:

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

(b) by either Seller or Buyer, if the Closing shall not have been consummated on or before November 30, 2021 (the "**End Date**"); provided, however, that the right to terminate this Agreement pursuant to this Section 10.01(b) shall not be available to a Party whose breach of any of its representations, warranties, covenants or agreements contained herein has been the primary cause of the failure of the Closing to occur on or before the End Date;

(c) by either Seller or Buyer, if at the end of the Auction for the Purchased Assets (if any), Buyer is not determined by the Debtors to be either the "Successful Bidder" or "Next-Highest Bidder" (each as defined in the Bid Procedures Order);

(d) by Seller, if Seller is not then in material breach of its obligations under this Agreement and Buyer breaches or fails to perform any of its representations, warranties, covenants or agreements contained in this Agreement and such breach or failure to perform (i) would prevent the satisfaction of a condition set forth in Section 8.01 or Section 8.03, (ii) cannot be, or has not been, cured within ten (10) Business Days following delivery of written notice to Buyer of such breach or failure to perform and (iii) has not been waived by Seller;

(e) by Buyer, if Buyer is not then in material breach of its obligations under this Agreement and Seller breaches or fails to perform any of its representations, warranties, covenants or agreements contained in this Agreement and such breach or failure to perform (i) would prevent the satisfaction of a condition set forth in Section 8.01 or Section 8.02, (ii) cannot be, or has not been, cured within ten (10) Business Days following delivery of written notice to the Company of such breach or failure to perform and (iii) has not been waived by Buyer;

(f) by either Seller or Buyer upon the conversion of any of Seller's Chapter 11 Cases to cases under Chapter 7 of the Bankruptcy Code, the dismissal of any of Seller's Chapter 11 Cases, or if a trustee or examiner with expanded powers to operate or manage the financial affairs of Seller is appointed;

(g) by either Seller or Buyer, if the Bankruptcy Court enters a final, non-appealable order that precludes the consummation of the transactions contemplated hereby on the terms and conditions set forth in this Agreement;

(h) by either Seller or Buyer, if any court of competent jurisdiction or other competent Governmental Authority shall have enacted or issued a Law or decree or taken any other action permanently restraining, enjoining or otherwise prohibiting the consummation of the transactions contemplated by this Agreement and such Law or decree or other action shall have become final and non-appealable; provided, however, that the right to terminate this Agreement under this Section 10.01(h) shall not be available to a Party if the failure to consummate the Closing because of such action by a Governmental Authority shall be due to the failure of such Party to have fulfilled, in any material respect, any of its obligations under this Agreement;

(i) by either Seller or Buyer, if the Bankruptcy Court enters an order approving an Alternative Transaction with one or more Persons other than Buyer;

(j) by Seller, if Seller or its board of directors (or similar governing body), based on the advice of counsel, reasonably 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 applicable law; or

(k) by Buyer, in the event of the termination of the JJ Asset Purchase Agreement (as defined above).

The Party desiring to terminate this Agreement pursuant to this Section 10.01 (other than pursuant to Section 10.01(a)) shall give written notice of such termination to the other Party in accordance with Section 11.01.

SECTION 10.02 *Effect of Termination.*

(a) If this Agreement is terminated as permitted by Section 10.01, (i) this Agreement shall become null and void and of no further force and effect, except for the provisions of Sections 2.08, 6.01, 10.03, Article 11 and this Section 10.02, which shall survive such termination of this Agreement and (ii) no Party (nor any stockholder, director, officer, employee, agent, consultant or representative of any such Party) shall thereafter have any Liability hereunder; provided, nothing in this Section 10.02 shall be deemed to release any Party from any Liability (x) for any breach of any covenants contained in this Agreement occurring prior to its termination and (y) that may otherwise be provided in, or contemplated by, the provisions of Section 2.08 or 10.02(b).

(b) If this Agreement is terminated pursuant to Section 10.01(d), the Good Faith Deposit (together with any interest accrued thereon) shall be retained by Debtors for their own account as damages, provided that, Buyer and Seller agree that, in addition to retaining the Good Faith Deposit, Debtors shall have the right to seek any additional damages and remedies (whether under this Agreement or otherwise) which may be permitted at Law or in equity following such termination. If this Agreement is terminated pursuant to any provision of Section 10.01 (other than Section 10.01(d)), Debtors shall promptly (but in any event within two (2) Business Days of such termination) return the Good Faith Deposit (together with any interest accrued thereon) to Buyer by wire transfer of immediately available funds.

SECTION 10.03 *Costs and Expenses.* Except as otherwise expressly provided in this Agreement, including as set forth in Section 10.02(b) whether or not the transactions contemplated by this Agreement are consummated, all costs and expenses incurred in connection with this Agreement shall be paid by the Party incurring such cost or expense; provided, however, that all Cure Costs shall be paid by Buyer.

ARTICLE 11

MISCELLANEOUS

SECTION 11.01 *Notices.* All notices, requests and other communications to any Party hereunder shall be in writing and shall be delivered to the addresses set forth below (or pursuant to such other address(es) as may be designated in writing by the Party to receive such notice):

if to Buyer:

JJWHP, LLC
530 Fifth Avenue
Floor 25
New York, NY 10036
Attention: Effy Zinkin, Esq.
Email: EZinkin@WHP-Global.com

with a copy, which shall not constitute notice, to:

Weil, Gotshal & Manges LLP
767 Fifth Avenue

New York, NY 10153
Attention: Matt Barr and Gavin Westerman
Email: matt.barr@weil.com and gavin.westerman@weil.com

if to Seller, to:

Sequential Brands Group, Inc.
1407 Broadway
38th Floor
New York, NY 10018
Attention: Eric Gul
Email: EGul@sbg-ny.com

with a copy, which shall not constitute notice, to:

Gibson, Dunn & Crutcher LLP
200 Park Avenue
New York, New York 10166
Attention: Joshua Brody, Lilit Voskanyan, Jason Zachary Goldstein
Email: jbrody@gibsondunn.com
lvoskanyan@gibsondunn.com
jgoldstein@gibsondunn.com

All such notices, requests and other communications shall be deemed received (a) if delivered prior to 5:00 p.m. New York time on a day which is a Business Day, then on such date of delivery if delivered personally, or, if by e-mail, upon written confirmation of delivery by e-mail (which may be electronic), and if delivered after 5:00 p.m. New York time (whether personally or by email) then on the next succeeding Business Day, (b) on the first (1st) Business Day following the date of dispatch if delivered utilizing a next-day service by a recognized next-day courier or (c) on the earlier of confirmed receipt or the fifth (5th) Business Day following the date of mailing if delivered by registered or certified mail, return receipt requested, postage prepaid.

SECTION 11.02 *Amendments and Waivers.*

(a) Any provision of this Agreement may be amended or waived if, but only if, such amendment or waiver is in writing and is signed by each of Buyer and Seller.

(b) No failure or delay by any Party in exercising any right, power or privilege hereunder shall operate as a waiver thereof nor shall any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any other right, power or privilege. The rights and remedies herein provided shall be cumulative and not exclusive of any rights or remedies provided by Law.

SECTION 11.03 *Successors and Assigns.* The provisions of this Agreement shall be binding upon and inure to the benefit of the Parties and their respective successors and assigns. Buyer, on the one hand, may not assign, delegate or otherwise transfer any of its rights or

obligations under this Agreement without the prior written consent of Seller, and Seller, on the other hand, may not assign, delegate or otherwise transfer any of their respective rights or obligations under this Agreement without the prior written consent of Buyer; provided, however, that Buyer may assign any or all of its rights and obligations under this Agreement without the prior written consent of Seller to one or Affiliates of Buyer, provided that no such assignment will relieve Buyer of its obligations hereunder. Any attempted assignment in violation of this Section 11.03 shall be null and void, *ab initio*.

SECTION 11.04 *Governing Law*. This Agreement shall be governed by and construed in accordance with the Laws of the State of Delaware, without regard to the conflicts of law rules of such State.

SECTION 11.05 *Jurisdiction*. Without limiting any Party's right to appeal any order of the Bankruptcy Court, (i) the Bankruptcy Court will retain exclusive jurisdiction to enforce the terms of this Agreement and to decide any claims or disputes which may arise or result from, or be connected with, this Agreement, any breach or default hereunder, or the transactions contemplated hereby, and (ii) any and all proceedings related to the foregoing will 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 for such purposes and will receive notices at such locations as indicated in Section 11.01; provided, however, that if the Chapter 11 Cases have been closed pursuant to Section 350 of the Bankruptcy Code, the Parties agree to unconditionally and irrevocably submit to the exclusive jurisdiction of the United States District Court for the Southern District of New York, or in the event (but only in the event) that such court does not have subject matter jurisdiction over such Action, in the Supreme Court of the State of New York, New York County, for the resolution of any such claim or dispute. The Parties hereby irrevocably waive, to the fullest extent permitted by applicable Law, any objection which they may now or hereafter have to the laying of venue of any such Action brought in such court or any defense of inconvenient forum for the maintenance of such dispute. Each of the Parties agrees that a judgment in any such dispute may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by Law. Process in any such Action may be served on any party anywhere in the world, whether within or without the jurisdiction of the Bankruptcy Court, the United States District Court for the District of New York or any state court of the State of New York. Without limiting the foregoing, each Party agrees that service of process on such Party as provided in Section 11.01 shall be deemed effective service of process on such Party.

SECTION 11.06 *WAIVER OF JURY TRIAL*. TO THE EXTENT NOT PROHIBITED BY APPLICABLE LAW THAT CANNOT BE WAIVED, EACH PARTY HEREBY WAIVES, AND COVENANTS THAT IT WILL NOT ASSERT (WHETHER AS PLAINTIFF, DEFENDANT OR OTHERWISE), ANY RIGHT TO TRIAL BY JURY IN ANY FORUM IN RESPECT OF ANY ISSUE, CLAIM, DEMAND, ACTION OR CAUSES OF ACTION ARISING IN WHOLE OR IN PART UNDER, RELATED TO, BASED ON OR IN CONNECTION WITH THIS AGREEMENT OR ANY ANCILLARY DOCUMENT OR THE SUBJECT MATTER HEREOF OR THEREOF, WHETHER NOW EXISTING OR HEREAFTER ARISING AND WHETHER SOUNDING IN TORT OR CONTRACT OR OTHERWISE. ANY PARTY HERETO MAY FILE AN ORIGINAL COUNTERPART OR A COPY OF THIS SECTION 11.06 WITH ANY COURT AS WRITTEN EVIDENCE OF THE CONSENT OF EACH SUCH PARTY TO THE WAIVER OF ITS RIGHT TO TRIAL BY JURY.

SECTION 11.07 *Counterparts; Third Party Beneficiaries.* This Agreement may be signed in any number of counterparts, each of which shall be an original, with the same effect as if the signatures thereto and hereto were upon the same instrument. This Agreement shall become effective when each Party shall have received a counterpart hereof signed by the other Party. Delivery of a .pdf version of one or more signatures to this Agreement shall be deemed adequate delivery for purposes of this Agreement. No other provision of this Agreement is intended to confer upon any Person other than the Parties any rights, benefits, Causes of Action or remedies hereunder.

SECTION 11.08 *Specific Performance.* It is understood and agreed by the Parties that money damages (even if available) would not be a sufficient remedy for any breach of this Agreement by Seller or Buyer and as a consequence thereof, Seller and Buyer shall each be entitled to seek specific performance and injunctive or other equitable relief as a remedy for any such breach or threatened breach in addition to any other remedy to which such Party may be entitled in Law or in equity, including an Order of the Bankruptcy Court or other court of competent jurisdiction requiring Buyer or Seller, as may be applicable, to comply promptly with any of their obligations hereunder. Each of the Parties agrees that it will not oppose the granting of an injunction, specific performance and other equitable relief on the basis that the other Party has an adequate remedy at Law or that any award of specific performance is not an appropriate remedy for any reason at Law or in equity. Any Party seeking an injunction or injunctions to prevent breaches of this Agreement and to enforce specifically the terms and provisions of this Agreement shall not be required to provide any bond or other security in connection with such Order.

SECTION 11.09 *Entire Agreement.* This Agreement and the other Transaction Documents (together with the Schedules and Exhibits hereto and thereto), and the Confidentiality Agreements, constitute the entire agreement between the Parties with respect to the subject matter hereof and thereof and supersede all prior agreements and understandings, both oral and written, between the Parties with respect to such subject matter. No Party to this Agreement shall be liable or bound to any other Party in any manner by any representations, warranties, covenants or agreements relating to such subject matter except as specifically set forth herein and therein. In the event an ambiguity or question of intent or interpretation arises with respect to this Agreement, the terms and provisions of the execution version of this Agreement will control and prior drafts of this Agreement and the documents referenced herein will not be considered or analyzed for any purpose (including in support of parol evidence proffered by any Person in connection with this Agreement), will be deemed not to provide any evidence as to the meaning of the provisions hereof or the intent of the Parties with respect hereto and will be deemed joint work product of the Parties.

SECTION 11.10 *No Strict Construction.* Buyer, on the one hand, and Seller, on the other hand, participated jointly in the negotiation and drafting of this Agreement, and, in the event an ambiguity or question of intent or interpretation arises, this Agreement shall be construed as jointly drafted by Buyer, on the one hand, and Seller, on the other hand, and no presumption or burden of proof shall arise favoring or disfavoring any Party by virtue of the authorship of any provision of this Agreement. Without limitation as to the foregoing, no rule of strict construction construing ambiguities against the draftsperson shall be applied against any Person with respect to this Agreement.

SECTION 11.11 *Severability.* If any term, provision, covenant or restriction of this Agreement is held by a court of competent jurisdiction or other authority to be invalid, void or

unenforceable, the remainder of the terms, provisions, covenants and restrictions of this Agreement shall remain in full force and effect and shall in no way be affected, impaired or invalidated so long as the economic or legal substance of the transactions contemplated hereby is not affected in any manner materially adverse to any Party. Upon such a determination, the Parties shall negotiate in good faith to modify this Agreement so as to effect the original intent of the Parties as closely as possible in a mutually acceptable manner in order that the transaction contemplated hereby be consummated as originally contemplated to the fullest extent possible.

SECTION 11.12 *Disclosure Schedules*. The representations and warranties of Seller set forth in this Agreement are made and given subject to the disclosures in the Disclosure Schedules. Where a reference is made only to a particular disclosed document, the full contents of the document are deemed to be disclosed. Inclusion of information in the Disclosure Schedules will not be construed as an admission that such information is material to the business, operations of condition (financial or otherwise) of Seller or their respective businesses, in whole or in part, or as an admission of Liability or obligation of Seller to any third Person. The specific disclosures set forth in the Disclosure Schedules have been organized to correspond to section references in this Agreement to which the disclosure is most likely to relate, together with appropriate cross-references when disclosure is applicable to other sections of this Agreement; provided, however, that any disclosure in any section of the Disclosure Schedules will apply to and will be deemed to be disclosed in any other section of the Disclosure Schedules, so long as the applicability of such disclosure is reasonably apparent on its face. It is understood and agreed that the specification of any dollar amount in the representations and warranties or covenants contained in this Agreement or the inclusion of any specific item in the Disclosure Schedules is not intended to imply that such amounts or higher or lower amounts, or the items so included or other items, are or are not material, and no Party or other Person shall use the fact of the setting of such amounts or the fact of the inclusion of any such item in the Disclosure Schedules in any dispute or controversy as to whether any obligation, item or matter not described in this Agreement or included in the Disclosure Schedules is or is not material for purposes of this Agreement. Nothing in this Agreement (including the Disclosure Schedules) shall be deemed an admission by either Party or any of its Affiliates, in any Causes of Action, that such Party or any such Affiliate, or any third party, is or is not in breach or violation of, or in default in, the performance or observance of any term or provisions of any Contract or Law.

[Signature Pages Follow.]

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

WILLIAM RAST LICENSING, LLC

By: *Lorraine DiSanto*
Name: Lorraine DiSanto
Title: CFO

JJWHP, LLC

By: 

Name: Yehuda Shmidman

Title: Chief Executive Officer

Exhibit 2

Assumed Contracts Exhibit

ASSUMED CONTRACTS AND CURE COSTS

License Agreements

1. Exclusive License by and between Omega Apparel Ltd. and William Rast Licensing, LLC, dated as of August 12, 2020.

Cure Costs: \$0

2. Exclusive License by and between Millennium Apparel Group LLC and William Rast Licensing, LLC dated as of September 30, 2020.

Cure Costs: \$0

3. License Agreement between William Rast Licensing, LLC (as successor in interest to One Jeanswear Group, Inc.) and The TJX Companies, Inc., dated as of November 1, 2018.

Cure Costs: \$0

4. Letter Agreement by and between The TJX Companies, Inc. and William Rast Licensing, LLC dated as of July 18, 2019.

Cure Costs: \$0

5. Exclusive License by and between Royal Individual, Inc. and William Rast Licensing, LLC dated as of August 7, 2019.

Cure Costs: \$0

6. Exclusive License by and between Bellevue Brands, Inc. and William Rast Licensing, LLC dated as of August 2018.

Cure Costs: \$0

7. Exclusive License by and between Yoki Fashion International LLC and William Rast Licensing, LLC dated as of June 12, 2019.

Cure Costs: \$0

8. Settlement Agreement by and between ASICS Corporation and William Rast Licensing, LLC dated as of September 2013.

Cure Costs: \$0

9. Letter addressed to One Jeanswear Group by Levi Strauss & Company (“Levi”), dated August 30, 2017, and letter addressed to Levi by One Jeanswear Group, dated September 5, 2017.

Cure Costs: \$0

Marketing Arrangements

10. Seller has an arrangement with Dash Hudson Inc. (“Dash Hudson”) for the provision of certain social

media-related services. Seller has already prepaid the amounts owed to Dash Hudson for the entire term, which expires on March 14, 2022. The monthly subscription fee under this arrangement is \$900 and the aggregate amount attributable to the William Rast brand and payable to Seller for the remainder of the term is between \$3500 and \$4,500.

Cure Costs: \$0

11. Seller has an arrangement with Squarespace pursuant to which Squarespace receives an annual fee of approximately \$216 to run a website.

Cure Costs: \$0