



**IT IS ORDERED as set forth below:**

**Date: August 22, 2025**

**Sage M. Sigler  
U.S. Bankruptcy Court Judge**

**UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION**

In re:

WELLMADE FLOOR COVERINGS  
INTERNATIONAL, INC., *et al.*,<sup>1</sup>

Debtors.

Chapter 11

Case No. 25-58764

(Jointly Administered)

Related to Docket No. 38

**ORDER (A) ESTABLISHING BIDDING PROCEDURES RELATING TO THE  
SALE OF THE DEBTORS' ASSETS, (B) APPROVING THE DEBTORS'  
ENTRY INTO THE STALKING HORSE PURCHASE AGREEMENT AND  
RELATED BID PROTECTIONS, (C) ESTABLISHING PROCEDURES  
RELATING TO THE ASSUMPTION AND ASSIGNMENT OF CERTAIN  
EXECUTORY CONTRACTS AND UNEXPIRED LEASES, (D) APPROVING  
FORM AND MANNER OF NOTICES RELATING THERETO,  
(E) SCHEDULING A HEARING TO CONSIDER  
THE PROPOSED SALE, AND (F) GRANTING RELATED RELIEF**

*Upon the Motion of the Debtors for Entry of Orders (I)(A) Establishing Bidding Procedures*

<sup>1</sup> The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, include: Wellmade Industries MFR. N.A LLC (1058) and Wellmade Floor Coverings International, Inc. (8425). The mailing address for the Debtors for purposes of these chapter 11 cases is: 1 Wellmade Drive, Cartersville, GA 30121.



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*Relating to the Sale of the Debtors' Assets, (B) Approving the Debtors' Entry into the Stalking Horse Purchase Agreement and Related Bid Protections, (C) Establishing Procedures Relating to the Assumption and Assignment of Certain Executory Contracts and Unexpired Leases, (D) Approving Form and Manner of Notices Relating Thereto, (E) Scheduling a Hearing to Consider the Proposed Sale, and (F) Granting Related Relief; and (II)(A) Approving the Sale of the Debtors' Assets Free and Clear of All Liens, Claims, Encumbrances, and Interests, (B) Authorizing the Assumption and Assignment of Certain Executory Contracts and Unexpired Leases, and (C) Granting Related Relief (the "Motion")*;<sup>2</sup> and the Court having jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334; and this matter being a core proceeding pursuant to 28 U.S.C. § 157(b); 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 it appearing that due and adequate notice of the Motion has been given under the circumstances; and this Court having held a hearing (the "Hearing") to consider the relief requested in the Motion; and upon the First Day Declaration, the Sale Declaration, and the record of the Hearing, this Court having determined that there is good and sufficient cause for the relief set forth in this Bidding Procedures Order; and after due deliberation thereon,

**THE COURT HEREBY FINDS THAT:**

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

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<sup>2</sup> Capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the Motion.

B. This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2). Venue in this Court is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

C. The statutory bases for the relief requested in the Motion are sections 105, 363, 365, 503, and 507 of the Bankruptcy Code, Bankruptcy Rules 2002(a)(2), 6004, 6006, 9007, and 9014, Local Rules 9013-1 and 9013-2, and the Complex Case Procedures. The legal and factual bases set forth in the Motion establish just cause for the relief granted herein. Entry of this Bidding Procedures Order is in the best interests of the Debtors and their respective estates, creditors, and all other parties in interest.

D. As reflected in the certificates of service filed on August 14, 2025 and August 15, 2025 [D.I. 61 and 62], the Motion and the notice of the Hearing was served on the Court's electronic filing system and the Notice Parties. Such notice is adequate and sufficient in light of the circumstances and nature of the relief requested in the Motion and complied with all applicable requirements of the Bankruptcy Code, the Bankruptcy Rules, the Local Rules. A reasonable and fair opportunity to object to the Motion and the relief granted in this Bidding Procedures Order has been afforded under the circumstances. Accordingly, no other or further notice of the Motion or the Hearing was or is necessary or required.

E. The Debtors have demonstrated a compelling and sound business justification for the Court to grant the relief requested in the Motion, including, without limitation: (i) approval of the bidding procedures in the form annexed hereto as **Exhibit 1** (as amended or modified, the "Bidding Procedures"); (ii) approval of the Debtors' selection of the Stalking Horse Bidder and the Stalking Horse Purchase Agreement; (iii) approval of the Assumption and Assignment Procedures set forth herein; (iv) approval of the form and manner of notice of all procedures,

protections, schedules, and agreements described in the Motion and attached thereto; (v) the scheduling of a date for the Sale Hearing; and (vi) all related relief as set forth herein. Such compelling and sound business justification, which was set forth in the Motion and on the record at the Hearing, are incorporated herein by reference and, among other things, form the basis for the findings of fact and conclusions of law set forth herein.

F. The Debtors' marketing process has been reasonably calculated to maximize value for the benefit of all stakeholders.

G. Entry into the Stalking Horse Purchase Agreement, which is attached hereto as **Exhibit 2**, with the Stalking Horse Bidder, is in the best interests of the Debtors and the Debtors' estates and creditors, and all other parties in interest, and it reflects a sound exercise of the Debtors' business judgment.<sup>3</sup> The Debtors have articulated good, sufficient, and sound business justifications and compelling circumstances for performance of obligations related to the Stalking Horse Purchase Agreement in that, among other things, the Stalking Horse Purchase Agreement, including the Bid Protections, were negotiated by the respective parties at arm's-length and in good faith, and constitutes the highest or otherwise best proposal that the Debtors have received to date and the Stalking Horse Purchase Agreement allow the Debtors to solicit the highest or otherwise best bid for the Assets through the Bidding Procedures in order to preserve and realize their optimal value.

H. The Bid Protections (which, for the avoidance of doubt, include the break-up fee and expense reimbursement) for the Stalking Horse Bidder, as approved by this Bidding Procedures Order, are fair and reasonable and provide a benefit to the Debtors' estates and

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<sup>3</sup> To the extent there are any conflicts between any specific terms of this Bidding Procedures Order and any specific terms of the applicable Stalking Horse Purchase Agreement, the terms of this Bidding Procedures Order shall govern.

stakeholders. The payment of the Bid Protections upon satisfaction of the conditions set forth in the applicable Stalking Horse Purchase Agreement, this Bidding Procedures Order, and the Bidding Procedures, are (i) an actual and necessary cost of preserving the Debtors' estates, within the meaning of sections 503(b) and 507(a) of the Bankruptcy Code, (ii) reasonably tailored to encourage, rather than hamper, the bidding for the Assets, by providing a baseline of value, increasing the likelihood of competitive bidding at the Auction, and facilitating participation of other bidders in the sale process, thereby increasing the likelihood that the Debtors will receive the best possible price and terms for the assets under the circumstances of these Chapter 11 Cases, (iii) of substantial benefit to the Debtors' estates and stakeholders and all parties in interest in these Chapter 11 Cases, (iv) fair, reasonable and appropriate, (v) a material inducement for, and condition necessary to, ensuring that the Stalking Horse Bidder will continue to pursue its proposed agreement to purchase the Assets provided for in the applicable Stalking Horse Purchase Agreement, and (vi) reasonable in relation to the Stalking Horse Bidder's efforts and to the magnitude and complexity of the Sale and to the Stalking Horse Bidder's lost opportunities resulting from the time spent pursuing such transaction. Without the Bid Protections, the Stalking Horse Bidder would be unwilling to remain obligated to consummate the Sale or otherwise be bound under the applicable Stalking Horse Purchase Agreement (including the obligation to maintain its committed offer while such offer is subject to higher or better offers, as contemplated by the Bidding Procedures).

I. The Stalking Horse Bidder is a third-party purchaser and is unrelated to any of the Debtors or their respective insiders. Neither the Stalking Horse Bidder, nor any of its respective affiliates, subsidiaries, officers, directors, members, partners, or principals, or any of its respective representatives, successors, or assigns, is an "insider" of any of the Debtors as that term is defined

in section 101(31) of the Bankruptcy Code. Each of the Stalking Horse Bidder and its counsel and advisors have acted in good faith within the meaning of section 363(m) of the Bankruptcy Code in connection with the Stalking Horse Bidder's negotiation of the Stalking Horse Purchase Agreement, including the Bid Protections set forth therein, and the Bidding Procedures.

J. The Bidding Procedures, in the form attached hereto and incorporated herein by reference as if fully set forth in this Bidding Procedures Order, are fair, reasonable, and appropriate and represent the best method for maximizing the value of the Debtors' estates.

K. The Bidding Procedures were negotiated by the Debtors and the Stalking Horse Bidder at arm's length and in good faith, and were a material inducement to, and express condition of, the willingness of the Stalking Horse Bidder to execute the Stalking Horse Purchase Agreement and submit their bids that will serve as a minimum or floor bid on which the Debtors, their creditors, suppliers, vendors, and other bidders may rely.

L. The Auction and Sale Notice, substantially in the form attached hereto as **Exhibit 3** (the "Auction and Sale Notice"), is appropriate and reasonably calculated to provide all interested parties with timely and proper notice of the sale of the Assets, including, without limitation: (i) the date, time, and place of the Auction (if one is held); (ii) the Bidding Procedures; (iii) the deadline for filing objections to the Sale and entry of the Sale Order, and the date, time, and place of the Sale Hearing; (iv) reasonably specific identification of the Assets to be sold and liabilities to be assumed; (v) instructions for promptly obtaining copies of the Stalking Horse Purchase Agreement; (vi) a description of the Sale as being free and clear of liens, claims, encumbrances, and interests (collectively, the "Interests")—except as expressly set forth in the Sale Order and the Stalking Horse Purchase Agreement—with all such Interests attaching with the same validity and priority to the Sale proceeds; and (vii) notice of the proposed assumption and assignment of

Assumed Contracts to the Stalking Horse Bidder pursuant to the Stalking Horse Purchase Agreement (or to another Successful Bidder), and no other or further notice of the Bidding Procedures, the Auction, the Sale or other information contained in the Auction and Sale Notice shall be required.

M. The Notice of Potential Assumption and Assignment, substantially in the form attached hereto as **Exhibit 4**, is appropriate and reasonably calculated to provide counterparties to the Debtors' Assumed Contracts (as defined below) with timely and proper notice of the potential/intended assumption and assignment of their executory contracts or unexpired leases, any cure costs relating thereto, and the Assumption and Assignment Procedures, and no other or further notice is required.

N. The Notice of Successful Bidder, substantially in the form attached hereto as **Exhibit 5** (the "Notice of Successful Bidder"), is reasonably calculated to provide interested parties with timely and proper notice of any proposed Sale with respect to the Assets, including, without limitation, (i) the Successful Bidder of the Assets, (ii) the Back-Up Bidder, if applicable, (iii) the key terms of the proposed Sale, (iv) the Sale Objection Deadline, and (v) the date, time and place of the Sale Hearing.

**IT IS HEREBY ORDERED THAT:**

1. The Motion is GRANTED as provided herein.<sup>4</sup>
2. All objections to the relief requested in the Motion that have not been withdrawn, waived, or settled as announced to the Court at the hearing on the Motion or by stipulation filed with the Court, are overruled.

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<sup>4</sup> Notwithstanding anything to the contrary herein, the consummation of the Sale is subject to entry of the Sale Order.

3. The record establishes that the Debtors' prior actions in connection with the marketing process as it relates to the Assets were appropriate and reasonably calculated to lead to the highest or otherwise best offer for the Sale.

**I. STALKING HORSE BIDDER, STALKING HORSE PURCHASE AGREEMENT, AND BID PROTECTIONS**

4. The Debtors are authorized to enter into the Stalking Horse Purchase Agreement, subject to higher or otherwise better offers received from Qualified Bidders at the Auction.

5. The Debtors are authorized, but not directed, to perform any obligations of the Debtors set forth in the Stalking Horse Purchase Agreement that are intended to be performed prior to the Sale Hearing or entry of the Sale Order.

6. The Debtors are hereby authorized and directed to pay, or cause to be paid, the Break-Up Fee and Expense Reimbursement to the Stalking Horse Bidder in accordance with the terms of the Stalking Horse Purchase Agreement and the Bidding Procedures, without further order of this Court. The dollar amounts of the Break-Up Fee and Expense Reimbursement set forth in the Stalking Horse Purchase Agreement are hereby approved. The Stalking Horse Bidder shall be entitled to receive Bid Protections in accordance with the terms and conditions of the Stalking Horse Purchase Agreement. Any requirement that a Stalking Horse Bidder file a proof of claim for, or otherwise request allowance of, its Bid Protections is hereby waived. The Debtors' obligation to pay the Bid Protections shall survive termination of the Stalking Horse Purchase Agreement, dismissal or conversion of any of the Chapter 11 Cases, and confirmation of any plan of reorganization or liquidation.

7. The Debtors are authorized to pay or otherwise satisfy the Bid Protections, if and as earned pursuant to the terms and limitations of the applicable Stalking Horse Purchase Agreement. To the extent payable subject to such terms and limitations, the Prepetition Lender



acknowledges and agrees that the Bid Protections shall be paid from the proceeds of the applicable Alternative Transaction (as defined in the applicable Stalking Horse Purchase Agreement) with a party other than the applicable Stalking Horse Bidder, and without need of further order or application to the Bankruptcy Court.

8. The Bid Protections for the Stalking Horse Bidder (i) are approved in their entirety, (ii) shall constitute allowed superpriority administrative expense claim(s) arising in the Chapter 11 Cases under sections 105(a), 364, 503(b), 507(a)(2), and 507(b) of the Bankruptcy Code, (iii) shall, to the extent applicable, be paid only out of the proceeds of any alternative transaction giving rise to such Bid Protections pursuant to the Stalking Horse Purchase Agreement promptly upon closing, and (iv) shall be conveyed to the Stalking Horse Bidder free and clear of all Interests. The automatic stay provided by section 362 of the Bankruptcy Code shall be automatically lifted and/or vacated to permit any Stalking Horse Purchase Agreement, without further action or order of the Court.

9. The Stalking Horse Bidder is deemed to be a Qualified Bidder for all purposes, and the Stalking Horse Purchase Agreement is deemed to be a Qualified Bid. In the event that no other Qualified Bids are submitted, the Debtors shall, in accordance with the provisions of this Order, promptly deem the Stalking Horse Bidder to be the Successful Bidder for the Assets that are the subject of the Stalking Horse Purchase Agreement.

## **II. THE BIDDING PROCEDURES**

10. The Bidding Procedures are approved in their entirety. The Debtors are authorized to proceed with the Sale in accordance with the Bidding Procedures and are authorized to take any and all actions reasonably necessary or appropriate to implement the Bidding Procedures, in accordance therewith, the Stalking Horse Purchase Agreement, and the timeline below. The failure to specifically include or reference a particular provision of any Stalking Horse Purchase

Agreement or the Bidding Procedures in this Bidding Procedures Order shall not diminish or impair the effectiveness of such provision.

11. The following dates and deadlines regarding the Sale are hereby established, subject to (a) extension of such dates and deadlines upon agreement of the Debtors, Committee, and Stalking Horse Bidder or by order of the Court for cause shown or (b) the right of Debtors to modify the following dates pursuant to this Bidding Procedures Order, the Bidding Procedures, and the Stalking Horse Purchase Agreement, and upon proper notice to parties in interest; *provided that* the Stalking Horse Bidder shall retain all of its contractual rights under the Stalking Horse Purchase Agreement with respect to any extension of the deadlines:

Event	Date
Sale Objection Deadline	September 19, 2025 at 4:00 p.m. (ET)
Bid Deadline	September 19, 2025 at 4:00 p.m. (ET)
Auction	September 23, 2025 at 10:00 a.m. (ET)
Notice of Successful Bidder and Backup Bidder	September 24, 2025
Post-Auction Objection Deadline	September 25, 2025 at 4:00 p.m. (ET)
Sale Hearing	September 29, 2025 at 10:00 a.m. (ET)

12. The process and requirements associated with submitting a Qualified Bid and selecting a Successful Bid are approved as fair, reasonable, appropriate, and designed to maximize recoveries for the benefit of the Debtors' estates, creditors, and other parties in interest.

13. The Bidding Procedures shall govern the submission, receipt, and analysis of all bids, and any party desiring to submit a higher or otherwise better offer must do so strictly in accordance with the terms of the Bidding Procedures and this Bidding Procedures Order.

14. Each bidder participating at an Auction (if any) must be a Qualified Bidder and shall be required to confirm that it has not engaged in any collusion with respect to the bidding or the Sale, as set forth in the Bidding Procedures and an Auction (if any) shall be transcribed or recorded.

15. As further described in the Bidding Procedures, the Bid Deadline shall be 4:00 p.m. (prevailing Eastern Time) on September 19, 2025. Any disputes or objections to the selection of Qualified Bids, Successful Bids, or Backup Bids shall be resolved by this Court at the Sale Hearing as set forth herein.

16. The Stalking Horse Bidder is deemed a Qualified Bidder, and the bid of the Stalking Horse Bidder, as set forth in the Stalking Horse Purchase Agreement, is deemed a Qualified Bid for all purposes in connection with the bidding process, the Auction, and the Sale.

17. The Debtors are authorized to conduct the Auction if they receive one or more Qualified Bids in addition to the Stalking Horse Purchase Agreement in accordance with the Bidding Procedures. The Auction, to the extent that an Auction is necessary under the Bidding Procedures, shall take place at 10:00 a.m. (prevailing Eastern Time) on September 23, 2025 at the offices of Greenberg Traurig, LLP, Terminus 200, 3333 Piedmont Road, NE, Suite 2500, Atlanta, Georgia 30305, or such other place as determined by the Debtors, and continue thereafter until

completed; provided, further, that the Consultation Parties may attend the Auction via Zoom or other similar teleconference services.

18. If no Qualifying Bid is received for Assets other than the Stalking Horse Purchase Agreement, no Auction shall be necessary and the Debtors shall cancel the Auction, provided, that the Debtors shall file a notice of cancellation of the Auction. For the avoidance of doubt, if a Qualified Bid is received for Assets subject to a Stalking Horse Purchase Agreement and not for another Stalking Horse Purchase Agreement, then the Auction may proceed for Assets that are subject to two or more competing Qualified Bids.

19. Further, in the event of a competing Qualified Bid, the Stalking Horse Bidder will be entitled, but not obligated, to submit overbids at any time prior to or at the Auction.

### **III. NOTICE PROCEDURES FOR SALE AND AUCTION**

20. The Auction and Sale Notice and Notice of Successful Bidder are approved.

21. Within two (2) business days after the entry of this Bidding Procedures Order, or as soon as reasonably practicable thereafter, the Debtors shall serve the Auction and Sale Notice by first-class mail or, for those parties who have consented to receive notice by the Electronic Case Files (“ECF”) system, by ECF upon the Notice Parties; *provided, further*, that the Debtors are authorized to serve the Auction and Sale Notice on such Notice Parties by e-mail if the Debtors do not otherwise have the Notices Parties’ physical addresses in their books and records. In addition, the Debtors will also publish the Auction and Sale Notice on the Case Website.

22. As soon as reasonably practicable after the conclusion or cancellation of the Auction, as applicable, the Debtors shall file on the docket, but not serve, the Notice of Successful Bidder.

23. The Debtors shall also cause the Sale Notice and Notice of Successful Bidder to be published once in the national edition of the *Wall Street Journal* or another publication with similar national circulation as soon as practicable following entry of the Bidding Procedures Order.

#### IV. OBJECTION DEADLINES FOR SALE AND AUCTION

24. The deadline to object to entry of an order by the Court approving the Sale (a “Sale Objection”), including, without limitation, a sale to, and objections concerning adequate assurance of future performance by, the Stalking Horse Bidder, is September 19, 2025 at 4:00 p.m. (prevailing Eastern Time) (the “Sale Objection Deadline”).

25. All Sale Objections must (a) be in writing, (b) state, with specificity, the legal and factual bases thereof, (c) comply with the Bankruptcy Code, the Bankruptcy Rules, the Local Rules, and any applicable orders of this Court, and (d) be filed with the Court and served so as to be **actually received** no later than the Sale Objection Deadline by the below-listed notice parties (collectively, the “Objection Notice Parties”):

a. proposed counsel for the Debtors, Greenberg Traurig, LLP, Terminus 200, 3333 Piedmont Road, NE, Suite 2500, Atlanta, Georgia 30305, Attn: John D. Elrod (elrodj@gtlaw.com), Ari Newman (newmanar@gtlaw.com) and Allison McGregor (Allison.McGregor@gtlaw.com);

b. the Office of the U.S. Trustee, 362 Richard B. Russell Federal Building, 75 Ted Turner Drive, S.W. Room 362, Atlanta, Georgia 30303, Attn: Lindsay P. S. Kolba, Esq. (lindsay.p.kolba@usdoj.gov);

c. counsel for the Debtors’ DIP Lender, Rountree Leitman Klein & Geer, LLC, 2987 Clairmont Rd., Ste. 350, Atlanta, Georgia 30329, Attn: Will B. Geer (wgeer@rlkglaw.com) and William A. Rountree (wrountree@rlkglaw.com);

d. counsel for the Debtors’ Prepetition Lender and Stalking Horse Bidder, King & Spalding LLP, 1180 Peachtree Street NE, Suite 1700, Atlanta, Georgia 30309, Attn: W. Austin Jowers (ajowers@kslaw.com) and Christopher K. Coleman (christopher.coleman@kslaw.com);

e. proposed counsel to the Official Committee of Unsecured Creditors appointed in these Chapter 11 Cases, Pachulski Stang Ziehl & Jones LLP, 1700 Broadway,

36<sup>th</sup> Floor, New York, New York 10019, Attn: Bradford J. Sandler, (Bsandler@pszjlaw.com), and Cia Mackle (Cmackle@pszjlaw.com); and

f. all parties that have requested notice in these Chapter 11 Cases.

26. **Any party or entity who fails to timely make a Sale Objection in accordance with the foregoing requirements on or before the Sale Objection Deadline shall be forever barred from asserting any objection to the Sale, including with respect to the transfer of the assets free and clear of all liens, claims, encumbrances, and other interests pursuant to section 363(f) of the Bankruptcy Code or otherwise, and shall be deemed to consent for the purposes of section 363(f) of the Bankruptcy Code.**

27. The deadline by which all objections to (i) the manner of and conduct at the Auction (if applicable), and/or (ii) the identity/adequate assurance information of the Successful Bidder (other than the Stalking Horse Bidder) (an “Auction Objection”) is September 25, 2025 at 4:00 p.m. (prevailing Eastern Time) (the “Post-Auction Objection Deadline”). All Auction Objections must (a) be in writing, (b) state, with specificity, the legal and factual bases thereof, (c) be filed with the Court and served so as to be **actually received** no later than the Post-Auction Objection Deadline by the Objection Notice Parties and (d) comply with the Bankruptcy Code, the Bankruptcy Rules, the Local Rules, and any applicable orders of this Court.

28. **Any party or entity who fails to timely make an Auction Objection in accordance with the foregoing requirements on or before the Post-Auction Objection Deadline shall be forever barred from asserting any such objection to the Sale, including an Auction Objection.**

## V. ASSUMPTION AND ASSIGNMENT PROCEDURES

29. The Assumption and Assignment Procedures, which are set forth below, regarding the assumption and assignment of the executory contracts and unexpired leases proposed to be

assumed by the Debtors pursuant to section 365(b) of the Bankruptcy Code and assigned to the Stalking Horse Bidder (or the Successful Bidder, following the Auction, if any) pursuant to section 365(f) of the Bankruptcy Code and in accordance with the applicable Stalking Horse Purchase Agreement (or other Final Purchase Agreement), are hereby approved to the extent set forth herein.

a. Assumed Contracts List.

i. As soon as practicable following entry of this Bidding Procedures Order, the Debtors shall file with the Court, the Notice of Potential Assumption and Assignment and, included therewith, a list (the “Assumed Contracts List”) that specifies:

- (1) each of the Debtors’ executory contracts and unexpired leases that may be assumed and assigned in connection with the Sale (the “Assumed Contracts”), including the name of each non-Debtor counterparty to such Assumed Contract (the “Assumed Contract Counterparty”); and
- (2) the proposed amount necessary to cure all defaults, if any, under the Assumed Contract (the “Cure Costs”).

ii. The Debtors shall serve, via first class mail, the Notice of Potential Assumption and Assignment and the Assumed Contracts List on all Assumed Contract Counterparties and on the parties that requested notice pursuant to Bankruptcy Rule 2002. Service as set forth herein shall be deemed proper, due, timely, good, and sufficient notice and no other or further notice is necessary.

b. Assumed Contract Objection.

i. An Assumed Contract Counterparty listed on the Assumed Contracts List attached to the Notice of Potential Assumption and Assignment may file an objection (an “Assumed Contract Objection”) to the proposed assumption and assignment of the applicable Assumed Contract; the proposed Cure Costs, if any; and/or adequate assurance of future performance by the Stalking Horse Bidder.

ii. All Assumed Contract Objections must (a) state, with specificity, the legal and factual basis for the objection and, if applicable, what Cure Costs are required, (b) include appropriate documentation in support thereof, and (c) be filed with the Court and served so as to be **actually received** by the Objection Notice Parties no later than September 19, 2025 at 4:00 p.m. (prevailing Eastern Time).

iii. If an Assumed Contract Counterparty timely files and serves an Assumed Contract Objection (or files an Auction Objection regarding the adequate

assurance information of a Successful Bidder other than Stalking Horse Bidder by the Post-Auction Objection Deadline), in each case in a manner that is consistent with the requirements set forth above, and the parties are unable to consensually resolve the dispute prior to the Sale Hearing, such objection will be determined at the Sale Hearing, such later hearing date that the Debtors determine in their discretion, or such other date determined by this Court.

iv. A timely and properly filed Assumed Contract Objection or Auction Objection (if applicable) will reserve such objecting Assumed Contract Counterparty's rights against the Debtors only with respect to (a) the assumption or assumption and assignment of the Assumed Contract at issue, to the extent objected to, (b) the Cure Costs, to the extent objected to, and/or (c) adequate assurance of future performance by the Stalking Horse Bidder (if filed by the Sale Objection Deadline) or other Successful Bidder (if filed by the Post-Auction Objection Deadline), to the extent objected to, but will not constitute an objection to the remaining relief requested in the Motion, including, without limitation, the Sale and the Auction.

c. Supplemental Assumed Contracts; Supplemental Assumed Contract Objection Deadline.

i. If, (a) prior to the closing date of the Sale, the Debtors (x) discover Assumed Contracts inadvertently omitted from the Assumed Contracts List or (y) elect to modify the previously stated Cure Costs associated with an Assumed Contract, the Debtors will promptly serve a supplemental notice of potential assumption and assignment by electronic transmission, hand delivery, or overnight mail on the Assumed Contract Counterparty to each impacted Assumed Contract, and its attorney, if known, at the last known address available to the Debtors (each, a "Supplemental Assumed Contract Counterparty"), substantially in the form of the Notice of Potential Assumption and Assignment (a "Supplemental Notice of Potential Assumption and Assignment").

ii. Each Supplemental Notice of Potential Assumption and Assignment will include the same information with respect to listed Assumed Contracts as was included in the Notice of Potential Assumption and Assignment and/or the modified Cure Costs.

iii. Any Supplemental Assumed Contract Counterparty may file an objection (a "Supplemental Assumed Contract Objection") to, as applicable, the proposed assumption and assignment of such Assumed Contract, the proposed Cure Costs (if any), and/or adequate assurance of future performance by the applicable Stalking Horse Bidder or other Successful Bidder; or the modified Cure Costs.

iv. All Supplemental Assumed Contract Objections must: (a) state, with specificity, the legal and factual basis for the objection and, if applicable, what Cure Costs are required; (b) include appropriate documentation in support of the objection; and (c) be filed and served so as to be **actually received** by the Objection



Notice Parties no later than ten (10) days from the date of service of such Supplemental Notice of Potential Assumption and Assignment, which date will be set forth in the Supplemental Notice of Potential Assumption and Assignment.

v. If a Supplemental Assumed Contract Counterparty files a Supplemental Assumed Contract Objection in a manner that is consistent with the requirements set forth above, and the parties are unable to consensually resolve the dispute, the Debtors will seek an expedited hearing before the Court, and such dispute will be resolved at such expedited hearing or, in the Debtors' discretion, adjourned to a later hearing. If there is no such objection, then such Assumed Contract shall be deemed assumed and assigned pursuant to the Sale Order, without further order of the Court.

d. Failure to Timely File Objection. If an Assumed Contract Counterparty does not timely file and serve an Assumed Contract Objection or an Auction Objection (if applicable), or if a Supplemental Assumed Contract Counterparty does not timely file and serve a Supplemental Assumed Contract Objection, in each case in a manner that is consistent with the requirements set forth above, and absent a subsequent order of the Court in connection with such objection, (a) the Cure Costs, if any, set forth on the Assumed Contract List attached to the Notice of Potential Assumption and Assignment (or Supplemental Notice of Potential Assumption and Assignment) shall be controlling, notwithstanding anything to the contrary in any Assumed Contract or any other document, and (b) the Assumed Contract Counterparty or Supplemental Assumed Contract Counterparty, as applicable, will be deemed to have consented to the assumption and assignment of the Assumed Contract, that adequate assurance of future performance has been provided, and to the Cure Costs, if any, and will be forever barred, estopped, and enjoined from asserting any other claims related to such Assumed Contract against the Debtors or the Successful Bidder, or the property of any of them.

30. The inclusion of an Assumed Contract on the Assumed Contract List attached to the Notice of Potential Assumption and Assignment (or Supplemental Notice of Potential Assumption and Assignment), or any supplement thereto, will not: (a) obligate the Debtors to assume and assign or the Successful Bidder (including the Stalking Horse Bidder) to agree to have assigned to it any Assumed Contract listed thereon or the Successful Bidder to take assignment of such Assumed Contract; or (b) constitute any admission or agreement of the Debtors, the Stalking Horse Bidder, or any other potential Successful Bidder that such Assumed Contract is an executory contract or unexpired lease. Only those Assumed Contracts that are included on a schedule of assumed and acquired contracts attached to the final asset purchase agreement with the Successful

Bidder (including amendments or modifications to such schedules in accordance with such asset purchase agreement) will be assumed and assigned to the Successful Bidder.

## **VI. SALE HEARING**

31. A Sale Hearing to (a) approve the sale of certain of the assets to the Successful Bidder free and clear of all Interests and (b) authorize the assumption and assignment of certain executory contracts and unexpired leases shall be held on September 29, 2025 at 10:00 a.m. (prevailing Eastern Time), and may be adjourned or rescheduled without notice other than an announcement on the record at Court or by a notice to be filed and served on parties requesting notice pursuant to Bankruptcy Rule 2002 by email or first class mail.

32. The proposed form of Sale Order with the Stalking Horse Bidder will be filed with the Court at least seven (7) days before the Sale Hearing, and the proposed form of Sale Order with the Successful Bidder shall be filed no later than four (4) calendar days prior to the Sale Hearing.

33. At the Sale Hearing, the Debtors will seek Court approval of the Successful Bid and the Backup Bid. The Sale Hearing shall be an evidentiary hearing on matters relating to the Sale and there will be no further bidding at the Sale Hearing. In the event that the Successful Bidder cannot or refuses to consummate the Sale, the Debtors may, in accordance with the Bidding Procedures, designate the Backup Bid to be the new Successful Bid and the Backup Bidder to be the new Successful Bidder, and the Debtors shall be authorized to consummate the transaction with the Backup Bidder without further order of the Bankruptcy Court.

## **VII. MISCELLANEOUS**

34. The Debtors are authorized to take all actions necessary to effectuate the relief granted pursuant to this Bidding Procedures Order in accordance with the Motion.

35. This Bidding Procedures Order shall constitute the findings of fact and conclusions of law and shall take immediate effect upon entry hereof and enforceable immediately upon its entry.

36. To the extent any of the deadlines set forth in this Bidding Procedures Order do not comply with the Local Rules, such Local Rules are waived and the terms of this Bidding Procedures Order shall govern.

37. Notwithstanding the possible applicability of Bankruptcy Rules 6004(h), 6006(d), 7062, 9014, or otherwise, this Court, for good cause shown, orders that the terms and conditions of this Bidding Procedures Order shall be immediately effective and enforceable upon its entry.

38. This Court shall retain jurisdiction with respect to all matters arising from or related to the implementation or interpretation of this Bidding Procedures Order, including, but not limited to, any matter, claim, or dispute arising from or relating to the Bidding Procedures, the Stalking Horse Purchase Agreement, and the implementation of this Bidding Procedures Order.

END OF DOCUMENT

*Prepared and presented by:*

**GREENBERG TRAURIG, LLP**

/s/ John D. Elrod

John D. Elrod (Ga. Bar. No. 246604)

Allison J. McGregor (Ga. Bar. No. 860865)

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*Proposed Counsel for the Debtors and Debtors in Possession*

**Exhibit 1**

Bidding Procedures

**UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION**

In re:

WELLMADE FLOOR COVERINGS  
INTERNATIONAL, INC., *et al.*,<sup>1</sup>

Debtors.

Chapter 11

Case No. 25-58764

(Jointly Administered)

**BIDDING PROCEDURES**

On August [●], 2025 the United States Bankruptcy Court for the Northern District of Georgia (the “Court”) **entered** the *Order (A) Establishing Bidding Procedures Relating to the Sale of the Debtors’ Assets, (B) Approving the Debtors’ Entry into the Stalking Horse Purchase Agreement and Related Bid Protections, (C) Establishing Procedures Relating to the Assumption and Assignment of Certain Executory Contracts and Unexpired Leases, (D) Approving Form and Manner of Notices Relating Thereto, (E) Scheduling a Hearing to Consider the Proposed Sale, and (F) Granting Related Relief* [D.I. [●]] (the “Bidding Procedures Order”).<sup>2</sup>

These Bidding Procedures set forth the process by which the Debtors are authorized to conduct one or more sales or dispositions (collectively, the “Sale”) of the Assets (as defined below) or subgroups thereof, culminating in an auction (the “Auction”) if competing Qualified Bids (as defined below) are received as further described herein.

Pursuant to the Bidding Procedures Order, the Court authorized the Debtors’ entry into the asset purchase agreement (the “Stalking Horse Purchase Agreement”) with AHF IC, LLC (including any permitted successors, assigns, and designees, a “Stalking Horse Bidder”) <sup>3</sup> to acquire substantially all of the Debtors’ Assets. Further, the Stalking Horse Bidder has committed to (a) purchase, acquire, and take assignment and delivery of, free and clear of all liens, claims, encumbrances, and other interests (except as otherwise provided in the Stalking Horse Purchase Agreement), certain assets associated with the Debtors’ operations as set forth in the Stalking Horse Purchase Agreement, and (b) assume certain liabilities associated with the Debtors’ operations as set forth in the Stalking Horse Purchase Agreement.

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<sup>1</sup> The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, include: Wellmade Industries MFR. N.A LLC (1058) and Wellmade Floor Coverings International, Inc. (8425). The mailing address for the Debtors for purposes of these chapter 11 cases is: 1 Wellmade Drive, Cartersville, GA 30121.

<sup>2</sup> Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to such terms in the Bidding Procedures Order.

<sup>3</sup> A copy of the Stalking Horse Purchase Agreement is annexed to the Bidding Procedures Order as **Exhibit 2**.

The Sale is contemplated to be implemented pursuant to the terms and conditions of either (a) the Stalking Horse Purchase Agreement (as the same may be amended pursuant to the terms thereof), or (b) such other applicable asset purchase agreement upon the receipt of a Successful Bid (as defined herein) that the Debtors have determined in their business judgment is the highest or otherwise best bid in accordance with these Bidding Procedures.

Copies of the Motion, the Bidding Procedures Order, the Stalking Horse Purchase Agreement, and any other documents in the Debtors' Chapter 11 Cases can be obtained free of charge (i) on the case website maintained by the Debtors' claims and noticing agent, Kurtzman Carson Consultants, LLC d/b/a Verita Global, at <https://www.veritaglobal.net/wellmade>, or (ii) upon written request to counsel to the Debtors undersigned below.

The Debtors provide these Bidding Procedures for use by Potential Bidders (as defined below) and Qualified Bidders (as defined below) in submitting bids proposing a transaction to purchase or otherwise acquire all or certain of the Assets, and, as necessary, qualifying for and participating in the Auction. Potential Bidders should review the Stalking Horse Purchase Agreement to determine the Assets subject to each such agreement.

## **1. Important Dates**

- Bid Deadline: September 19, 2025 at 4:00 p.m. (prevailing Eastern Time).
- Sale Objection Deadline: September 19, 2025 at 4:00 p.m. (prevailing Eastern Time).
- Selection of Qualified Bidder: September 22, 2025 at 12:00 p.m. (prevailing Eastern Time).
- Auction: The Auction shall commence at 10:00 a.m. (prevailing Eastern Time) on September 23, 2025 at the offices of Greenberg Traurig, LLP, Terminus 200, 3333 Piedmont Road, NE, Suite 2500, Atlanta, Georgia 30305, or such other place as determined by the Debtors, and continue thereafter until completed; provided, that the Consultation Parties (as defined below) may attend the Auction via Zoom or other similar teleconference services.
- Selection of Successful Bidder and Backup Bidder (each as defined below): at the conclusion of the Auction and by no later than September 24, 2025.
- Sale Hearing: Court hearing to seek authorization to sell the Assets to the Successful Bidder: September 29, 2025 at 10:00 a.m. (prevailing Eastern Time).
- Closing Date: As soon as practicable after entry of the Sale Order, but no later than November 2, 2025.

## **2. Assets to be Sold**

The Debtors seek to sell any and all of their Assets. The Assets may be sold as a whole or in discrete lots. Potential Bidders are invited to bid on any or all of the Assets.

### **3. Qualified Bidders and Access to Data Room**

Any person or entity wishing to bid on the Assets (each a “Potential Bidder”) must execute and deliver (unless previously delivered) to the Debtors a confidentiality and non-disclosure agreement (a “Confidentiality Agreement”) in form and substance acceptable to the Debtors.

Notwithstanding anything to the contrary in the Bidding Procedures, all substantive direct communications, including any diligence requests, with Potential Bidders and Qualified Bidders (as defined below) shall be through Hilco via email to Teri Stratton (tstratton@hilcof.com) and Emily Xiao (exiao@hilcof.com).

The Debtors, in their discretion, will afford a Potential Bidder who executes and delivers a Confidentiality Agreement due diligence access or such additional information as may be reasonably requested by the Potential Bidder that the Debtors, in their business judgment, determines to be reasonable and appropriate, including, without limitation, access to the Debtors’ confidential electronic data room, reasonable access, during normal business hours, to the Debtors’ advisors and management, and access to all relevant information regarding the Assets reasonably necessary to enable a Potential Bidder to evaluate the proposed Sale; provided that any such Potential Bidder has provided evidence of its financial wherewithal and ability to consummate the Sale; provided further that the Debtors shall notify the Official Committee of Unsecured Creditors (the “Committee”) of any Potential Bidder who is denied access to due diligence access or additional information based on the Debtors’ discretion.

The Debtors shall not be obligated to furnish any due diligence information after the conclusion of the Auction other than to the Successful Bidder (as defined below) or any Backup Bidder (as defined below).

Neither the Debtors nor their counsel and advisors are responsible for, or will bear liability with respect to, any information obtained by Potential Bidders in connection with due diligence. Notwithstanding anything contained herein to the contrary, to the extent the Debtors reasonably believe that providing access to Potential Bidders to certain sensitive commercial information is not advisable, the Debtors, in their business judgment, and in consultation with the Committee, will decide what, if any, diligence information to make available to a particular Potential Bidder, and neither the Debtors nor their representatives will be obligated to furnish any information of any kind whatsoever to any party.

A “Qualified Bidder” is any Potential Bidder that (i) delivers a Confidentiality Agreement to the Debtors, (ii) demonstrates to the Debtors a reasonable certainty of the ability to close the Sale in a timely manner (including the financial capability to close the Sale and the ability to obtain the necessary governmental, licensing, regulatory, or other approvals necessary for such Sale, if any), and (iii) submits a Written Offer (as defined below) that is deemed a Qualified Bid (as defined below); provided, however, that the Debtors may waive one or more requirements for a Qualified Bidder and retain sole discretion in determining whether a Potential Bidder submits a Qualified Bid and becomes a Qualified Bidder.

As promptly as practicable after a Potential Bidder delivers a Confidentiality Agreement and submits a Written Offer, and in any event not later than 12:00 p.m. (prevailing Eastern Time)



one (1) day preceding the Auction, the Debtors shall determine, and the Debtors shall notify the Potential Bidder in writing, whether the Potential Bidder is a Qualified Bidder.

Each Potential Bidder shall comply with all reasonable requests for information and due diligence access by the Debtors or their advisors regarding the ability of such Potential Bidder, as applicable, to consummate the proposed Sale.

For the avoidance of doubt, the Stalking Horse Bidder and the Stalking Horse Purchase Agreement shall be deemed a Qualified Bidder and Qualified Bid, respectively.

#### **4. Requirements for a Qualified Bid**

In order to become a Qualified Bidder and participate in the Auction, if any, a Potential Bidder must deliver to the Debtors, with a copy to counsel to the Debtors and Hilco, a written offer (each, a “Written Offer”) that needs to qualify as a Qualified Bid. To be deemed a “Qualified Bid”, a Written Offer must meet each of the requirements listed below:

- (i) Delivery: Be delivered no later than **4:00 p.m. (prevailing Eastern Time) on September 19, 2025** (the “Bid Deadline”).
- (ii) Executed Agreement: Be accompanied by an executed and binding asset purchase agreement (together with the exhibits and schedules thereto) (the “Purchase Agreement”), which Purchase Agreement must be marked to show any proposed amendments and modifications against the Stalking Horse Purchase Agreement.
- (iii) Purchase Price; Minimum Bid. Each Written Offer must clearly set forth the purchase price to be paid (the “Purchase Price”). In addition, if the Potential Bidder seeks to acquire any Asset subject to the Stalking Horse Purchase Agreement, then the Purchase Price shall not be less than the sum of (A) the purchase price set forth in the Stalking Horse Purchase Agreement plus (B) the Bid Protections for the Stalking Horse Bidder plus (C) \$200,000.
- (iv) Assets: Clearly identify and list the Assets and liabilities that the Potential Bidder seeks to acquire, whether individually or in combination. Written Offers for a portion of the Assets will be evaluated by the Debtors.
- (v) Designation of Assumed Contracts and Adequate Assurance of Future Performance: Contain a list of any and all Assumed Contracts that are to be assumed and assigned in connection with a Sale to the extent such list is not included in the Purchase Agreement.

The Potential Bidder must also include documentation sufficient to provide adequate assurance of future performance for the benefit of the non-Debtor parties to the Assumed Contracts on the list, including, without limitation, (a) the specific name of the entity to whom the Assumed Contract will be assigned; (b) if available, audited financial statements and annual reports of

the Purchaser and any other assignee for the past three (3) years, including all supplements or amendments thereto; (c) cash flow projections for the proposed assignee, the proposed assignee's most recent business plan, all cash flow projections for the Assumed Contract(s) subject to the assignment request, and any financial projections, calculations and/or pro formas prepared in contemplation of purchasing the assets, including the leases; (d) all documents and other evidence of the proposed assignee's experience in the Debtors' industry; and (e) a contact person for the proposed assignee whom non-Debtor parties may contact directly in connection with adequate assurance of future performance.

Should the Potential Bidder be a newly formed entity (a "Newco"), written evidence of adequate assurance of future performance should also include when such Newco was formed, how it will be financed together with evidence of firm financial commitments and identify what credit enhancements will be available to guarantee the obligations under the Assumed Contracts.

Non-Debtor parties to the Assumed Contracts will have until the Post-Auction Objection Deadline to object on adequate assurance grounds (other than with respect to the Stalking Horse Bidder, which objection on adequate assurance grounds shall be due on the Sale Objection Deadline).

- (vi) As-Is, Where-Is: Each Written Offer must include a written acknowledgement and representation that the Potential Bidder: (a) has had an opportunity to conduct any and all due diligence regarding the Assets prior to submitting the Bid; (b) has relied solely upon its own independent review, investigation, and/or inspection of any documents and/or the Assets in making its Bid; and (c) did not rely upon any written or oral statements, representations, promises, warranties, or guaranties whatsoever, whether express, implied by operation of law, or otherwise, regarding the Assets or the completeness of any information provided in connection therewith or the Auction, except as expressly stated in the Purchase Agreement.
- (vii) Identification of Parties to Participate: To the Debtors' satisfaction, (a) fully disclose the identity of each entity or person that will be bidding for the Assets or otherwise participating in connection with such bid, (b) the terms of any such participation, and if an entity has been formed for the purpose of acquiring some, or all, of the Assets, the parties that will bear liability for any breach by such entity, and (c) the ability of such parties to obtain government, licensing or regulatory approval in connection with the consummation of any Sale.
- (viii) Contingencies: Not contain any conditions on (a) obtaining financing, (b) shareholder, board of directors, or other internal approval, or (c) the outcome or completion of a due diligence review by the Potential Bidder.

- (ix) Binding and Irrevocable: State that it is binding and irrevocable until (a) the closing of the Sale, if such Potential Bidder is deemed a Qualified Bidder, and such Qualified Bidder is designated as a Successful Bidder (as defined below), or (b) if such Potential Bidder is deemed a Qualified Bidder, and such Qualified Bidder is designated as a Backup Bidder (as defined below), until the earlier of (i) two (2) business days after the closing of the transaction(s) by which all of the Assets that were subject to such Backup Bid (as defined below) have been transferred to the Successful Purchaser pursuant to these Bidding Procedures and (ii) forty-five (45) days after the date of the Auction (the “Backup Bid Expiration Date”).
- (x) Proof of Financial Ability to Perform: Contain evidence of financing, access to funds or such other financial and other information that will reasonably allow the Debtors to make a determination as to such Qualified Bidder’s financial and other capabilities to consummate the transactions contemplated by the Purchase Agreement, which evidence is satisfactory to the Debtors, including, without limitation, such financial and other information setting forth adequate assurance under section 365 of the Bankruptcy Code.
- (xi) Authorization to Consummate Sale: Provide evidence of authorization and approval from the Potential Bidder’s board of directors (or comparable governing body), if any, with respect to the submission, execution, delivery and closing of the Purchase Agreement to the Debtors’ satisfaction.
- (xii) No Break-Up Fee or Expense Reimbursement: Except with respect to the Stalking Horse Purchase Agreement, no Written Offer shall request or entitle the Potential Bidder to any transaction or break-up fee, expense reimbursement, or similar type of payment. For the avoidance of doubt, no Potential Bidder will be permitted to request, nor be granted by the Debtors, at any time, whether as part of the Auction or otherwise, a break-up fee, expense reimbursement, termination fee, or any other similar form of compensation, and by submitting its Written Offer is agreeing to refrain from and waive any assertion or request for reimbursement on any basis, including, but not limited to, under section 503(b) of the Bankruptcy Code.
- (xiii) Good Faith Deposit: Provide a good faith deposit (the “Good Faith Deposit”) submitted via federal wire transfer in immediately available funds in accordance with the wire instructions to be provided by the Debtors, or such other form as is acceptable to the Debtors, in an amount equal to ten percent (10%) of the cash Purchase Price set forth in the Written Offer or such amount as may be determined by the Debtors in their sole discretion upon consultation with the Committee. To the extent a Qualified Bid is modified before, during, or after the Auction in any manner that increases the cash Purchase Price contemplated by such Qualified Bid, such Qualified Bidder shall increase its Good Faith Deposit so that it equals ten percent (10%) of the new proposed Purchase Price, provided, however, that the

Stalking Horse Bidder shall be permitted to provide its Good Faith Deposit in the form of a \$2,000,000 cash deposit and the balance of the deposit, up to ten percent (10%) of the purchase price in the Stalking Horse Purchase Agreement, in the form of forgiveness of indebtedness.

- (xiv) Closing Date: Provide for a closing date on or before November 2, 2025 (the “Closing Date”).
- (xv) Provision of Additional Information: Include a written acknowledgement by such Potential Bidder that it agrees to provide such other information as may be reasonably requested in writing by the Debtor prior to the Auction.
- (xvi) Compliance with Bankruptcy Code and Non-Bankruptcy Law. Each Written Offer must comply in all respects with the Bankruptcy Code and any applicable non-bankruptcy law.
- (xvii) Adherence to Bidding Procedures. By submitting a Written Offer, each Potential Bidder is agreeing to abide by and honor the terms of the Bidding Procedures and the Bidding Procedures Order and agrees not to submit a bid or seek to reopen the Auction after conclusion of the Auction.
- (xviii) Consent to Jurisdiction. Each Potential Bidder must submit to the jurisdiction of the Court and waive any right to a jury trial in connection with any disputes relating to Debtors’ qualification of bids, the Auction, the construction and enforcement of the Bidding Procedures, the Sale documents, and the closing of the Sale, as applicable.

Between the Bid Deadline and the Auction, the Debtors may (i) negotiate or seek clarification of any Written Offer from a Qualified Bidder, (ii) request information from the Qualified Bidder, (iii) engage in discussions with the Qualified Bidder, or (iv) take such other actions contemplated under the Bidding Procedures. Without the consent of the Debtors, a Qualified Bidder may not amend, modify, or withdraw its Written Offer. The form of Purchase Agreement will be evaluated by the Debtors and must be acceptable to the Debtors, in their business judgment and sole discretion.

Any Good Faith Deposit accompanying a Written Offer that the Debtors determine not to be a Qualified Bid after consultation with the Committee, shall be returned promptly following such determination.

## **5. Bid Deadline**

All Written Offers must be received by each of the following parties prior to the Bid Deadline: (i) the Debtors, c/o David Baker, Chief Restructuring Officer (dbaker@auroramp.com); (ii) proposed counsel to the Debtors, Greenberg Traurig, LLP, Attn: John D. Elrod (elrodj@gtlaw.com), Ari Newman (newmanar@gtlaw.com), and Allison McGregor (Allison.McGregor@gtlaw.com); and (iii) proposed investment banker to the Debtors, Hilco

Corporate Finance, Attn: Teri Stratton (tstratton@hilcofc.com), and Emily Xiao (exiao@hilcofc.com).

**6. Determination of Qualified Bidders; Baseline Bid**

The Debtors shall, by no later than 12:00 p.m. (prevailing Eastern Time) one (1) day prior to the Auction, (i) determine, in their business judgment and sole discretion, whether a Potential Bidder is a Qualified Bidder, (ii) notify each such Potential Bidder that its Written Offer is a Qualified Bid and that such Potential Bidder is a Qualified Bidder, and (iii) notify each Qualified Bidder of the highest or otherwise best Qualified Bid, as determined in the Debtors' reasonable business judgment (the "Baseline Bid"), in timely consultation with the Consultation Parties, and provide copies of the applicable Qualified Bid documents supporting the Baseline Bid to each Qualified Bidder (including the Stalking Horse Bidder). The Debtors may also waive or modify any of the above requirements in the exercise of their reasonable business judgment after consultation with the Consultation Parties.

**7. Right to Credit Bid**

Any Qualified Bidder that has a valid and perfected lien on any assets of the Debtors' estates (a "Secured Creditor"), and the right under applicable non-bankruptcy law to credit bid claims secured by such lien shall have the right to credit bid all or a portion of the value of such Secured Creditor's claims within the meaning of, and subject to, section 363(k) of the Bankruptcy Code; provided that a Secured Creditor shall have the right to credit bid its claim only with respect to the collateral by which such Secured Creditor is secured; provided, further, that a credit bid shall not constitute a Qualified Bid if the bid does not include a cash component sufficient to pay in full all claims for which there are valid, perfected, and unavoidable liens on any assets included in such bid that are senior in priority to those of the Secured Creditor seeking to credit bid.

For the avoidance of doubt, if a Secured Creditor—including the DIP Lender (including on account of their claims under the DIP Facility)—submits a Written Offer, such bid must include Cash in an amount sufficient to pay the break-up fee and expense reimbursement to the applicable Stalking Horse Bidder, which Cash shall be used to pay such break-up fee and expense reimbursement to the applicable Stalking Horse Bidder subject to the terms provided in the applicable Stalking Horse Purchase Agreement, and to the extent not otherwise due and payable under the applicable Stalking Horse Purchase Agreement, then to the Debtors' estates.

**8. Joint Bids**

The Debtors, in consultation with the Committee, will be authorized to approve joint bids in their reasonable discretion on a case-by-case basis.

**9. No Break-Up Fee or Bid Protections**

Other than in connection with the Stalking Horse Purchase Agreement, no Purchase Agreement may include any breakup fee or expense reimbursement or other similar bid protections.

**10. "As Is, Where Is"**

The Sale of the Assets shall be on an "as is, where is" basis and without representations or warranties of any kind, nature or description by the Debtors or their estates except to the extent set forth in the Final Purchase Agreement (as defined below) as approved by the Court. Except as otherwise provided in the Final Purchase Agreement, all of the Debtors' right, title, and interest in and to the Assets subject thereto shall be sold free and clear of all liens, claims, interests, and encumbrances (collectively, the "Interests") in accordance with sections 363 and 365 of the Bankruptcy Code, with such Interests to attach to the net proceeds of the Sale of the Assets.

Each Qualified Bidder shall be deemed to acknowledge and represent that it has had an opportunity to conduct any and all desired due diligence regarding the Assets prior to making its Qualified Bid, that it has relied solely upon its own independent review, investigation and inspection of any documents and/or the Assets in making its Qualified Bid, and that it did not rely upon any written or oral statements, representations, promises, warranties or guaranties whatsoever, whether express, implied, by operation of law or otherwise, regarding the Assets, or the completeness of any information provided in connection therewith or the Auction, except as expressly stated in the Bidding Procedures or, as to the Successful Bidder and the Backup Bidder, the terms of the Sale as set forth in the final form of the applicable Purchase Agreement(s) (which could be the Stalking Horse Purchase Agreement if the Successful Bidder or Backup Bidder is a Stalking Horse Bidder) (the "Final Purchase Agreement"), which shall be on terms mutually acceptable to the Successful Bidder and Backup Bidder, on the one hand, and the Debtors, on the other hand.

**11. Consultation Parties**

The term "Consultation Parties" as used in these Bidding Procedures shall mean the Committee and the DIP Lender; provided, however, that if the DIP Lender (or any affiliate of the DIP Lender) submits a Written Offer, then such party shall no longer be a Consultation Party.

**12. Auction**

If the Debtors determine that there are two or more Qualified Bids for the same Assets (in whole or in part), the Debtors shall conduct an Auction to determine the highest or otherwise best Qualified Bid for such Assets. This determination shall be made after consultation with the Consultation Parties and take into account any factors the Debtors, in their business judgment and sole discretion reasonably deems relevant and may include, among other things, the following: (i) the amount and nature of the total consideration; (ii) the number, type, and nature of any changes to the Stalking Horse Purchase Agreement, if any, requested by the Qualified Bidder, including the type and amount of Assets sought to be acquired and assumed liabilities sought to be assumed in the Qualified Bid; (iii) the other terms requested by each Qualified Bidder in its respective Purchase Agreement; (iv) the extent to which such terms are likely to delay closing of the Sale of



the Assets and the cost to the Debtors of such modifications or delay; (v) the net economic effect of any changes to the value to be received by the Debtors' estates from the transaction contemplated by the Qualified Bid; (vi) the tax consequences of such Qualified Bid; (vii) the total consideration to be received by the Debtors' estates; (viii) whether the Qualified Bidder has secured any consents that may be necessary from certain third parties; and (ix) the likelihood of the Qualified Bidder's ability to close the Sale and the timing thereof.

The Auction shall commence at 10:00 a.m. (prevailing Eastern Time) on September 23, 2025 at the offices of Greenberg Traurig, LLP, Terminus 200, 3333 Piedmont Road, NE, Suite 2500, Atlanta, Georgia 30305, or such other place as determined by the Debtors, and continue thereafter until completed. The Debtors reserve the right to cancel or postpone the Auction. The Debtors reserve the right to not proceed with any Sale or to proceed with a Sale of only certain of the Assets.

Except as otherwise permitted in the Debtors' discretion and in consultation with the Committee, only the Debtors, the Prepetition Lender, the DIP Lender, a Qualified Bidder, including the Stalking Horse Bidder, the Committee, and any creditor that submits a written request to attend to the Debtors at least two (2) business days in advance of the Auction, and, in each case, their respective professionals shall be entitled to attend the Auction (the "Authorized Persons"); provided, that the Consultation Parties may attend the Auction via Zoom or other similar teleconference services. Each Qualified Bidder shall be required to have at least one representative present physically at the Auction.

The Auction shall be governed by the following procedures:

- (i) Qualified Bidders shall appear in person at the Auction, or through a duly authorized representative.
- (ii) The Debtors, after consultation with the Consultation Parties, may waive and/or employ and announce at the Auction additional rules that are reasonable under the circumstances for conducting the Auction provided that such rules (a) are not inconsistent with the Bidding Procedures Order, the Bankruptcy Code, the Bankruptcy Rules, the Local Rules, or any order of the Bankruptcy Court entered in connection with these Chapter 11 Cases, (b) are disclosed to each Qualified Bidder, (c) are designed, in the Debtors' business judgment, to result in the highest or otherwise best offer for the Assets; and (d) do not impair, in any material respect, the Stalking Horse Bidder's right to payment of the break-up fee or the expense reimbursement, without the express consent of the Stalking Horse Bidder in its sole discretion.
- (iii) The Debtors will arrange for the actual bidding at the Auction to be transcribed. Each Qualified Bidder shall designate a single individual to be its spokesperson during the Auction.
- (iv) Each Qualified Bidder participating in the Auction must confirm on the record, at the commencement of the Auction and again at the conclusion of

the Auction that it has not engaged in any collusive conduct and acted in good faith regarding the Bidding Procedures, the Auction, or any proposed transaction relating to the Assets.

- (v) Prior to the Auction, the Debtors, after consultation with the Consultation Parties, shall identify the Baseline Bid. During the Auction, bidding will begin initially with the Baseline Bid and continue in minimum increments in an amount determined by the Debtors, in consultation with the Consultation Parties, but not less than increments of \$50,000 (each such bid, an “Overbid”). When bidding at the Auction, the Stalking Horse Bidder shall receive a “credit” counted towards its Overbid in an amount equal to the sum of such Stalking Horse Bidder’s break-up fee and expense reimbursement. Additional consideration in excess of the amount set forth in the Overbid may include cash and/or non-cash consideration; provided that the value for such non-cash consideration shall be determined by the Debtors in their reasonable business judgment, in timely consultation with the Consultation Parties. An applicable Overbid may contain alterations, modifications, additions, or deletions of any terms of the Qualified Bid no less favorable to the Debtors’ estates than any prior Qualified Bid or Overbid, as determined in the Debtors’ reasonable business judgment, in timely consultation with the Consultation Parties, but shall otherwise comply with the terms of the Bidding Procedures. All Overbids shall be made and received on a binding and open basis, and all material terms of each Overbid shall be fully disclosed in advance of any successive round of bidding to all other Qualified Bidders who submitted Bids.
- (vi) In the Debtors’ discretion, after consultation with the Consultation Parties, all Qualified Bidders shall have the ability to bid on substantially all of the Assets or only certain Assets of the Debtors.
- (vii) Other than the assumption of liabilities of the Debtors or permitted non-cash consideration as may be acceptable to the Debtors in their business judgment and sole discretion, all bids must be in cash.
- (viii) In the Debtors’ discretion, all Qualified Bidders shall have the right to submit additional bids and make additional modifications to the Purchase Agreement, as applicable, at the Auction in accordance with the terms and provisions of the Bidding Procedures; provided, however, that any such modifications to the Purchase Agreement, on an aggregate basis and viewed in whole, shall not be less favorable to the Debtors as determined by the Debtors, in their business judgment and sole discretion, after consultation with the Consultation Parties.
- (ix) Upon conclusion of the bidding, the Auction shall be closed, and the Debtors, after consultation with the Consultation Parties, shall, as soon as practicable, (a) identify and determine in their business judgment the highest or otherwise best Qualified Bid for the Assets (the “Successful Bid”



and the entity submitting such Successful Bid, the “Successful Bidder”), (b) advise the Qualified Bidders of such determination, (c) require the Successful Bidder to deliver an executed Final Purchase Agreement, which reflects its bid and any other modifications submitted and agreed to during the Auction, prior to commencement of the Sale Hearing, and (d) immediately file with the Court a designation of Successful Bidder.

- (x) In addition, the Debtors will determine, after consultation with the Consultation Parties, which Qualified Bid, if any, is the next highest or otherwise second-best Qualified Bid to the Successful Bid and will designate such Qualified Bid as a “Backup Bid” in the event the Successful Bidder fails to consummate the contemplated Sale. A Qualified Bidder who submitted a Qualified Bid and is designated a Backup Bid is a “Backup Bidder”. Each Backup Bid shall remain open and binding until the Backup Bid Expiration Date.
- (xi) If a Successful Bidder fails to consummate the approved transactions contemplated by its Successful Bid, the Debtors, in consultation with the Committee, shall select the applicable Backup Bidder as the Successful Bidder, and such Backup Bidder shall be deemed the Successful Bidder for all purposes. The Debtors shall consummate all transactions contemplated by the Backup Bid without further order of the Court or notice to any party. In such case, the defaulting Successful Bidder’s Good Faith Deposit shall be forfeited to the Debtors.
- (xii) The Debtors may, in consultation with the Consultation Parties, request additional information from a Qualified Bidder at any time prior to the Sale closing in order to evaluate such Qualified Bidder’s ability to bid at the Auction over and above its initial offer in its Qualified Bid, consummate the Sale, and fulfill its obligations in connection therewith. Additional information requests made by the Debtors during the Auction in connection with a Qualified Bidder’s ability to continue to bid at the Auction over and above its initial offer in its Qualified Bid shall, in timely consultation with the Consultation Parties, be satisfied prior to such Qualified Bidder submitting any further bids at the Auction. The failure to comply with such requests shall disqualify such Qualified Bidder from participating in the Auction.

Without prejudice to the rights of the Stalking Horse Bidder and the Prepetition Lender, the Debtors reserve their rights to modify the Bidding Procedures in their reasonable business judgment, after timely consultation with the Consultation Parties, in any manner that will best promote the goals of the bidding process, or impose, at or prior to the Auction, additional customary terms and conditions on the sale of the Assets, including, without limitation: (a) extending the deadlines set forth in these Bidding Procedures; (b) adjourning the Auction at the Auction and/or adjourning the Sale Hearing in open court without further notice; (c) adding procedural rules that are reasonably necessary or advisable under the circumstances

for conducting the Auction; (d) canceling the Auction; and (e) rejecting any or all Bids.

**13. Sole Qualified Bidder**

- (i) Assets Subject to Stalking Horse Purchase Agreement. If, by the Bid Deadline, the Debtors have selected only the Stalking Horse Bidder for the Assets subject to the Stalking Horse Purchase Agreement, then the Debtors shall not hold an Auction for such Assets, and instead, shall seek approval of the Sale for such Assets to the Stalking Horse Bidder.

**14. Sale Hearing**

Subject to the Court's availability, the Sale Hearing will be held before the Honorable Sage M. Sigler on September 29, 2025, at such time designated by the Court at the United States Bankruptcy Court for the Northern District of Georgia, Richard B. Russell Federal Building and United States Courthouse 75 Ted Turner Drive, SW Atlanta, Georgia 30303.

**15. Consummation of the Purchase**

- (a) Closing Date; Good Faith Deposit

The Successful Bidder shall consummate the Sale contemplated by its Successful Bid (the "Purchase") on or before the Closing Date. If the Successful Bidder successfully consummates the Purchase by the Closing Date, such Successful Bidder's Good Faith Deposit shall be applied to the purchase price of the Purchase.

If a Successful Bidder either: (i) fails to consummate the Purchase on or before the Closing Date, breaches the Final Purchase Agreement, or (ii) otherwise fails to perform, the Debtors shall, without further order of the Court, deem such Successful Bidder to be a "Defaulting Buyer."

The Debtors shall be entitled to (i) retain the Good Faith Deposit as part of their damages resulting from the breach or failure to perform by any Defaulting Buyer, and (ii) seek all available damages from such Defaulting Buyer occurring as a result of such Defaulting Buyer's failure to perform as may be provided for pursuant to the Final Purchase Agreement and the Sale Order.

- (b) Backup Purchase

Upon a determination by the Debtors that a Successful Bidder is a Defaulting Buyer, the Debtors shall consummate a Sale with the Backup Bidder on the terms and conditions of the Backup Bid (the "Backup Purchase") without further order of the Court.

If the Backup Bidder consummates the Backup Purchase, the Good Faith Deposit of such Backup Bidder will be applied to the purchase price of the Backup Purchase.

In the event that the Debtors seek to consummate the Backup Purchase with the Backup Bidder and such Backup Bidder fails to consummate the Backup Purchase, breaches the Final Purchase Agreement or otherwise fails to perform, the Debtors may, in their sole discretion, and

without further order of the Court, deem such Backup Bidder to be a Defaulting Buyer and shall be entitled to (i) retain the Good Faith Deposit as part of their damages resulting from the breach or failure to perform by the Defaulting Buyer, and (ii) seek all available damages from such Defaulting Buyer occurring as a result of such Defaulting Buyer's failure to perform as may be provided for pursuant to the Purchase Agreement, as applicable, and the Sale Order.

**16. Return of Good Faith Deposits**

Good Faith Deposits of all Qualified Bidders shall be held in a non-interest-bearing escrow account. Except for those of the Successful Bidder and Backup Bidder, the Debtor shall promptly return the Good Faith Deposits of (i) all Qualified Bidders after the Auction; and (ii) the Backup Bidder after the Backup Bid Expiration Date, in each case, as provided for in the underlying Stalking Horse Purchase Agreement, Purchase Agreement, or Final Purchase Agreement (as applicable).

**17. Reservation of Rights**

The Debtors shall retain all rights to any of their Assets that are not subject to the Sale that is approved by the Court at the Sale Hearing.

**18. Fiduciary Out**

Notwithstanding anything to the contrary in these Bidding Procedures, nothing in these Bidding Procedures or the Bidding Procedures Order shall require any Debtor or the board of directors, board of managers, or similar governing body of any Debtor, after consulting with counsel, to take any action or to refrain from taking any action related to any sale transaction to the extent taking or failing to take such action would be inconsistent with applicable law or its fiduciary obligations under applicable law.

Further, notwithstanding anything to the contrary in these Bidding Procedures, through the date of the Auction (if held), nothing in these Bidding Procedures or the Bidding Procedures Order shall diminish the right of any of the Debtors and their respective directors, officers, employees, investment bankers, attorneys, accountants, consultants, and other advisors or representatives to: (a) consider, respond to, and facilitate alternate proposals for sales or other restructuring transactions involving any or all of the Debtors' Assets (each an "Alternate Proposal"); (b) provide access to non-public information concerning the Debtors to any entity or enter into confidentiality agreements or nondisclosure agreements with any entity; (c) maintain or continue discussions or negotiations with respect to Alternate Proposals; (d) otherwise cooperate with, assist, participate in, or facilitate any inquiries, proposals, discussions, or negotiation of Alternate Proposals; and (e) enter into or continue discussions or negotiations with holders of claims against or equity interests in any Debtor or any other party in interest in these Chapter 11 Cases (including the United States Trustee), or any other entity regarding Alternate Proposals.

**19. Modifications**

The Bidding Procedures may be modified by the Debtors, after consultation with the Consultation Parties, in any manner that is not inconsistent with or otherwise in contravention of the other terms of these Bidding Procedures, including, without limitation, (a) waiving the terms

and conditions set forth herein with respect to any or all Potential Bidders, (b) imposing additional terms and conditions with respect to any or all Potential Bidders, (c) extending the deadlines set forth herein or the date for the Auction and/or Sale Hearing (which may occur in open court); or (d) amending the Bidding Procedures as they may determine to be in the best interests of their estates; provided that (i) all such modifications are disclosed to all Potential Bidders (if applicable) or Qualified Bidders (if applicable) prior to or during the Auction; and (ii) such modification shall be without prejudice to the rights of the Stalking Horse Bidder and Prepetition Lender.

**Exhibit 2**

Stalking Horse Purchase Agreement

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**AMENDED AND RESTATED  
ASSET PURCHASE AGREEMENT**

**by and among**

**WELLMADE FLOOR COVERINGS INTERNATIONAL, INC.,**

**WELLMADE INDUSTRIES MFR. N.A LLC,**

**and**

**AHF IC, LLC**

**August [●], 2025**

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Exhibit A – Acquired Assets

## AMENDED AND RESTATED ASSET PURCHASE AGREEMENT

This AMENDED AND RESTATED ASSET PURCHASE AGREEMENT (this “Agreement”) is entered into as of August [●], 2025, by and among (a) Wellmade Floor Coverings International, Inc., an Oregon corporation (“WFCI”), and Wellmade Industries MFR. N.A LLC, a Georgia limited liability company (“Wellmade Industries” and collectively with WFCI, the “Sellers”, and, each a “Seller”), and (b) AHF IC, LLC, a Delaware limited liability company (the “Buyer”). The Sellers and the Buyer are sometimes referred to collectively herein as the “Parties.” Capitalized terms used but not otherwise defined herein shall have the meanings assigned to them in Article I.

WHEREAS, the Sellers commenced cases (the “Sellers’ Chapter 11 Cases”) under title 11 of the United States Code, 11 U.S.C. § 101 *et seq.* (the “Bankruptcy Code”), through the filing of their voluntary petitions for relief under Chapter 11 of the Bankruptcy Code on August 4, 2025 (the “Petition Date”) in the United States Bankruptcy Court for the Northern District of Georgia (the “Bankruptcy Court”);

WHEREAS, the Sellers conduct, among other things, the business of design, production, and distribution of hard surface flooring collections, which shall include, without limitation, all operations and business conducted at or associated with the Cartersville Plant (the “Business”);

WHEREAS, the Sellers are parties to a (i) Loan Agreement, dated as of March 29, 2024, related to a term loan (the “Term Loan”) in the original principal amount of \$20,000,0000 (as has been or may be further amended, restated, supplemented or otherwise modified from time to time, the “Term Loan Agreement” and the promissory note issued by the Debtors to the Prepetition Lender in connection therewith, the “Term Loan Note”), and (ii) a Loan Agreement, dated as of March 29, 2024, relating to a revolving credit facility (the “Revolving Loan” and together with the Term Loan, collectively, the “Prepetition Loans”) in the maximum principal amount of \$7,000,000.00 (as has been or may be further amended, restated, supplemented or otherwise modified from time to time, the “RLOC Loan Agreement”, and the promissory note issued by the Sellers to the Prepetition Lender in connection therewith, the “Revolving Loan Note”), among the Seller, as borrowers, and the Guarantors (as defined in the Prepetition Loan Documents, together with the Sellers, the “Prepetition Loan Parties”), and AHF IC, LLC as successor to Northwest Bank, as lender (the “Prepetition Lender”). All liabilities and other obligations of the Sellers arising under the Prepetition Loan Documents and applicable law and all other “Obligations” (as defined in the Prepetition Loan Documents) shall collectively be referred to herein as the “Prepetition Obligations”;

WHEREAS, the Parties previously entered into the Asset Purchase Agreement, dated as of August 7, 2025 (the “Prior Agreement”), pursuant to which (i) the Sellers agreed to sell, transfer and assign to the Buyer, and the Buyer agreed to purchase, acquire and assume from the Sellers, the Acquired Assets (as defined below) and (ii) the Buyer agreed to assume from the Sellers the Assumed Liabilities (as defined below), on the terms and subject to the conditions set forth therein and in accordance with sections 105, 363 and 365 and other applicable provisions of the Bankruptcy Code;

WHEREAS, the Parties desire to amend, restate, supersede and replace in its entirety the Prior Agreement pursuant to Section 9.3 thereof; and

WHEREAS, the Sellers filed the Sale Motion (as defined below) with the Bankruptcy Court and have agreed to take the other steps set forth herein and in the Bidding Procedures Order, the Bidding Procedures and the Sale Order (as each such term is defined below) to implement the transactions contemplated hereby upon the terms and subject to the conditions set forth herein and in the Sale Order.

NOW, THEREFORE, in consideration of the mutual promises herein made, and in consideration of the representations, warranties and covenants herein contained, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by the Parties, the Parties agree as follows.

## **ARTICLE I DEFINITIONS**

For purposes of this Agreement, capitalized terms set forth in this Agreement shall have the meaning ascribed to such terms in this Article I.

“Acquired Assets” has the meaning set forth in Section 2.1.

“Affiliate” when used with reference to another Person means any Person, directly or indirectly, through one or more intermediaries, Controlling, Controlled by, or under common Control with, such other Person.

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

“Allocation” has the meaning set forth in Section 2.9.

“Allocation Objection Notice” has the meaning set forth in Section 2.9.

“Alternative Transaction” means any transaction or series of related transactions (other than pursuant to this Agreement), whether effectuated pursuant to a merger, consolidation, tender offer, exchange offer, share exchange, amalgamation, stock acquisition, asset acquisition, business combination, restructuring, recapitalization, liquidation, dissolution, joint venture or similar transaction, whether or not proposed by the Sellers, pursuant to which one or more Sellers: (i) accept a Qualified Bid, other than that of the Buyer or its Affiliates, as the highest or otherwise best offer; or (ii) sell, transfer, lease or otherwise dispose of, directly or indirectly, including through an acquisition, asset sale, stock sale, purchase, merger, reorganization, recapitalization or other similar transaction with or involving any equity securities in any Seller or other interests in the Acquired Assets, including a stand-alone plan of reorganization, plan of liquidation, or refinancing, a material portion of the Acquired Assets (or agrees to any of the foregoing) in a transaction or series of transactions to a party or parties other than the Buyer or its Affiliates.

“Arbitrating Accountant” has the meaning set forth in Section 2.9.

“Assignment and Assumption Agreement” has the meaning set forth in Section 2.8(a)(iii).

“Assumable Permits” means all Permits relating to the Business that are transferable in accordance with their terms.

“Assumed Contracts” means those Leases, Assumable Permits and Contracts that have been, or will be, assigned to and assumed by the Buyer pursuant to Section 2.6 and section 365 of the Bankruptcy Code.

“Assumed Liabilities” has the meaning set forth in Section 2.3.

“Assumed Permit” means those Assumable Permits that have been, or will be, assigned to and assumed by the Buyer pursuant to Section 2.6 and section 365 of the Bankruptcy Code.

“Assumed Permit Schedule” has the meaning set forth in Section 2.6(c).

“Assumption Approval” has the meaning set forth in Section 2.6(g).

“Assumption Effective Date” has the meaning set forth in Section 2.6(d).

“Auction” means the auction for the sale and assumption of the Sellers’ assets and certain liabilities, conducted by the Sellers pursuant to, and in accordance with, the Bidding Procedures and Bidding Procedures Order.

“Avoidance Actions” means any and all Claims, causes of action, choses in action, rights of recovery, rights of set off, rights of recoupment, rights of subrogation, right to insurance proceeds, and all other claims, causes of action lawsuits, judgments, privileges, counterclaims, and defenses of any kind of any Seller, including any proceeds thereof, pursuant to Bankruptcy Code sections 542 through 553 of the Bankruptcy Code, any analogous law, including any applicable state Uniform Voidable Transactions Act, Uniform Fraudulent Transfer Act, Uniform Fraudulent Conveyance Act, or other similar statutes or common law.

“Back-Up Bidder” means the qualified bidder chosen by the Sellers at the Auction, if any, who submitted the second-highest or otherwise best bid at the conclusion of such Auction.

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

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

“Bankruptcy Rules” means the Federal Rules of Bankruptcy Procedure, each a “Bankruptcy Rule.”

“Bidding Procedures” means the bidding procedures to be approved by the Bankruptcy Court pursuant to the Bidding Procedures Order, which order shall be reasonably satisfactory to the Buyer.

“Bidding Procedures Order” means the order to be entered by the Bankruptcy Court approving, among other things, the Buyer as the “stalking horse bidder,” the Bidding Procedures and the Bidding Protections, which order shall be reasonably satisfactory to the Buyer.

“Bidding Protections” means the following: (i) a break-up fee in favor of the Buyer in the amount of \$600,000, which shall be afforded administrative expense status and shall be payable to the Buyer in cash at the closing of an Alternative Transaction (the “Break Up Fee”); (ii) an expense reimbursement in favor of the Buyer in an amount equal to the actual, direct and documented out of pocket expenses of the Buyer incurred in connection with this Agreement (including reasonable attorneys’ fees of the Buyer), in an amount not to exceed \$400,000.00, which shall be afforded administrative expense status and shall be payable to the Buyer in cash at the closing of an Alternative Transaction (the “Expense Reimbursement”); and (iii) an initial overbid requirement at any Auction of an amount greater than the sum of the Break-Up Fee, plus the Expense Reimbursement, plus \$200,000.00.

“Bill of Sale” has the meaning set forth in Section 2.8(a)(ii).

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

“Business Day” means any day other than a Saturday, a Sunday, or a day on which banks located in Atlanta, Georgia shall be authorized or required by Law to close.

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

“Buyer Designated Material Contracts” means those Contracts and Leases designated as such in writing by the Buyer within 10 days of receipt of the Final Disclosure Schedules from the Sellers.

“Capital Leases” means all leases required to be capitalized in accordance with GAAP.

“CARES Act” means the Coronavirus Aid, Relief, and Economic Security Act.

“Cartersville Plant” means the Sellers’ facility located at 1 Wellmade Drive, Cartersville, Georgia.

“Cash” means cash (including all cash located in Sellers’ bank accounts, lock-boxes, and cash in transit), cash equivalents, cash collateralized letters of credit, investment accounts, certificates of deposit, and liquid investments.

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

“Closing” has the meaning set forth in Section 2.7.

“Closing Cash Payment” means an amount equal to (a) \$40,000,000.00 minus (b) the Credit Bid minus (c) the Equipment Payoff Amount.

“Closing Date” has the meaning set forth in Section 2.7.

“Collective Bargaining Agreement” means any collective bargaining agreement or other Contract with a union, works council or other labor organization or employee representative covering any Service Provider.

“Consent” means any approval, consent, ratification, permission, clearance, designation, qualification, waiver or authorization, or an order of the Bankruptcy Court that deems or renders unnecessary the same.

“Consent Deadline” has the meaning set forth in Section 2.6(g).

“Contract” means any written or oral agreement, contract, indenture, mortgage, instrument, guaranty, loan or credit agreement, note, bond, customer order, membership agreement, purchase order, sales order, sales agent agreement, supply agreement, development agreement, joint venture agreement, license agreement, contribution agreement, partnership agreement or other arrangement, understanding, permission or commitment that, in each case, is legally binding, but excluding Leases.

“Contract and Cure Schedule” has the meaning set forth in Section 2.6(c).

“Control” means, when used with reference to any Person, the power to direct the management or policies of such Person, directly or indirectly, by or through stock or other equity ownership, agency or otherwise, or pursuant to or in connection with any Contract; and the terms “Controlling” and “Controlled” shall have meanings correlative to the foregoing.

“Credit Bid” means a credit bid of the Prepetition Obligations pursuant to Section 363(k) of the Bankruptcy Code as of the Closing Date.

“Credit Bid and Release” has the meaning set forth in Section 2.8.

“Cure Amounts” has the meaning set forth in Section 2.6(f).

“Cure Amounts Cap” means, cumulatively, \$150,000.

“Cure Notice” has the meaning set forth in Section 5.3(c).

“D&O Litigation Claims” means all Litigation Claims against any director or officer of any Seller.

“Decree” means any judgment, decree, ruling, decision, opinion, injunction, assessment, attachment, undertaking, award, charge, writ, executive order, judicial order, administrative order or any other order of any Governmental Entity.

“Disclosure Schedule” has the meaning set forth in Article III.

“Employee Benefit Plan” means any “employee benefit plan” (as such term is defined in Section 3(3) of ERISA) and any other benefit or compensation plan, program, agreement or arrangement of any kind, in each case, maintained or contributed to by a Seller, in which a Seller participates or participated, in which a Seller has any Liability (contingent or otherwise), or through which current or former Service Providers of the Business are eligible to receive benefits or compensation.

“End Date” means the close of business no later than thirty (30) days following the entry of the Sale Order, but in no event shall be later than November 2, 2025.

“Environmental, Health and Safety Requirements” means, as enacted and in effect on or prior to the Closing Date, all applicable Laws concerning worker health and safety, the treatment, disposal, emission, discharge, Release or threatened Release of, or exposure to, Hazardous Material, pollution or the protection of the environment.

“Equipment Payoff Amount” means the aggregate obligations of the Sellers for deferred purchase price, conditional sale obligations, and under any title retention agreements for any equipment or machinery located at or associated with the Cartersville Plant.

“ERISA” means the United States Employee Retirement Income Security Act of 1974, as amended.

“Excluded Assets” means, collectively, the following assets of the Sellers: (a) all certificates of incorporation or certificates of formation and other organizational documents, qualifications to conduct business as a foreign entity, arrangements with registered agents relating to foreign qualifications, taxpayer and other identification numbers, seals, minute books, stock or other equity transfer books, stock or membership certificates relating to the Sellers and other documents relating to the organization, maintenance and existence of any Seller as a corporation or limited liability company; (b) all Records related to Taxes paid or payable by any Seller; provided that the Buyer shall have the right to make copies of any portions of such excluded Records to the extent that such portions relate to the Business, any Acquired Asset or any Assumed Liability; (c) Owned Equity Interests; (d) all Contracts and Leases that are not Assumed Contracts; (e) any (i) confidential personnel and medical Records pertaining to any Service Provider to the extent the disclosure of such information is prohibited by applicable Law and (ii) other Records that any Seller is required by Law to retain; provided that the Buyer shall have the right to make copies of any portions of such excluded Records to the extent that such portions relate to the Business, any Acquired Asset, any Assumed Liability or any Service Provider hired by the Buyer on the Closing Date (to the extent not prohibited by applicable Law); (f) any documents and agreements of any Seller relating to the Sellers’ Chapter 11 Cases or to the sale or other disposition of any Excluded Assets; provided that the Buyer shall have the right to make copies of any portions of such excluded Records to the extent that such portions relate to the Business, any Acquired Asset or any Assumed Liability; (g) all Permits that are not Assumed Permits; (h) trade accounts receivable and other rights to payment from customers of the Sellers (whether current or non-current) to the extent arising from products delivered prior to the Closing Date that are unpaid as of the Closing Date; (i) any Cash (except for customer deposits associated with Assumed Contracts or Assumed Liabilities, which such cash will be an Acquired Asset together with the Assumed Contract or Assumed Liability, as applicable); (j) all Employee Benefit Plans; (k) any assets owned by WFCI that are not related to or used in connection with the Business or otherwise located at the Cartersville Plant; (l) all Avoidance Actions other than Specified Avoidance Actions; and (m) all D&O Litigation Claims.

“Excluded Liabilities” has the meaning set forth in Section 2.4.



“Final Order” means an order of the Bankruptcy Court or other court of competent jurisdiction: (i) as to which no 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 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 or rehearing thereon; (ii) as to which the time for instituting or filing an appeal, motion for rehearing or motion for new trial shall have expired; and (iii) as to which no stay is in effect; provided, however, that the filing or pendency of a motion under Federal Rule of Bankruptcy Procedure 9024(b) shall not cause an order not to be deemed a “Final Order” unless such motion shall be filed within fourteen (14) calendar days of the entry of the order at issue. In the case of (i) the Sale Order, a Final Order shall also consist of an order as to which an 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 filed, but as to which the Buyer, in their sole and absolute discretion, elect to proceed with Closing, and (ii) any other order that is required hereunder to be a Final Order, a Final Order shall also consist of an order as to which an 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 filed, but as to which the Buyer, in its sole and absolute discretion, elect to proceed.

“Fundamental Representations” means the representations and warranties of the Sellers set forth in Section 3.1 (Organization of Each Seller; Good Standing), Section 3.2 (Authorization of Transaction), Section 3.4 (Title to Acquired Assets) and Section 3.19 (Brokers’ Fees).

“Furnishings and Equipment” means tangible personal property (other than Inventory) and that is used or held for use in the operation of the Business, regardless of where located.

“GAAP” means United States generally accepted accounting principles.

“Governmental Entity” means any United States or non-United States federal, state or local governmental or regulatory authority, agency, commission, court, body or other governmental entity.

“Hazardous Material” means any waste or other substance that is listed, defined, designated or classified as hazardous, radioactive or toxic or a pollutant or a contaminant under any Environmental, Health and Safety Requirements, including any admixture or solution thereof, and including petroleum and all derivatives thereof or synthetic substitutes therefor, asbestos or asbestos-containing materials in any form or condition and polychlorinated biphenyls.

“Indebtedness” of any Person means, without duplication, (a) the principal of and premium (if any) in respect of (i) indebtedness of such Person for money borrowed and (ii) indebtedness evidenced by notes, debentures, bonds or other similar instruments for the payment of which such Person is responsible or liable, (b) all obligations of such Person issued or assumed as the deferred purchase price of property, all conditional sale obligations of such Person, and all obligations of such Person under any title retention agreement (but excluding trade accounts payable for goods and services and other accrued current liabilities arising in the Ordinary Course of Business), (c) all obligations of such Person under Capital Leases, (d) all obligations of such Person for the reimbursement of any obligor on any letter of credit, banker’s acceptance, or similar credit



transaction, (e) the liquidation value of all redeemable preferred stock of such Person, (f) all obligations of the type referred to in clauses (a) through (e) of any Persons for the payment of which such Person is responsible or liable, directly or indirectly, as obligor, guarantor, surety or otherwise, including guarantees of such obligations, and (g) all obligations of the type referred to in clauses (a) through (f) of other Persons secured by any lien on any property or asset of such Person (whether or not such obligation is assumed by such Person).

“Initial Allocation” has the meaning set forth in Section 2.9.

“Insurance Policies” has the meaning set forth in Section 3.13.

“Intellectual Property” means any and all rights, title and interest in or relating to intellectual property of any type, which may exist or be created under the Laws of any jurisdiction throughout the world, including: (a) patents and patent applications, together with all reissues, provisionals, continuations, continuations-in-part, divisionals, renewals, extensions and reexaminations in connection therewith; (b) trademarks, service marks, trade dress, logos, slogans, trade names, service names, brand names, internet domain names, social media accounts and all other source or business identifiers and general intangibles of a like nature, along with all applications, registrations and renewals and extensions in connection therewith, and all goodwill associated with any of the foregoing; (c) rights associated with works of authorship, including software, databases, websites, exclusive exploitation rights, mask work rights, copyrights, database and design rights, whether or not Registered or published, all registrations and recordations thereof and applications in connection therewith, along with all extensions and renewals thereof and all moral rights associated with any of the foregoing; and (d) trade secrets, know-how and other proprietary and confidential information, including inventions (whether or not patentable), invention disclosures, improvements, algorithms, source code, data analytics, methods, processes, designs, drawings, customer lists, supplier lists, together with all embodiments and fixations of any of the foregoing and all related documentation.

“Intellectual Property Assets” means all Intellectual Property that is owned by the Sellers, including all such Intellectual Property primarily used or held for use in the conduct of the Business as currently conducted, together with all (i) royalties, fees, income, payments, and other proceeds now or hereafter due or payable to such Seller with respect to such Intellectual Property; and (ii) claims and causes of action with respect to such Intellectual Property, whether accruing before, on, or after the date hereof, including all rights to and claims for damages, restitution, and injunctive and other legal or equitable relief for past, present, or future infringement, misappropriation, or other violation thereof.

“Intellectual Property Assignment” has the meaning set forth in Section 2.8(a)(iv).

“Inventory” means all inventory (including merchandise, raw materials, component parts, supplies, packing and shipping materials, products in-process and finished products) of any Seller, whether temporarily out of such Seller’s custody or possession, in transit to or from any Seller and whether in any Seller’s vehicles, warehouses, held by any third parties or otherwise, and all other Inventory (as defined in the UCC), including any returned goods and any documents of title representing any of the foregoing.

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

“Key Vendors” shall mean the landlords party to Leases which constitute Assumed Contracts.

“Knowledge” of a Person (and other words of similar import) (a) in reference to the Sellers means the actual knowledge of any director or executive officer of the Sellers, after reasonable inquiry and (b) in reference to the Buyer means the actual knowledge of Brent Emore, after reasonable inquiry. For the avoidance of doubt, no Person named in this definition shall have any personal liability or obligations solely rising out of such Knowledge.

“Law” means any federal, state, provincial, local, municipal, foreign or other law, statute, legislation, constitution, principle of common law, resolution, ordinance (including with respect to zoning or other land use matters), code, treaty, convention, rule, regulation, requirement, edict, directive, pronouncement, determination, proclamation or Decree of any Governmental Entity.

“Leased Real Property” means all leasehold or subleasehold estates and other rights to use or occupy any land, buildings, structures, improvements, fixtures or other interest in real property of any Seller which is used in the Business.

“Leases” means all leases, subleases, licenses, concessions, and other agreements, including all amendments, extensions, renewals, guaranties, and other agreements with respect thereto, in each case pursuant to which a Seller holds or has any interest in Leased Real Property, but excluding Contracts.

“Liability” means any liability, Indebtedness, guaranty, claim, loss, damage, deficiency, assessment, responsibility or obligation of whatever kind or nature (in each case, whether known or unknown, whether disclosed or undisclosed, whether express or implied, whether primary or secondary, whether in contract, tort or otherwise, whether asserted or unasserted, whether absolute or contingent, whether accrued or unaccrued, whether liquidated or unliquidated, whether due or to become due, whether determined or determinable, whether choate or inchoate, whether secured or unsecured and whether matured or not yet matured).

“Lien” means, whether imposed by Law, Contract or otherwise, any mortgage, deed of trust, hypothecation, contractual restriction, pledge, lien, encumbrance, interest, charge, security interest, put, call, other option, right of first refusal, right of first offer, servitude, right of way, easement, conditional sale or installment contract, finance lease involving substantially the same effect, security agreement or other encumbrance or restriction on the use, transfer or ownership of any property of any type (including real property, tangible property and intangible property), including any “kill switches” or similar encumbrances on equipment or other assets and the right or ability of a third party to use or activate the same. For the avoidance of doubt, the definition of Lien shall not be deemed to include the grant of any non-exclusive license or sublicense of Intellectual Property by a Seller.

“Litigation” means any action, cause of action, suit, claim, investigation, mediation, audit, grievance, demand, hearing or proceeding, whether civil, criminal, administrative or arbitral, whether at law or in equity before any Governmental Entity or arbitrator.

“Litigation Claims” means, to the extent not constituting Avoidance Actions, all rights, claims (including warranty, indemnity, rebate and similar claims) or causes of action, and the proceeds thereof, choses in action, rights of recovery, rights of refund, rights of set off, rights of recoupment, rights of subrogation, right to insurance proceeds, audit rights and all other Claims, causes of action, lawsuits, judgments, privileges, counterclaims, and defenses of any kind of any Seller.

“Material Adverse Effect” means any state of facts, change, event, effect, development, condition, circumstance or occurrence (when taken together with all other states of fact, changes, events, effects, developments, conditions, circumstances or occurrences), that (a) is materially adverse to the financial condition, results of operations of the Business or any of the Sellers (individually or in the aggregate), Assumed Liabilities or the Acquired Assets, or (b) would reasonably be expected to prevent, materially delay or materially impair the ability of a Seller to consummate the transactions contemplated by this Agreement or the Related Agreements on the terms set forth herein and therein; provided, however, that with respect to clause (a) only, no change event, development or occurrence related to any of the following shall be deemed to constitute, and none of the following shall be taken into account in determining whether there has been a Material Adverse Effect: (i) national or international business, economic or political conditions, including the engagement by the United States of America in international hostilities (not domestic), affecting (directly or indirectly) the industry in which the Business operates, whether or not pursuant to the declaration of war, or the occurrence of any military or terrorist attack upon the United States of America or any of its territories, possessions or diplomatic or consular offices or upon any military installation, equipment or personnel of the United States of America, except to the extent that such change has a materially disproportionate adverse effect on the Business relative to the adverse effect that such changes have on other companies in the industry in which the Business operates; (ii) financial, banking or securities markets (including any disruption thereof or any decline in the price of securities generally or any market or index), except to the extent that such change has a materially disproportionate adverse effect on the Business relative to the adverse effect that such changes have on other companies in the industry in which the Business operates; (iii) any change in GAAP or Law except to the extent that such change has a materially disproportionate adverse effect on the Business relative to the adverse effect that such changes have on other companies in the industry in which the Business operates; (iv) any changes directly attributable to the announcement of this Agreement or any Related Agreement, including by reason of the identity of the Buyer or any of its Affiliates; (v) resulting from any act of God except to the extent that such change has a materially disproportionate adverse effect on the Business relative to the adverse effect that such changes have on other companies in the industry in which the Business operates; or (vi) in the case of the Sellers or the Business, (A) the failure to meet or exceed any projection or forecast (it being understood that, with respect to this clause (vi) (A), the underlying facts or circumstances giving rise or contributing to the failure to meet such projection(s) or forecast(s) may be deemed to constitute, or be taken into account in determining whether there has been, a Material Adverse Effect), or (B) reasonable and expected impacts to the business or operations of any Seller (including changes in credit terms offered by suppliers or financing sources) resulting from the announcement or the filing of the Sellers’ Chapter 11 Cases and the Sellers’ financial condition or the Sellers’ status as debtors under Chapter 11 of the Bankruptcy Code.

“Material Contract” has the meaning set forth in Section 3.5(a).

“Milestones” has the meaning set forth in Section 5.3(d).

“Necessary Consents” has the meaning set forth in Section 2.6(g).

“Ordinary Course of Business” means the ordinary course of business consistent with past custom and practice.

“Owned Equity Interests” means any equity interests or securities of any Seller held by any other Seller.

“Party” has the meaning set forth in the preamble.

“Permit” means any franchise, approval, permit, license, order, registration, certificate, variance, Consent, exemption, ratification, waiver or similar right or authorization issued, granted, given or otherwise obtained from or by any Governmental Entity, under the authority thereof, or pursuant to any applicable Law.

“Permitted Liens” means Liens (a) for Taxes not yet delinquent or which are being contested in good faith by appropriate proceedings and, in either case, to the extent reserved on the books and records of the applicable Seller, (b) with respect to leased or licensed personal property, the terms and conditions of the lease or license applicable thereto to the extent constituting an Assumed Contract and (c) with respect to Capital Leases for an aggregate amount of Indebtedness not to exceed Twenty-Five Thousand Dollars (\$25,000).

“Person” means an individual, a partnership, a corporation, a limited liability company, an association, a joint stock company, a trust, a joint venture, an unincorporated organization or any other entity, including any Governmental Entity or any group or syndicate of any of the foregoing.

“Personal Property Taxes” means personal property Taxes of the Sellers to the extent they become allowed claims in the Sellers’ Chapter 11 Cases under sections 503(b)(1)(B) or 507(a)(8)(B) of the Bankruptcy Code.

“Petition Date” has the meaning set forth in the recitals.

“Prepaid Expenses” means all deposits (including customer deposits and security deposits (whether maintained in escrow or otherwise) for rent, electricity, telephone bonds or other sureties or other expenses (including all prepaid rent and all prepaid charges, expenses and rent under any personal property leases)), advances, prepaid expenses, prepayments, rights under warranties or guarantees, vendor rebates and other refunds of every kind and nature (whether or not known or unknown or contingent or non-contingent), except that professional fee retainers and prepaid deposits related thereto shall not be included in the definition of “Prepaid Expenses.”

“Prepetition Obligations” shall have the meaning in the preamble.

“Previously Omitted Contract” has the meaning set forth in Section 2.6(j).

“Purchase Price” has the meaning set forth in Section 2.5.

“Qualified Bid” means competing bids that are submitted by a qualified bidder in accordance with the Bidding Procedures and Bidding Procedures Order.

“Records” means, with respect to the Business, the books, records, information, ledgers, files, invoices, documents, work papers, correspondence, electronic mail communications, lists (including client and customer lists, supplier lists and mailing lists), plans (whether written, electronic or in any other medium), drawings, designs, specifications, creative materials, advertising and promotional materials, marketing plans, studies, reports, data, supplier and vendor lists, purchase orders, sales and purchase invoices, production reports, personnel and employment records, financial and accounting records and similar materials related to the Business and specifically excluding Sellers’ corporate minutes book and related corporate records and books, files and papers not otherwise relating exclusively to the Business.

“Registered” means issued by, registered with, renewed by or the subject of a pending application before any Governmental Entity or domain name registrar.

“Related Agreements” means the Bill of Sale, the Assignment and Assumption Agreement, the Intellectual Property Assignment and each other agreement, document or instrument executed or delivered by a Party in connection with the foregoing, this Agreement, the Sale Order or the transactions contemplated hereby or thereby.

“Related Party” means any officer, director, manager or equity holder of any Seller, or any member of the immediate family of the foregoing.

“Release” means the release, spill, emission, leaking, pumping, pouring, emptying, escaping, dumping, injection, deposit, disposal, discharge, dispersal, leaching or migrating of any Hazardous Material into the environment.

“Representative” of a Person means such Person’s officers, directors, managers, employees, advisors, representatives (including its legal counsel and its accountants) and agents of such Person.

“Sale Motion” means that motion to be filed in the Sellers’ Chapter 11 Cases requesting that the Bankruptcy Court (a) enter the Bidding Procedures Order and (b) enter the Sale Order at the final hearing on the Sale Motion, and approve all related transactions.

“Sale Order” means an order of the Bankruptcy Court entered in the Sellers’ Chapter 11 Cases pursuant to sections 105, 363, and 365 of the Bankruptcy Code, approving this Agreement and the transactions contemplated hereby, in all respects as shall be satisfactory to the Sellers and the Buyer, (i) approving the sale and transfer of the Acquired Assets to the Buyer free and clear of all Liens, Claims and interests other than Permitted Liens, if any, pursuant to section 363(f) of the Bankruptcy Code; (ii) approving the assumption and assignment to the Buyer of the Assumed Contracts; (iii) authorizing consummation of the transactions contemplated hereby; (iv) containing a finding that the transactions contemplated by this Agreement are undertaken by the Sellers and the Buyer (solely in its capacity as such) at arm’s length, without collusion, and finding that the Buyer is a good-faith buyer entitled to the protections of section 363(m) of the Bankruptcy Code; (v) finding that due and adequate notice of the approval of the sale hearing and proposed Sale Order and an opportunity to be heard were provided to all Persons entitled thereto, including but

not limited to, federal, state and local taxing and regulatory authorities; (vi) confirming that the Buyer is acquiring the Acquired Assets free and clear of all Liabilities, other than the Assumed Liabilities; (vii) assuring that the Buyer will not be subject to successor liability for any claims or causes of action of any kind or character against any Seller, whether known or unknown, unless expressly assumed as an Assumed Liability pursuant to this Agreement; (vii) authorizing the Buyer to freely own and operate the Acquired Assets; (ix) providing that the Bankruptcy Court shall retain jurisdiction to hear any disputes arising in connection with the transactions contemplated by this Agreement; (x) providing that the provisions of Federal Rules of Bankruptcy Procedure 6004(h) and 6006(d) are waived and there will be no stay of execution of the Sale Order under Rule 62(a) of the Federal Rules of Civil Procedure; (xi) permitting the Buyer to waive, in its sole discretion, the 14-day stay period under Rule 6004(h) of the Federal Rules of Bankruptcy Procedure; and (xii) granting related relief, which order shall be in all respects satisfactory to the Buyer; *provided, that* the Sale Order shall (A) not be inconsistent with this Agreement in a manner adverse to the Buyer without Buyer's consent, and (B) not contain any provision that is materially adverse to the Buyer without Buyer's consent.

"Seller" or "Sellers" has the meaning set forth in the preamble.

"Sellers' Chapter 11 Cases" has the meaning set forth in the recitals.

"Service Provider" means any director, officer, full-time or part-time employee, independent contractors, independent consultants or temporary employees, of any Seller.

"Specified Avoidance Actions" means all Avoidance Actions (i) against the Buyer or any of its Affiliates, (ii) against all of Sellers' vendors, suppliers, merchants, manufacturers, counterparties, customers and trade creditors with whom the Buyer continues to conduct business in regard to the Acquired Assets after the Closing, (iii) relating in any way to the Acquired Assets (including any Assumed Contract) or Assumed Liabilities, and (iv) any entity that is a transferee, successor, or affiliate, or for whose benefit a transfer was made, that relates to a party described in subsections (i)-(iii) herein.

"Subsidiary" means, with respect to any Person, any corporation, limited liability company, partnership, association or other business entity of which (a) if a corporation, a majority of the total voting power of shares of stock entitled (without regard to the occurrence of any contingency) to vote in the election of directors, managers or trustees thereof (or other persons performing similar functions with respect to such corporation) is at the time owned or controlled, directly or indirectly, by that Person or one or more of the other Subsidiaries of that Person or a combination thereof, or (b) if a limited liability company, partnership, association or other business entity (other than a corporation), a majority of partnership or other similar ownership interest thereof is at the time owned or controlled, directly or indirectly, by that Person or one or more Subsidiaries of that Person or a combination thereof and for this purpose, a Person or Persons owns a majority ownership interest in such a business entity (other than a corporation) if such Person or Persons shall be allocated a majority of such business entity's gains or losses or shall be or control any managing director, managing member or general partner of such business entity (other than a corporation). The term "Subsidiary" shall include all Subsidiaries of such Subsidiary.



“Successful Bidder” means the bidder who shall have submitted the highest or otherwise best bid at the conclusion of the Auction in accordance with the Bidding Procedures and Bidding Procedures Order.

“Tax” or “Taxes” means any net or gross income, net or gross receipts, net or gross proceeds, capital gains, capital stock, sales, use, user, leasing, lease, transfer, natural resources, premium, ad valorem, value added, franchise, profits, gaming, license, capital, withholding, payroll or other employment, estimated, goods and services, severance, excise, stamp, fuel, interest equalization, registration, recording, occupation, turnover, personal property (tangible and intangible), real property, unclaimed or abandoned property, alternative or add-on, windfall or excess profits, environmental, social security, disability, unemployment or other tax or customs duties or amount imposed by (or otherwise payable to) any Governmental Entity, or any interest, any penalties, additions to tax or additional amounts assessed, imposed or otherwise due or payable under applicable Laws with respect to taxes, in each case, whether disputed or not.

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

“Transfer Tax” has the meaning set forth in Section 6.5.

“Transferred Employee” has the meaning set forth in Section 6.4(a).

“Transition Services Agreement” has the meaning set forth in Section 2.8(a)(v).

“UCC” means the Uniform Commercial Code as the same may from time to time be in effect in the State of Georgia, or in any other state to the extent the law of such other state shall govern or apply to a specific asset or property of a Seller.

“WARN Act” has the meaning set forth in Section 3.9(a).

“Wellmade Industries” has the meaning set forth in the preamble.

“WFCI” has the meaning set forth in the preamble.

## ARTICLE II PURCHASE AND SALE

**Section 2.1 Purchase and Sale of Acquired Assets.** On the terms and subject to the conditions of this Agreement and subject to entry by the Bankruptcy Court of the Sale Order, at the Closing, the Buyer shall purchase, acquire, and accept from the Sellers, and each Seller shall sell, transfer, assign, convey, and deliver to the Buyer (or its assignee pursuant to Section 9.4), all of such Seller’s right, title and interest in and to all of the properties, rights, interests and other tangible and intangible assets of such Seller (the “Acquired Assets”, which shall include, without limitation, such assets set forth on Exhibit A attached hereto), free and clear of all Liens (other than Permitted Liens) and Claims (other than Assumed Liabilities)), for the consideration specified in Section 2.5; provided, however, that the Acquired Assets shall not include any Excluded Assets.

**Section 2.2 Excluded Assets.** Nothing contained herein shall be deemed to sell, transfer, assign or convey the Excluded Assets to the Buyer, and the applicable Seller shall retain all of its right, title and interest to, in and under the Excluded Assets.

**Section 2.3 Assumed Liabilities.** On the terms and subject to the conditions of this Agreement and the Sale Order, at the Closing (or, with respect to assumed liabilities under Assumed Contracts or Assumed Permits that are assumed by the Buyer after the Closing, such later date of assumption as provided in Section 2.6), the Buyer shall assume and become responsible for the following Liabilities (collectively, the “Assumed Liabilities”) and no other Liabilities (including the Excluded Liabilities) of any Seller, and from and after the Closing (or such later date of assumption as provided in Section 2.6), agrees to timely pay, honor and discharge, or cause to be timely paid, honored and discharged, all Assumed Liabilities when due and in a timely manner in accordance with the terms thereof, and except for the Assumed Liabilities, the Buyer shall not be deemed to have assumed any other Liabilities of the Sellers, any of their Affiliates or any predecessors of the foregoing:

(a) all Liabilities arising after the Closing Date under the Assumed Contracts and the Assumed Permits included in the Acquired Assets that are incurred from the use of the Acquired Assets and conduct of the Business by the Buyer following the Closing Date;

(b) all Cure Amounts up to and including (but not in excess of) the Cure Amounts Cap pursuant to Section 2.6(f);

(c) all Liabilities for Transfer Taxes to the extent borne by the Buyer pursuant to Section 6.5; and

(d) (i) all accrued vacation and sick time of the Transferred Employees that remains unused or unpaid as of the Closing up to \$100,000 and (ii) any other Liabilities described as being assumed or fulfilled by the Buyer in Section 6.4.

**Section 2.4 Excluded Liabilities.** Notwithstanding anything herein to the contrary, the Parties expressly acknowledge and agree that the Buyer shall not assume, be obligated to pay, perform or otherwise discharge or in any other manner be liable or responsible for any Liabilities of any Seller, whether existing at any time before or after the Closing Date or arising thereafter, other than the Assumed Liabilities (all such Liabilities that the Buyer is not assuming being referred to collectively as the “Excluded Liabilities”). Without limiting the foregoing, the Buyer shall not be obligated to assume, does not assume and hereby disclaims all the Excluded Liabilities, including the following Liabilities of any Seller whether incurred or accrued at any time before or after the Closing Date:

(a) except as otherwise provided in Section 2.10 or Section 6.5, (i) all Taxes of any Seller or any of its Affiliates, including Taxes imposed on any Seller under Treasury Regulations Section 1.1502-6 and similar provisions of state, local or foreign Tax Law accruing prior to the Closing and (ii) all Liabilities for Taxes relating to the Business, Acquired Assets or Transferred Employees for all Taxable periods (or portions thereof) ending on or prior to the Closing Date (including, for the avoidance of doubt, any payroll or other employment Taxes



deferred by any Seller pursuant to Section 2302 of the CARES Act), and any sales, use, ad valorem or similar Tax;

(b) all Liabilities of the Sellers for fees, costs and expenses incurred in connection with Sellers' Chapter 11 Cases or negotiating, preparing, closing and carrying out this Agreement and the transactions contemplated hereby, including (i) any fees and expenses of attorneys, investment bankers, finders, brokers, accountants and consultants and (ii) any fees, costs and expenses or payments related to any transaction bonus, discretionary bonus, change-of-control payment, retention or other compensatory payments made to any Service Provider (including the employer portion of any payroll, social security, unemployment or similar Taxes related thereto);

(c) all Personal Property Taxes;

(d) all Liabilities of any Seller in respect of Indebtedness (except to the extent of any Cure Amounts under any Assumed Contracts (subject to the Cure Amounts Cap) and any capitalized leases that are Assumed Contracts);

(e) all Liabilities arising in connection with any actual or alleged violation of any applicable Law relating to the period prior to the Closing Date by any Seller, including any Environmental, Health and Safety Requirements and the items set forth on Section 3.8 of the Disclosure Schedule;

(f) all litigation claims and any other Liabilities, including any tort claims, breach of contract claims, employment claims and discrimination claims, to the extent relating to Claims (including Claims instituted after the Closing Date), events or conditions arising out of or relating in any way to the conduct or operation of the Business or the ownership of the Acquired Assets prior to the Closing Date even if instituted after the Closing Date;

(g) all Liabilities and obligations arising out of, relating to or in connection with incidents or events occurring prior to the Closing Date by any Person applying for employment with, employed by, or acting as an independent contractor on the property of or on behalf of, any Seller for payment, claims or benefits under workers' compensation Laws or any other Law;

(h) all Liabilities with respect to, or relating to or arising out of the employment, service or termination of employment or service of Service Providers by any Seller whether arising before or after the Closing Date (except to the extent assumed pursuant to Section 2.3(d)), including but not limited to all Liabilities relating to Service Providers who do not become Transferred Employees;

(i) all Liabilities arising in connection with or in any way relating to any Seller (or any predecessor or any prior owner of all or part of their business and assets), any property now or previously owned, leased or operated by any Seller or the Acquired Assets or any activities or operations occurring or conducted at any real property used or held for use by any Seller (including offsite disposal), which (i) arise under or relate to any Environmental, Health and Safety Requirements and (ii) relate to actions occurring or conditions existing on or prior to the Closing Date;

(j) all Liabilities arising out of or related to any Excluded Asset;

- (k) all Cure Amounts in excess of the Cure Amounts Cap;
- (l) all Liabilities to any (i) owner or former owner of capital stock or other equity interests of any Seller or any Affiliate of the foregoing, (ii) current or former officer or director of any Seller, in their capacity as such, or (iii) any Subsidiary of the Sellers;
- (m) all other Liabilities that are not Assumed Liabilities, including all Liabilities arising under or in connection with written or oral Contracts (which are not Assumed Contracts);
- (n) all Liabilities of the Sellers constituting accounts payable incurred prior to the Closing Date to the extent not included as a Cure Amount (subject to the Cure Amounts Cap), or otherwise expressly included as an Assumed Liability pursuant to Section 2.3;
- (o) all Liabilities arising out of or related to any Employee Benefit Plan; and
- (p) all other Liabilities of any Seller under this Agreement and the Related Agreements and the transactions contemplated hereby or thereby (excluding all the Assumed Liabilities).

**Section 2.5 Consideration.** The aggregate consideration for the sale and transfer of the Acquired Assets to the Buyer (the “Purchase Price”) shall be (i) the Credit Bid; plus (ii) the Closing Cash Payment in cash; plus (iii) the assumption of Assumed Liabilities (including the Cure Amounts). Not later than two (2) Business Days following the entry of the Bidding Procedures Order, the Buyer will confirm the then current dollar amount of the Purchase Price in writing to the Sellers, which amount shall be subject to upward adjustment (at the Buyer’s election) at any time prior to or during the Auction. Not later than two (2) Business Days prior to the Closing, the Sellers will deliver to the Buyer a statement (the “Equipment Payoff Statement”) containing the Equipment Payoff Amount, indicating the amount owed to each Person and wire instructions for such payment, along with evidence reasonably satisfactory to the Buyer that upon payment of the Equipment Payoff Amount, the equipment and machinery located at or associated with the Cartersville Plant will not be subject to any Liens related to deferred purchase price, conditional sale obligations, or title retention agreements.

**Section 2.6 Assumption and Assignment of Contracts, Leases and Permits.**

(a) The Sale Order shall provide for the assumption by the applicable Seller, and the assignment of the Assumed Contracts and Assumed Permits to the maximum extent permitted by the Bankruptcy Code by such Seller to the Buyer on the terms and conditions set forth in the remainder of this Section 2.6.

(b) At the Buyer’s request, the applicable Seller shall reasonably cooperate from the date hereof forward with the Buyer as reasonably requested by the Buyer to allow the Buyer to enter into an amendment of any Contract or Lease upon assignment to the Buyer of such Contract or Lease (and such Seller shall reasonably cooperate with the Buyer to the extent reasonably requested with the Buyer in negotiations with the applicable non-debtor counterparties and/or landlords). The Buyer shall compensate the Sellers for any reasonable, out-of-pocket, non-fixed costs with respect to the foregoing.

(c) Section 2.6(c)(i) of the Disclosure Schedule sets forth a true, correct, and complete list of all Contracts and Leases to which any Seller is a party with respect to the Business. Section 2.6(c)(ii) of the Disclosure Schedule sets forth a true, correct, and complete list of all of the Assumable Permits with respect to the Business. The proposed Cure Amounts in respect of each Contract and Lease are also set forth in Section 2.6(c)(i) of the Disclosure Schedule. The Buyer has advised the Sellers that they may want the Sellers to assume and assign certain of the Contracts and Leases set forth in Section 2.6(c)(i) of the Disclosure Schedule and Assumable Permits set forth in Section 2.6(c)(ii) of the Disclosure Schedule, in each case, under section 365 of the Bankruptcy Code. The inclusion of any Contract or Lease on Section 2.6(c)(i) of the Disclosure Schedule or Assumable Permit on Section 2.6(c)(ii) of the Disclosure Schedule does not constitute an admission that a particular contract is an executory contract or unexpired lease within the meaning of the Bankruptcy Code or require or guarantee that such Contract, Lease or Assumable Permit will ultimately be assumed. All rights of the Buyer with respect thereto are reserved. The Buyer shall, no later than five (5) days prior to the earlier of (i) a scheduled Auction or (ii) in the event no Auction is held, prior to the hearing scheduled to consider entry of the Sale Order, identify in writing to the Sellers the Contracts (other than such contracts listed as unassignable in Section 2.6(c)(i) of the Disclosure Schedule), Leases and Assumable Permits that the Buyer has decided will be Assumed Contracts by putting such Contracts and Leases onto a contract and cure schedule (the “Contract and Cure Schedule”) or will be Assumed Permits by putting such Assumable Permits on the “Assumed Permit Schedule”).

(d) Unless the Bankruptcy Court orders otherwise, each Contract and Lease included on the Contract and Cure Schedule and Assumed Permit Schedule will be deemed to have been assigned to the Buyer and become an Assumed Contract or Assumed Permit, as applicable, on the date (the “Assumption Effective Date”) that is the later of: (i) the Closing Date, or (ii) contemporaneously with the resolution of any objections to the assumption and assignment of such Contract or Lease (or to a proposed Cure Amount) or Assumable Permit.

(e) As part of the Sale Motion (or as necessary in one or more separate motions), the Sellers shall request that, by virtue of the Sellers providing prior notice of its intent to assume and assign any Contract, Lease or Assumable Permit pursuant to the terms set forth in the Bidding Procedures Order, the Bankruptcy Court shall deem (by way of the Bidding Procedures Order or such other order of the Bankruptcy Court) any non-debtor party to such Contract, Lease or Assumable Permit that does not file an objection with the Bankruptcy Court during such notice period to have given any required Consent to the assumption of the Contract, Lease or Assumable Permit by the relevant Seller and assignment to the relevant Buyer. For the avoidance of doubt, the Sellers may reject any Contract and Lease that is not an Assumed Contract or Assumed Permit.

(f) In connection with the assumption and assignment to the Buyer of any Assumed Contract, the cure amounts, as agreed among the applicable non-debtor counterparty, the Sellers and the Buyer, or as determined by the Bankruptcy Court, if any necessary to cure all defaults and to pay all actual or pecuniary losses that have resulted from such defaults under the Assumed Contracts, if any, including any amounts payable to any landlord under any Lease that is an Assumed Contract, in each that relates to the period prior to the Assumption Effective Date (such amounts, the “Cure Amounts”), shall be paid (i) by the Buyer, in an aggregate amount not

to exceed the Cure Amounts Cap, and (ii) by the Sellers, to the extent of any Cure Amounts in excess of the Cure Amounts Cap, in each case on the Assumption Effective Date.

(g) The Sellers shall use their commercially reasonable efforts to obtain an order of the Bankruptcy Court (including the Sale Order) to assign the Assumed Contracts to Buyer (the “Assumption Approval”) on the terms set forth in this Section 2.6. Except as required in Section 7.1(f), in the event the Sellers are unable to assign any such Assumed Contract or Assumed Permit to the Buyer pursuant to an order of the Bankruptcy Court for any reason, including that the Consent of a Governmental Entity or third party is necessary to assume and assign such Assumed Contracts to the Buyer (the “Necessary Consents”) and such Necessary Consent has not yet been obtained, then the Parties shall use their commercially reasonable efforts until the ninetieth (90<sup>th</sup>) day after the Closing Date (the “Consent Deadline”) to obtain, and to cooperate in obtaining, all Consents from Governmental Entities and third parties necessary to assume and assign such Contract, Lease or Assumable Permit to the Buyer, including paying any applicable Cure Amounts in accordance with Section 2.6(f).

(h) Except as required under Section 7.1(f), to the extent that any Consent that is required to assign to the Buyer any Contract or Lease is not obtained by the Closing Date, the applicable Seller shall, with respect to each such Contract or Lease, from and after the Closing and until the earliest to occur of (x) the date on which such applicable Consent is obtained (which Consents the Parties shall use their commercially reasonable efforts, and cooperate with each other, to obtain promptly), and (y) the Consent Deadline, use commercially reasonable efforts to (i) provide to the Buyer the benefits under such Contract or Lease Contract, (ii) cooperate in any reasonable and lawful arrangement (including holding such Contract or Lease in trust for the Buyer pending receipt of the required Consent) designed to provide such benefits to the Buyer, and (iii) use its commercially reasonable efforts to enforce for the account of the Buyer any rights of the applicable Seller under such Contract or Lease (including the right to elect to terminate such Contract or Lease Contract in accordance with the terms thereof upon the written direction of the Buyer). The Buyer shall reasonably cooperate with the applicable Seller in order to enable the applicable Seller to provide to the Buyer the benefits contemplated by this Section 2.6(h). The Buyer shall compensate the Sellers for any reasonable, out-of-pocket, non-fixed costs with respect to any Assumed Contract for which a Necessary Consent has not been obtained until such time as either (a) such Assumed Contract is assumed by the applicable Seller and assigned to the Buyer or (b) the Buyer instructs the Seller to reject such Assumed Contract.

(i) If prior to the Closing, it is discovered that a Contract should have been listed on Section 2.6(c) of the Disclosure Schedule but was not so listed (any such Contract, a “Previously Omitted Contract”), the Sellers shall, promptly following the discovery thereof (but in no event later than five (5) Business Days following the discovery thereof), notify the Buyer in writing of such Previously Omitted Contract and provide the Buyer with a copy of such Previously Omitted Contract and the Cure Amount (if any) in respect thereof. The Buyer shall thereafter deliver written notice to the Sellers, no later than five (5) Business Days following such notice of such Previously Omitted Contract from the Sellers, if the Buyer elects to so include such Previously Omitted Contract on the Contract and Cure Schedule. In the event the Buyer and the Sellers determine that a Contract should have been listed on Section 2.6(c) of the Disclosure Schedule but was not so listed, at the Buyer’s election, the Buyer shall notify the Sellers of their election to include such Previously Omitted Contract on the Contract and Cure Schedule.

(j) If the Buyer includes a Previously Omitted Contract on the Contract and Cure Schedule in accordance with Section 2.6(j), the applicable Seller shall file and serve a notice on the contract counterparties to such Previously Omitted Contract notifying such counterparties of such Seller's intention to assume and assign to the Buyer such Previously Omitted Contract, including the proposed Cure Amount (if any). Such notice shall provide such contract counterparties pursuant to the procedures set forth in the Bidding Procedures Order to object, in writing, to the Sellers and the Buyer to the assumption of its Contract or Lease. If such counterparties, the Sellers and the Buyer is unable to reach a consensual resolution with respect to the objection, the Sellers shall seek an expedited hearing before the Bankruptcy Court to seek approval of the assumption and assignment of such Previously Omitted Contract. If no objection is timely served on the Sellers and the Buyer, then such Previously Omitted Contract shall be deemed assumed by such Seller and assigned to the Buyer pursuant to the Sale Order. The Sellers and the Buyer shall execute, acknowledge and deliver such other instruments and take commercially reasonable efforts as are reasonably practicable for the Buyer to assume the rights and obligations under such Previously Omitted Contract.

**Section 2.7 Closing.** The Parties agree that the closing of the purchase and sale of the Acquired Assets pursuant to this Agreement (the "Closing") shall take place electronically commencing at 10:00 a.m. (prevailing Eastern time) on the date that is the second (2<sup>nd</sup>) Business Day after the date on which all conditions to the obligations of the Sellers and the Buyer to consummate the transactions contemplated hereby set forth in Article VII have been satisfied or waived (other than conditions with respect to actions that either or both the Sellers and the Buyer will take at the Closing itself, but subject to the satisfaction or waiver (by the Party entitled to waive such condition) of those conditions), or at such other time or on such other date as shall be mutually agreed upon by the Sellers and the Buyer prior thereto (the "Closing Date"); provided, however, the Closing shall occur prior to the End Date. The date and time on and at which the Closing actually occurs is referred to in this Agreement as the "Closing Date."

**Section 2.8 Deliveries at Closing.**

(a) At the Closing, the Sellers shall deliver to the Buyer the following documents and other items, duly executed by the Sellers, as applicable:

- (i) the Acquired Assets;
- (ii) Bills of Sale executed by each Seller relating to the Acquired Assets, each in form and substance reasonably acceptable to the Sellers and the Buyer (the "Bills of Sale");
- (iii) an Assignment and Assumption Agreement in form and substance reasonably acceptable to the Sellers and the Buyer (the "Assignment and Assumption Agreement");
- (iv) intellectual property assignments in form and substance reasonably acceptable to the Sellers and the Buyer together with any short-form assignments requested by the Buyer for recordation with the U.S. Patent and Trademark Office, the U.S. Copyright Office or any other Governmental Entity or domain name registrar (collectively, the "Intellectual Property Assignments");

(v) one or more Transition Services Agreements, in form and substance reasonably satisfactory to the Buyer and the applicable Sellers (each a “Transition Services Agreement”);

(vi) a certificate signed by an authorized officer of each Seller to the effect that each of the conditions specified in Section 7.1(a) and Section 7.1(b) is satisfied in accordance with the terms thereof; and

(vii) from each Seller, a duly completed and executed Internal Revenue Service Form W-9 certifying that such Seller is a “U.S. person” and is not subject to United States backup withholding.

(b) At the Closing, the Buyer shall deliver to the Sellers, the following documents, consideration and other items, duly executed by the Buyer, as applicable:

(i) the Closing Cash Payment;

(ii) the Credit Bid, by delivering a release of the Prepetition Obligations covered by the Credit Bid and a release of all security interests and liens on the Acquired Assets securing the Prepetition Obligations (the “Credit Bid and Release”);

(iii) the Assignment and Assumption Agreement;

(iv) an Intellectual Property Assignment duly executed by each Buyer;

(v) the Transition Services Agreement;

(vi) a certificate to the effect that each of the conditions specified in Section 7.2(a) and Section 7.2(b) is satisfied in accordance with the terms thereof; and

(vii) a copy of the Buyer’s certificate of incorporation, certificate of formation or other formation document certified as of a date on or soon before the Closing Date by the Secretary of State (or comparable governmental officer) of the respective jurisdictions of the Buyer’s incorporation or organization.

(c) At the Closing, the Buyer shall deliver to the Persons indicated in the Equipment Payoff Statement, the Equipment Payoff Amount.

**Section 2.9 Allocation.** As soon as reasonably practicable and in no event later than sixty (60) days after the Closing Date, the Buyer shall provide the Sellers with a draft allocation of the Purchase Price for federal income tax purposes, including any liabilities properly included therein among the Acquired Assets and the agreements provided for herein, for federal, state and local income tax purposes (the “Initial Allocation”). In the event the Buyer fails to provide the Initial Allocation within such sixty (60) day period, then Sellers, may elect to deliver the Initial Allocation for review by Buyer pursuant to the following procedures. Within forty-five (45) days of the receipt of the Initial Allocation, the Sellers may deliver a written notice (the “Allocation Objection Notice”) to the Buyer, setting forth in reasonable detail those items in the Initial Allocation that the Sellers dispute, if any. The Sellers may make reasonable inquiries of the Buyer



and its accountants and Service Providers relating to the Initial Allocation, and the Buyer shall use reasonable efforts to cause any such accountants and Service Providers to cooperate with, and provide such requested information to, the Sellers in a timely manner. If prior to the conclusion of such forty-five (45)-day period, the Sellers notify the Buyer in writing that they will not provide any Allocation Objection Notice or if the Sellers do not deliver an Allocation Objection Notice within such forty-five (45)-day period, then the Buyer's proposed Initial Allocation shall be deemed final, conclusive and binding upon each of the Parties. Within thirty (30) days of the Sellers' delivery of the Allocation Objection Notice, the Sellers and the Buyer shall attempt to resolve in good faith any disputed items, and failing such resolution, the unresolved disputed items shall be referred for final binding resolution to a mutually agreeable accounting firm (the "Arbitrating Accountant"). The fees and expenses of the Arbitrating Accountant shall be paid fifty percent (50%) by the Buyer and fifty percent (50%) by the Sellers. Such determination by the Arbitrating Accountant shall be (i) in writing, (ii) furnished to the Buyer and the Sellers as soon as practicable (and in no event later than thirty (30) days after the items in dispute have been referred to the Arbitrating Accountant), (iii) made in accordance with the principles set forth in this Section 2.9, and (iv) non-appealable and incontestable by the Buyer and the Sellers. As used herein, the "Allocation" means the allocation of the Purchase Price, the Assumed Liabilities and other related items among the Acquired Assets and the agreements provided for herein as finally agreed between the Buyer and the Sellers or ultimately determined by the Arbitrating Accountant, as applicable, in accordance with this Section 2.9. The Allocation shall be prepared in accordance with IRC Section 1060 and the treasury regulations promulgated thereunder (and any similar provision of state, local or foreign Law, as appropriate). The Buyer and the Sellers shall each report the federal, state and local income and other Tax consequences of the transactions contemplated hereby in a manner consistent with the Allocation, including, if applicable, the preparation and filing of Forms 8594 under IRC Section 1060 (or any successor form or successor provision of any future Tax Law) with their respective federal income Tax Returns for the taxable year which includes the Closing Date, and neither will take any position inconsistent with the Allocation unless otherwise required under applicable Law. The Sellers shall provide the Buyer, and the Buyer shall provide the Sellers, with a copy of any information required to be furnished to the Secretary of the Treasury under IRC Section 1060.

**Section 2.10 Proration of Taxes and Other Items.** Except as otherwise provided in this Agreement with respect to Tax items allocable to a particular Party, to the extent that any of the items listed below in this Section 2.10 are paid by the Sellers prior to the Closing or are payable by the Buyer or the Sellers after the Closing Date, such items shall be apportioned as of the Closing Date such that (i) the Sellers shall be liable for (and shall reimburse the Buyer to the extent that the Buyer shall pay) that portion of such of the foregoing relating or attributable to periods prior to the Closing Date; and (ii) the Buyer shall be liable (and shall reimburse the Sellers, to the extent the Sellers shall have paid) that portion of the foregoing relating or attributable to periods on or after the Closing Date. Should any amounts to be prorated not have been finally determined on the Closing Date, a mutually satisfactory estimate of such amounts made on the basis of the Sellers' records shall be used as a basis for settlement at the Closing, and the amount finally determined will be prorated as of the Closing Date and appropriate settlement made as soon as practicable after such final determination, with final settlement to be made no later than sixty (60) days after the Closing Date. The items to be prorated in accordance with this Section 2.10 shall include, without limitation: (a) personal property, real estate, retail sales, occupancy and use Taxes, if any, on or with respect to the Business, the Acquired Assets and/or the Assumed Liabilities, except to

the extent the date of the assessment of such Taxes falls before the Closing Date, in which case such Taxes shall be Excluded Liabilities; (b) lease payments under any Assumed Contract that is a Lease for the month in which the Closing occurs; and (c) insurance premiums of any policies acquired by the Buyer at the Closing. The Sellers and the Buyer agree to furnish each other with such documents and other records as each Party reasonably requests in order to confirm all adjustment and proration calculations made pursuant to this Section 2.10.

**Section 2.11 Deposit Amount.**

(a) Upon the Buyer's execution of this Agreement, the Buyer shall remit an earnest-money deposit in the amount of \$2,000,000.00 to a non-interest-bearing third-party escrow account maintained by a third-party escrow agent (the "Cash Deposit Amount"), by wire transfer of immediately available funds. In addition, if this Agreement is terminated pursuant to Section 2.11(b)(ii), Buyer will cancel a portion of the Prepetition Obligations in an amount equal to \$2,000,000.00 (the "Debt Cancellation Deposit," and together with the Cash Deposit Amount, the "Deposit Amount").

(b) The Cash Deposit Amount shall be delivered to either the Buyer or the Sellers as follows:

(i) if the Closing shall occur, the Cash Deposit Amount shall be delivered to the Seller at Closing and applied towards the Purchase Price payable by the Buyer pursuant to Section 2.5;

(ii) if this Agreement is terminated pursuant to (A) Section 8.1(a)(iii), or (B) Section 8.1(a)(vi), solely to the extent that all conditions to Closing set forth in Article VII have been satisfied or waived, in each case in accordance with the terms set forth in Article VII (other than conditions with respect to actions that either or both the Seller and the Buyer will take at the Closing itself, but which are capable of being satisfied if the Closing were to occur), the Cash Deposit Amount shall be delivered to the Sellers; or

(iii) if this Agreement is terminated other than in a manner described in Section 2.11(b)(ii), the Deposit Amount shall be delivered to the Buyer.

(c) The Parties acknowledge that the agreements contained in this Section 2.11 are an integral part of the transactions contemplated in this Agreement, that the damages resulting from termination of this Agreement under circumstances where the Sellers are entitled to the Deposit Amount are uncertain and incapable of accurate calculation and that the delivery of the Deposit Amount pursuant to Section 2.11(b)(ii) is not a penalty but rather shall constitute liquidated damages in a reasonable amount that will compensate the Sellers in the circumstances where the Sellers are entitled to the Deposit Amount for the efforts and resources expended and opportunities forgone while negotiating this Agreement and in reliance on this Agreement and on the expectation of the consummation of the transactions contemplated hereby, and that, without these agreements, the Sellers and the Buyer would not enter into this Agreement. Notwithstanding anything to the contrary in this Agreement, without limiting the Sellers' rights under Section 9.9, in the event the Buyer breaches this Agreement (including failure to consummate the Closing and the transactions contemplated thereby), (i) the Sellers' sole remedy shall be to terminate this



Agreement in accordance with any applicable provision of Section 8.1 and, if applicable, to retain the Deposit Amount and (ii) in no event shall the Buyer have any Liability to the Sellers other than the Deposit Amount as set forth in this Section 2.11.

### **ARTICLE III REPRESENTATIONS AND WARRANTIES OF THE SELLERS.**

Each Seller represents and warrants to the Buyer that except as set forth in the disclosure schedule accompanying this Agreement (the “Disclosure Schedule”), as of the date hereof and as of Closing:

#### **Section 3.1 Organization of Each Seller; Good Standing.**

(a) Such Seller is a limited liability company or corporation duly organized, validly existing and in good standing under the Laws of its jurisdiction of formation or incorporation.

(b) Such Seller has all requisite limited liability company or corporate power and authority to own, lease and operate its assets and to carry on the Business as currently conducted.

(c) Such Seller is duly authorized to do business and is in good standing as a foreign limited liability company or corporation in each jurisdiction where the ownership or operation of the Acquired Assets or the conduct of the Business requires such qualification, except for failures to be so authorized or be in such good standing, as would not, individually or in the aggregate, have a Material Adverse Effect.

(d) Except as set forth on Section 3.1(d) of the Disclosure Schedule, such Seller has no Subsidiaries. Except as set forth on Section 3.1(d) of the Disclosure Schedule, all outstanding equity interests of each Subsidiary of such Seller are held of record by such Seller and beneficially owned by such Seller, all outstanding equity interests of each Subsidiary, if any, of such Seller have been duly authorized and are fully paid and non-assessable. There are no outstanding or authorized, and there is no obligation of any Subsidiary of such Seller to issue or grant, any options, warrants, purchase rights, subscription rights, conversion rights, exchange rights, preemptive rights, redemption rights, repurchase rights, rights of first refusal or other rights, or Contracts that could require any Subsidiary of such Seller to issue, sell or otherwise cause to become outstanding or that otherwise relate to the equity interests of any Subsidiary of such Seller or to redeem or otherwise acquire any of its outstanding equity interests, or obligate any Subsidiary of such Seller to grant, extend or enter into any such agreements.

**Section 3.2 Authorization of Transaction.** Subject to the Sale Order having been entered and still being in effect and not subject to any stay pending appeal at the time of Closing:

(a) Such Seller has all requisite limited liability company or corporate power and authority to execute and deliver this Agreement and all Related Agreements to which it is a party and to perform its obligations hereunder and thereunder; the execution, delivery and performance of this Agreement and all Related Agreements to which such Seller is a party have been duly authorized by such Seller, and no other limited liability company or corporate action on

the part of such Seller is necessary to authorize this Agreement or the Related Agreements to which it is party or to consummate the transactions contemplated hereby or thereby; and

(b) This Agreement has been duly and validly executed and delivered by such Seller, and, upon execution and delivery in accordance with the terms of this Agreement, each of the Related Agreements to which such Seller is a party will have been duly and validly executed and delivered by such Seller. Assuming that this Agreement constitutes a valid and legally binding obligation of the Buyer, this Agreement constitutes the valid and legally binding obligations of such Seller, enforceable against such Seller in accordance with its terms and conditions, subject to applicable bankruptcy, insolvency, moratorium or other similar Laws relating to creditors' rights and general principles of equity. Assuming, to the extent that it is a party thereto, that each Related Agreement constitutes a valid and legally binding obligation of the Buyer, each Related Agreement to which such Seller is a party, when executed and delivered, constituted or will constitute the valid and legally binding obligations of such Seller, as applicable, enforceable against such Seller in accordance with their respective terms and conditions, subject to applicable bankruptcy, insolvency, moratorium or other similar Laws relating to creditors' rights and general principles of equity.

### **Section 3.3 Noncontravention; Consents and Approvals.**

(a) Neither the execution and delivery of this Agreement, nor the consummation of the transactions contemplated hereby (including the assignments and assumptions referred to in Article II), will, subject to the Sale Order having been entered and still being in effect and not subject to any stay pending appeal at the time of Closing, (i) conflict with or result in a breach of the certificate of incorporation, certificate of formation, limited liability company agreement, by-laws or other organizational documents of such Seller, (ii) violate any Law to which such Seller is, or its respective assets or properties are, subject, or (iii) conflict with, result in a breach of, constitute a default under, result in the acceleration of, create in any party the right to accelerate, terminate, modify or cancel or require any Consent or notice under any Contract to which such Seller is a party or by which it is bound or to which any of the Acquired Assets is subject, except as set forth on Section 3.3(a) of the Disclosure Schedule, and in the case of clause (ii) or (iii), for such violations, conflicts, breaches, defaults, accelerations, rights or failures to give notice that are not, or not reasonably likely to be, material.

(b) Subject to the Sale Order having been entered and still being in effect and not subject to any stay pending appeal at the time of Closing and except as set forth on Section 3.3(b) of the Disclosure Schedule, no Consent, notice or filing is required to be obtained by such Seller from, or to be given by such Seller to, or made by such Seller with, any Governmental Entity in connection with the execution, delivery and performance by such Seller of this Agreement or any Related Agreement. Subject to the Sale Order having been entered and still being in effect (and not subject to any stay pending appeal at the time of Closing) and except as set forth on Section 3.3(b) of the Disclosure Schedule, no Consent, notice or filing is required to be obtained by such Seller from, or to be given by such Seller to, or made by such Seller with, any Person that is not a Governmental Entity in connection with the execution, delivery and performance by such Seller of this Agreement or any Related Agreement and except where the failure to give notice, file or obtain such authorization, consent or approval would not, individually or in the aggregate, have a Material Adverse Effect.

**Section 3.4 Title to Acquired Assets.**

(a) Each Seller has good and valid title to, or, in the case of leased assets, has good and valid leasehold interests in, the Acquired Assets, and at the Closing will convey the Acquired Assets free and clear of all Liens (except for Permitted Liens).

(b) Except (i) as would not, individually or in the aggregate, reasonably be expected to be material to the Business taken as a whole, (ii) for any employees of the Business who do not become Transferred Employees and (iii) for the services provided under the Transition Services Agreement, the Acquired Assets to be conveyed to the Buyer in the aggregate hereunder at Closing constitute (A) all the properties, rights and other assets necessary, and are sufficient, to carry on the Business as it is currently conducted by the Sellers and (B) except for the Excluded Assets, all of the assets owned or held for use by the Sellers in the conduct of the Business. No Subsidiaries of either Seller (other than Wellmade Industries, in the case of WFCI) hold any assets that are used in the Business.

**Section 3.5 Contracts.**

(a) Section 3.5(a) of the Disclosure Schedule sets forth a true, correct and complete list of all Material Contracts to which any Seller is a party with respect to the Business and copies of all such Contracts and all other material Contracts or instruments entered into or delivered in connection therewith, as amended through the date hereof, have been delivered to or made available to the Buyer. Section 3.5(a) of the Disclosure Schedule specifically identifies the following Contracts related to the Business to which such Seller is a party with respect to the Business or by which the Business is bound (each item disclosed or required to be disclosed on Section 3.5(a) of the Disclosure Schedule, a “Material Contract”):

(i) any Contract for the lease of personal property to or from any Person providing for lease payments in excess of \$50,000 per annum;

(ii) any Contract for the purchase or sale of equipment, supplies, products, goods on order, Inventory (as defined in the UCC) or other personal property, the performance of which will extend over a period of more than six months after the Closing Date or involves consideration in excess of \$50,000 per annum;

(iii) any Contract, excluding any employment Contract, for services, including services performed by any Service Provider involving consideration in excess of \$50,000 per annum;

(iv) any Contract (whether an offer letter, employment Contract or independent contractor Contractor) providing for services performed by any Service Provider involving consideration in excess of \$50,000 per annum;

(v) any Contract that is a Collective Bargaining Agreement;

(vi) any Contract with a professional employer organization, temporary employment agency, staffing agency, leasing agency, or other labor contractor;

(vii) any licenses of Intellectual Property to or from any Person (other than licenses for commercially available, off-the-shelf, or click-wrap software);

(viii) any Contract prohibiting such Seller from freely engaging in any material business (other than pursuant to any radius restriction contained in any lease, reciprocal easement or development, construction, operating or similar agreement);

(ix) any Contract relating to Indebtedness;

(x) any Contract (including the Leases) that involves the lease of real property or that obligates such Seller to purchase real property;

(xi) any Contract granting to any Person an option or a first refusal, first-offer, or similar preferential right to purchase or acquire any of the Acquired Assets;

(xii) any Contract that creates or governs a partnership, joint venture, strategic alliance or similar arrangement;

(xiii) any Contract with (A) any Related Party or (B) any Affiliate of such Seller relating to services necessary for the operation of the Business provided by such Affiliate to Seller and other Affiliates of Seller;

(xiv) any Contract with a qualifying license holder pursuant to which such Person qualifies a license or licenses on behalf of such Seller; and

(xv) any Contract between such Seller (or its predecessor-in-interest) and any Person restricting the ability of such Person (A) to engage in, or to compete with any other Person in, any business, including each Contract containing exclusivity provisions restricting the geographical area in which, or the method by which, any business may be conducted by such Person, or (B) to solicit any Person.

(b) Each Material Contract is valid and binding on the Seller party thereto in accordance with its terms and is in full force and effect. Except as set forth on Section 3.5 of the Disclosure Schedule, none of the Sellers or, to the Sellers' Knowledge, any other party thereto is in breach of or default under (or is alleged to be in breach of or default under), or has provided or received any notice of any intention to terminate, any Material Contract.

**Section 3.6 Legal Compliance.** Such Seller is in material compliance with all Laws applicable to the Business or the Acquired Assets, and such Seller has not received any written notice within the past twelve (12) months relating to violations or alleged violations or material defaults under any Law, Decree or any Permit, in each case, with respect to the Business or the Acquired Assets.

**Section 3.7 Litigation.** Except as set forth on Section 3.7 of the Disclosure Schedule, there is, and for the past twelve (12) months there has been, no Litigation pending or, to the Knowledge of the Sellers, threatened, before any Governmental Entity or arbitral body brought by or against such Seller, whether on an individual or a class-action basis, and including any investigations by any attorney general or similar office on behalf of any Governmental Entity, that,

if adversely determined, would be material to the Business or materially impair such Seller's ability to consummate the transactions contemplated hereby or by the Related Agreements.

**Section 3.8 Environmental, Health and Safety Matters.**

(a) Except as set forth on Section 3.8 of the Disclosure Schedule, each Seller is in compliance in all material respects with all applicable Environmental, Health and Safety Requirements with respect to the Leased Real Property, and there are no material Liabilities under any Environmental, Health and Safety Requirements with respect to the Business. There has been no release of hazardous substances or materials in contravention of any environmental law with respect to the Business, the Acquired Assets or the Leased Real Property, and no Seller has received any notice from a governmental authority or similar governing body that the Business or any of the Acquired Assets or Leased Real Property has been contaminated with any hazardous substance or material which would reasonably be expected to result in an claim against, or a violation of applicable law or term of any environmental permit by, any Seller.

(b) Except as set forth on Section 3.8 of the Disclosure Schedule, since January 1, 2022, such Seller has not received any written notice or report regarding any violation of Environmental, Health and Safety Requirements or any Liabilities relating to the Business or any Leased Real Property arising under Environmental, Health and Safety Requirements. There are no Decrees outstanding, or any Litigation pending or, to the Knowledge of the Sellers, threatened, relating to compliance with or Liability under any Environmental, Health and Safety Requirements affecting the Business or any Leased Real Property.

(c) Such Seller has made available to the Buyer such environmental reports, documents, studies, analyses, investigations, audits and reviews in such Seller's possession as necessary to reasonably disclose to the Buyer any material environmental, health or safety Liability known to such Seller with respect to the Leased Real Property.

**Section 3.9 Employees and Employment Matters.**

(a) Section 3.9(a) of the Disclosure Schedule sets forth the following information for each Service Provider: (i) name or employees identification number (ii) status as an employee, contractor or third-party agency worker, (ii) job title, (iii) start date, (iv) full-time or part-time status, (v) employing or engaging entity, (vi) exempt or non-exempt classification (if an employee), (vii) annual salary, hourly wage rate (as applicable) or other service fee, (viii) work location (by city, state and country, with a separate column for each), (ix) any estimated or target annual incentive compensation, including bonus or commission opportunity, (x) leave status (including type of leave, start date, and anticipated return date, if known), (xi) work authorization or permit details (including type of work authorization or permit, dates of validity and sponsoring entity) (the "Service Provider List"). Apart from the individuals listed on the Service Provider List, Sellers do not employ or engage any person who has performed services for or on behalf of the Business at any time during the last twelve (12) months.

(b) No Seller is a party to or bound by any Collective Bargaining Agreement covering any Service Provider, nor has any of them experienced any strike, walkout, work stoppage, picketing, hand billing, unfair labor practice charge, material labor grievance, material

labor arbitration or other material collective bargaining or labor dispute or union organizing activities against or affecting such Seller (with respect to the Business) or involving any Service Provider or other material collective bargaining dispute with respect to the Business within the three (3) years prior to the date hereof. No Seller has committed any unfair labor practice within the three (3) years prior to the date hereof. Within the twelve (12) months prior to the date hereof, no Seller has implemented any plant closing or layoff of any Service Providers in violation of the United States Worker Adjustment and Retraining Notification Act, or any similar applicable Law (collectively, the “WARN Act”). Except as set forth on Section 3.9(a) of the Disclosure Schedule, no Seller is a party to any pending, or, to the Knowledge of the Sellers, threatened employment-related matters, and is in material compliance with all employment Laws.

(c) Except as set forth on Section 3.9(b) of the Disclosure Schedule, there are no written employment contracts or severance agreements with any Service Providers.

(d) All employees of the Business are employed at-will. Except as set forth in Section 3.9(d) of the Disclosure Schedule, since July 1, 2022, no Seller has (i) granted any bonuses, whether monetary or otherwise, or increased any wages, salary, severance, pension or other compensation or benefits in respect of any current or former employees, officers, directors, independent contractors, or consultants of the Business other than in the ordinary course of business, (ii) changed the terms of employment for any employee of the Business in any material respect (and other than any change made in the ordinary course of business). Each Seller is in compliance in all material respects, with all applicable employment laws and regulations, including those relating to wages (including wage transparency and wage statements), pay disclosure, classification of employees, vacation, accruals, wage and hours, overtime, meal and rest breaks, reimbursements, leaves of absence, human rights, equal opportunity, pay equity, accessibility, fair labor standards, employment standards, nondiscrimination, workers compensation, occupational health and safety, labor relations, restrictive covenants or other similar agreements, collective bargaining, immigration, and the payment of social security and other payroll Taxes.

### **Section 3.10 Employee Benefit Plans.**

(a) Section 3.10 of the Disclosure Schedule lists each Employee Benefit Plan that such Seller maintains with respect to the Transferred Employees. With respect to each such Employee Benefit Plan:

(i) such plan, if intended to meet the requirements of a “qualified plan” under Section 401(a) of the IRC, has received a favorable determination letter from the United States Internal Revenue Service or may rely on a favorable opinion letter issued by the United States Internal Revenue Service; and

(ii) Such Seller has made available to the Buyer summaries of all such Employee Benefit Plans.

(b) Each Employee Benefit Plan has been established, funded, maintained and administered, in each case, in all material respects, in accordance with its terms and all applicable Laws. There is no material pending or, to the Knowledge of the Sellers, threatened, Litigation



relating to the Employee Benefit Plans. Such Seller does not maintain, sponsor or contribute to, and has not maintained, sponsored or contributed to, (i) any plan subject to Title IV of ERISA, Section 302 of ERISA or Section 412 of the IRC, (ii) any “multiemployer plan” (as defined in Section 3(37) of ERISA), (iii) any “multiple employer plan” (as defined in Section 413(c) of the IRC), or (iv) any “multiple employer welfare arrangement” (as defined in Section 3(40) of ERISA).

**Section 3.11 Leased Real Property.**

(a) Neither Seller owns any real property. Section 3.11(a) of the Disclosure Schedule sets forth the address of each Leased Real Property, and a true and complete list of all Leases for such Leased Real Property. The Leased Real Property constitutes all of the real property leased, occupied or otherwise used in connection with the Business as currently conducted.

(b) Such Seller has made available to the Buyer true and complete copies of such Leases. With respect to each of the Leases:

(i) such Lease is legal, valid, binding, enforceable and in full force and effect against such Seller subject to proper authorization and execution of such Lease by the other party thereto and the application of any bankruptcy or other creditor’s rights Laws;

(ii) other than as set forth on Section 3.11(b) of the Disclosure Schedule, except as to the pendency of Sellers’ Chapter 11 Cases, such Seller is not in breach or default under such Lease; and

(iii) all utilities currently servicing the Leased Real Property used in the Business are installed, connected and operating, with all charges paid in full and there are no inadequacies in any material respect with respect to such utilities.

(c) There are no defects, rights, violations, directives, notices, judgments, orders, licenses, permits or conditions affecting such Leased Real Property which could be expected to materially impair or restrict the future use of such Leased Real Property or the conduct of the Business by the Buyer immediately following the Closing. Such Leased Property has been operated and maintained in compliance, in all material respects, with applicable law.

**Section 3.12 Permits.** Section 3.12 of the Disclosure Schedule contains a list of all material Permits that such Seller holds in connection with the operations of the Business and whether such Permits are Assumable Permits. All such Permits are in full force and effect, and all fees and charges with respect to the Permits have been paid in full as of the date hereof. There is no Litigation pending, nor to the Knowledge of the Sellers, threatened, that seeks the revocation, cancellation, suspension, failure to renew or adverse modification of any material Permits. Other than Sellers’ Chapter 11 Cases, to the Knowledge of Seller, no event has occurred that, with or without notice or lapse of time or both, would reasonably be expected to result in the revocation or suspension of any material Assumable Permit.

**Section 3.13 Insurance.** Section 3.13 of the Disclosure Schedule contains a list of all primary, excess and umbrella insurance policies, bond and other forms of material insurance owned or held by or on behalf, or providing insurance coverage to the Business, such Seller and

its operations, properties and assets (collectively, the “Insurance Policies”), excluding director and officer, fiduciary or executive liability policies. The term “Insurance Policies” does not include policies of insurance that fund or relate to any Employee Benefit Plan. All of the Insurance Policies are in full force and effect and no written notice of cancellation or termination has been received by the Sellers with respect to any of the Insurance Policies.

**Section 3.14 Absence of Changes.** Except as set forth on Section 3.14 of the Disclosure Schedule, except with respect to the Sellers’ Chapter 11 Cases, since January 1, 2025, the Business has been conducted only in the Ordinary Course of Business, and there is no state of facts, change, event, effect, development, condition, circumstance or occurrence that has occurred or, to the Knowledge of the Sellers, been threatened that (when taken together with all other states of fact, changes, events, effects, developments, conditions, circumstances or occurrences) has had or is reasonably likely to have, a Material Adverse Effect. Without limiting the generality of the foregoing sentence, except with respect to the Sellers’ Chapter 11 Cases, since January 1, 2025, such Seller used commercially reasonable efforts to (i) preserve intact its current business organization in all material respects and qualifications to conduct business and (ii) retain and keep available the services of certain key employees and contractors necessary to conduct its business in all material respects. Without limiting the generality of the first sentence of this Section, since January 1, 2025, there has not been any transfer, assignment, sale, or other disposition of any of the Acquired Assets shown or reflected in the Financial Statements, except for the sale of inventory in the Ordinary Course of Business, and there has not been any material damage, destruction or loss, or any material interruption in use, of any Acquired Assets, whether or not covered by insurance.

**Section 3.15 Intellectual Property.** Section 3.15 of the Disclosure Schedule sets forth a true and complete list of all Intellectual Property owned by such Seller that is an issued patent, a registration or an application for a patent or registration and all material unregistered trademarks and software owned by such Seller. In addition, Section 3.15 of the Disclosure Schedule sets forth a true and complete list of all material Intellectual Property used by each such Seller (other than licenses for commercially available, off-the-shelf or click-wrap software). All such Intellectual Property and all rights therein or associated therewith are valid and enforceable. The use and commercial exploitation of the Intellectual Property Assets has not infringed or otherwise violated, and does not infringe or otherwise violate, any Intellectual Property of any other Person and, to the Sellers’ Knowledge, no Person is infringing or otherwise violating the Intellectual Property Assets of the Sellers.

**Section 3.16 Taxes.** Each Seller has complied with all Laws relating to Taxes in all material respects. Each Seller has timely filed all income and other material Tax Returns required to be filed by it with respect to the Business, Acquired Assets or Transferred Employees and all such Tax Returns were true, correct and complete in all respects. All Taxes due and owing by the Sellers (including Taxes withheld or required to have been withheld by the Sellers) have been timely paid in full. There are no Liens for Taxes (other than Permitted Liens) on any of the Acquired Assets. No Seller has been audited by any federal, state, or local taxing authority, and there are no Tax audits, assessments or other actions in process or pending with respect to the Business, Acquired Assets or Transferred Employees. No Seller has (i) received from any Governmental Entity any Tax ruling, administrative relief, technical advice or change of method of accounting relating to or affecting the Business, Acquired Assets or Transferred Employees or



made any request therefor that is still pending or (ii) executed or entered into a closing agreement relating to or affecting the Business, Acquired Assets or Transferred Employees pursuant to Section 7121 of the IRC or any predecessor provision thereof or any similar provision of any Law. No Seller has received a written claim from a Governmental Entity in a jurisdiction in which it does not file a Tax Return that it may be subject to taxation by (or required to file a Tax Return in) that jurisdiction that has not yet been settled or otherwise resolved. No Seller has waived any statute of limitations in respect of Taxes or agreed to any extension of time with respect to a material Tax assessment or deficiency, which waiver or extension is currently effective, nor has any Seller made any request in writing for any such extension or waiver that is currently outstanding. No Seller has commenced a voluntary disclosure proceeding in any state or local or non-U.S. jurisdiction that has not been fully resolved or settled (and paid).

**Section 3.17 Affiliate Transactions.** Except as set forth in Section 3.17 of the Disclosure Schedule, no officer, director, member, partner, employee or Affiliate of such Seller, or any individual related by blood, marriage or adoption to any such Person (a) is a party to any Contract, commitment or transaction with any Seller, or (b) has any interest in any Acquired Asset or other property used by any Seller (including any proprietary or Intellectual Property rights) in connection with the Business.

**Section 3.18 Financial Statements.** Attached hereto as Section 3.18 of the Disclosure Schedule are each Seller's internal income statement for the fiscal year ending on December 31, 2024 (the "Financial Statements"). Each of the attached Financial Statements has been prepared on a consistent basis throughout the periods covered thereby and, to the Sellers' Knowledge, presents fairly in all respects the results of operations of such Seller for such periods, and are consistent with the books and records of such Seller (which books and records are correct and complete in all material respects).

**Section 3.19 Brokers' Fees.** None of the Sellers nor any of their Affiliates has entered into any Contract to pay any fees or commissions to any broker, finder or agent with respect to the transactions contemplated by this Agreement for which the Buyer could become liable or obligated to pay.

**Section 3.20 No Other Representations or Warranties.** Except for the representations and warranties contained in this Article III (as qualified, amended, supplemented and modified by the Disclosure Schedule) and the Related Agreements, neither such Seller nor any other Person makes (and the Buyer is not relying upon) any other express or implied representation or warranty with respect to such Seller, the Business, the Acquired Assets (including the value, condition or use of any Acquired Asset), the Assumed Liabilities or the transactions contemplated by this Agreement, and such Seller disclaims any other representations or warranties, whether made by such Seller, any other Seller, any Affiliate of any Seller or any of their respective officers, directors, employees, agents or Representatives. Except for the representations and warranties contained in this Article III (as qualified, amended, supplemented and modified by the Disclosure Schedule) and the Related Agreements, such Seller (i) expressly disclaims and negates any representation or warranty, express or implied, at common law, by statute or otherwise, relating to the condition of the Acquired Assets (including any implied or expressed warranty of title, merchantability or fitness for a particular purpose, or of the probable success or profitability of the ownership, use or operation of the Business or the Acquired Assets by the Buyer after the Closing), and (ii) disclaims

all liability and responsibility for any representation, warranty, projection, forecast, statement or information made, communicated or furnished (orally or in writing) to the Buyer or its Affiliates or Representatives (including any opinion, information, projection or advice that may have been or may be provided to the Buyer by any director, officer, employee, agent, consultant or Representative of such Seller). The disclosure of any matter or item in the Disclosure Schedule shall not be deemed to constitute an acknowledgment that any such matter is required to be disclosed or is material or that such matter would result in a Material Adverse Effect.

#### **ARTICLE IV REPRESENTATIONS AND WARRANTIES OF THE BUYER**

The Buyer represents and warrants to the Sellers as of the date hereof and as of the Closing as follows:

**Section 4.1 Organization of the Buyer.** The Buyer is a limited liability company duly organized, validly existing and in good standing under the Laws of the State of Delaware and has all requisite limited liability company power and authority to own, lease and operate its assets and to carry on its business as now being conducted.

**Section 4.2 Authorization of Transaction.**

(a) The Buyer has full power and authority to execute and deliver this Agreement and all Related Agreements to which it is a party and to perform its obligations hereunder and thereunder.

(b) The execution, delivery and performance of this Agreement and all other Related Agreements to which the Buyer is a party have been duly authorized by the Buyer, and no other limited liability company action on the part of the Buyer is necessary to authorize this Agreement or the Related Agreements to which it is a party or consummate the transactions contemplated hereby or thereby.

(c) This Agreement has been duly and validly executed and delivered by the Buyer, and, upon execution and delivery of the Related Agreements in accordance with the terms of this Agreement, each of the Related Agreements to which the Buyer is a party will have been duly and validly executed and delivered by the Buyer. Assuming that this Agreement constitutes a valid and legally binding obligation of the Sellers, this Agreement constitutes a valid and legally binding obligation of the Buyer, enforceable against the Buyer in accordance with its terms and conditions, subject to applicable bankruptcy, insolvency, moratorium or other similar Laws relating to creditors' rights and general principles of equity. Assuming that each Related Agreement constitutes a valid and legally binding obligation of the Sellers, each Related Agreement to which the Buyer is a party, when executed and delivered, constituted or will constitute the valid and legally binding obligations of the Buyer, enforceable against the Buyer in accordance with the respective terms and conditions or the Related Agreements, subject to applicable bankruptcy, insolvency, moratorium or other similar Laws relating to creditors' rights and general principles of equity.

**Section 4.3 Noncontravention.** Neither the execution and delivery of this Agreement, nor the consummation of the transactions contemplated hereby (including the assignments and

assumptions referred to in Article II), will (i) conflict with or result in a breach of the certificate of formation, or limited liability company agreement, or other organizational documents of the Buyer, (ii) subject to any consents required to be obtained from any Governmental Entity, violate any Law to which the Buyer is, or its assets or properties are subject, or (iii) conflict with, result in a breach of, constitute a default under, result in the acceleration of, create in any party the right to accelerate, terminate, modify or cancel, or require any notice under any Contract to which the Buyer is a party or by which it is bound, except, in the case of either clause (ii) or (iii), for such conflicts, breaches, defaults, accelerations, rights or failures to give notice as would not, individually or in the aggregate, reasonably be expected to prevent, materially delay or materially impair the ability of the Buyer to consummate the transactions contemplated by this Agreement or by the Related Agreements. The Buyer is not required to give any notice to, make any filing with or obtain any authorization, consent or approval of any Governmental Entity in order for the Parties to consummate the transactions contemplated by this Agreement or any of the Related Agreement, and except where the failure to give notice, file or obtain such authorization, consent or approval would not, individually or in the aggregate, reasonably be expected to prevent, materially delay or materially impair the ability of the Buyer to consummate the transactions contemplated by this Agreement or by the Related Agreements.

**Section 4.4 Litigation.** As of the date hereof, (i) the Buyer is not subject to any outstanding Decree and (ii) the Buyer is not a party or, to the Knowledge of the Buyer, received any credible, written threat that it will be made a party to any Litigation, in either case, which would be reasonably likely to materially prevent, restrict or delay the consummation of the transactions contemplated hereby or by any Related Agreement.

**Section 4.5 Brokers' Fees.** Neither the Buyer nor any of its Affiliates has entered into any Contract to pay any fees or commissions to any broker, finder or agent with respect to the transactions contemplated by this Agreement for which Sellers could become liable or obligated to pay.

**Section 4.6 Financial Capacity.** The Buyer (a) will have at the Closing the resources (including sufficient funds available to pay the Closing Cash Payment and any other expenses and payments incurred by the Buyer in connection with the transactions contemplated by this Agreement) and capabilities (financial or otherwise) to perform its obligations hereunder, and (b) has not incurred any obligation, commitment, restriction or Liability of any kind that would reasonably be expected to impair or adversely affect such resources and capabilities.

**Section 4.7 Condition of the Business.** Notwithstanding anything contained in this Agreement to the contrary, the Buyer acknowledges and agrees that the Sellers are not making any representations or warranties whatsoever, express or implied, beyond those expressly set forth in Article III (as amended, supplemented and modified by the Disclosure Schedule) and the Related Agreements, and the Buyer acknowledges and agrees that, except for the representations and warranties contained therein, the Acquired Assets and the Business are being transferred on a "where is" and, as to condition, "as is" basis. Any claims the Buyer or any of its Affiliates may have for breach of representation or warranty shall be based solely on the representations and warranties set forth in Article III (as amended, supplemented and modified by the Disclosure Schedule) and the Related Agreements. The Buyer further represents that no Seller nor any other Person has made, and the Buyer is not relying upon, any representation or warranty, express or

implied, as to the accuracy or completeness of any information regarding any Seller, the Business or the transactions contemplated by this Agreement not expressly set forth in Article III and the Related Agreements, and no Seller or any other Person will have or be subject to any liability to the Buyer or any other Person resulting from the distribution to the Buyer or any of its Representatives or the Buyer's use of any such information. The Buyer represents that it is a sophisticated entity that was advised by knowledgeable counsel and financial and other advisors and hereby acknowledges that it has conducted, to its satisfaction, its own independent investigation and analysis of the Business (including its financial condition), the Acquired Assets and the Assumed Liabilities and, in making the determination to proceed with the transactions contemplated by this Agreement, the Buyer has relied solely on the results of its own independent investigation and the express representations and warranties set forth in Article III and the Related Agreements. Notwithstanding anything to the contrary, nothing in this Section 4.7 shall be deemed to constitute a waiver by the Buyer of gross negligence, bad faith or willful misconduct on the part of any Seller or any Seller's Affiliates, Related Parties or Representatives.

**Section 4.8 Adequate Assurances Regarding Executory Contracts.** The Buyer as of the Closing will be capable of satisfying the conditions contained in sections 365(b)(1)(C) and 365(f) of the Bankruptcy Code with respect to the Assumed Contracts.

**Section 4.9 Good Faith Purchaser.** The Buyer is a "good faith" purchaser, as such term is used in the Bankruptcy Code and court decisions thereunder. The Buyer is entitled to the protections of section 363(m) of the Bankruptcy Code with respect to all of the Acquired Assets. The Buyer has negotiated and entered into this Agreement in good faith and without collusion or fraud of any kind.

**Section 4.10 No Other Representations or Warranties.** Except for the representations and warranties contained in this Article IV and the Related Agreements, neither the Buyer nor any other Person makes (and the Sellers are not relying upon) any other express or implied representation or warranty with respect to the Buyer, and the Buyer disclaims any other representations or warranties, whether made by the Buyer, any Affiliate of the Buyer, or any of their respective officers, directors, employees, agents or Representatives. Except for the representations and warranties contained in this Article IV and the Related Agreements, the Buyer (i) expressly disclaims and negates any representation or warranty, express or implied, at common law, by statute or otherwise, and (ii) disclaims all liability and responsibility for any representation, warranty, projection, forecast, statement or information made, communicated or furnished (orally or in writing) to the Sellers or their Affiliates or Representatives (including any opinion, information, projection or advice that may have been or may be provided to a Seller by any director, officer, employee, agent, consultant or Representative of the Buyer).

## ARTICLE V PRE-CLOSING COVENANTS

The Parties agree as follows with respect to the period between the execution of this Agreement and the Closing (except as otherwise expressly stated to apply to a different period):

**Section 5.1 Certain Efforts; Cooperation.** Subject to the Sellers' rights in connection with pursuing an Alternative Transaction pursuant to, and in accordance with, the Bidding

Procedures Order, each of the Parties shall use commercially reasonable best efforts to obtain entry of the Bidding Procedures Order and Sale Order and to make effective the transactions contemplated by this Agreement on or prior to the End Date, except as otherwise provided in Section 5.2 or as otherwise expressly provided in this Agreement. Without limiting the generality of the foregoing, each of the Parties shall use commercially reasonable best efforts not to take any action, or permit any of its Subsidiaries to take any action, to materially diminish the ability of any other Party to consummate, or materially delay any other Party's ability to consummate, the transactions contemplated hereby, including taking any action that is intended or would reasonably be expected to result in any of the conditions to any other Party's obligations to consummate the transactions contemplated hereby set forth in Article VII to not be satisfied.

**Section 5.2 Notices and Consents.** To the extent required by the Bankruptcy Code or the Bankruptcy Court, the Sellers shall give any notices to third parties, and the Sellers shall use commercially reasonable best efforts to obtain any third-party consents or sublicenses, in connection with the matters referred to in Section 5.2 of the Disclosure Schedule.

**Section 5.3 Bankruptcy Actions.**

(a) The Sellers shall use commercially reasonable best efforts to cause each of Bidding Procedures Order, Sale Order and the Assumption Approval to be issued, entered and become a Final Order (it being acknowledged and agreed that, to the extent necessary to comply with the Milestones, the Sellers shall seek expedited or special hearing dates in connection with the sale process), including furnishing affidavits, declarations or other documents or information for filing with the Bankruptcy Court.

(b) The Sellers shall provide appropriate notice of the hearings on the Bidding Procedures, the Assumption Approval and Sale Motion, as is required by the Bankruptcy Code and the Bankruptcy Rules to all Persons entitled to notice, including all Persons that have asserted Liens in the Acquired Assets, all parties to Contracts and Leases, all holders of Claims against the Sellers, and all Taxing and environmental authorities in jurisdictions applicable to any Seller. The Sellers shall be responsible for making all appropriate filings relating thereto with the Bankruptcy Court.

(c) Following entry of the Bidding Procedures Order, the Sellers shall serve a cure notice (the "Cure Notice") on all non-debtor counterparties to all Contracts and Leases and provide a copy of the same to the Buyer pursuant to the procedures approved in the Bidding Procedures Order. The Cure Notice shall inform each recipient that its respective Contract or Lease may be designated by the Buyer as either assumed or rejected, and the timing and procedures relating to such designation, and, to the extent applicable (i) the title of the Contract or Lease, (ii) the name of the counterparty to the Contract or Lease, (iii) the applicable Seller's good-faith estimates of the Cure Amounts required in connection with such Contract or Lease, (iv) the identity of the Buyer, and (v) the deadline by which any such Contract or Lease counterparty may file an objection to the proposed assumption and assignment and/or cure, and the procedures relating thereto.

(d) The Sellers shall comply with the following milestones (each a "Milestone" and collectively, the "Milestones") set forth below

(i) No later than four (4) Business Days after the Petition Date, the Sellers shall file with the Bankruptcy Court a motion seeking entry of the Bidding Procedures Order;

(ii) No later than thirty (30) days after the Petition Date, the Bankruptcy Court shall have entered the Bidding Procedures Order; and

(iii) No later than fifty-six (56) days after the Petition Date, the Bankruptcy Court shall have entered the Sale Order (to the extent the Buyer is the Successful Bidder or the Back-up Bidder).

(e) Without limiting its other obligations under this Agreement, the Sellers shall promptly take such actions as are reasonably requested by the Buyer to assist in obtaining entry of the Sale Order, including furnishing affidavits or other documents or information for filing with the Bankruptcy Court.

(f) Without limiting its other obligations under this Agreement, the Buyer shall promptly take such actions as are reasonably requested by the Sellers to assist in obtaining entry of the Sale Order, including a finding of adequate assurance of future performance by the Buyer, including furnishing affidavits or other documents or information for filing with the Bankruptcy Court.

(g) If an appeal is taken, or petition for certiorari or motion for rehearing or re-argument filed, or a stay pending appeal is requested from either the Bidding Procedures Order or the Sale Order, the Sellers will notify the Buyer of such appeal, petition, motion or stay request and the Sellers, with input from the Buyer, will take all reasonable steps to defend against such appeal, petition, motion or stay request.

**Section 5.4 Conduct of Business.** Except as may be (i) required by the Bankruptcy Court, the Bankruptcy Code, or applicable Law, or (ii) agreed to in writing by the Buyer, from the date hereof until the Closing, the Sellers shall:

(a) use commercially reasonable efforts to operate the Business in the Ordinary Course of Business;

(b) use commercial reasonable efforts to preserve the material business relationships with customers, suppliers, distributors and others with whom the Seller deal in the Ordinary Course of Business (including timely payment of post-petition accounts payable, purchasing and maintaining appropriate levels of Inventory, performing all required maintenance and repairs, making capital expenditures and collecting receivables);

(c) pay all administrative claims in the Ordinary Course of Business;

(d) remain current on payment and performance obligations per contract terms with all Key Vendors from the Petition Date through the Closing Date.

(e) maintain in effect all material Permits;



(f) not sell, transfer, lease, sublease, license, abandon, encumber, or otherwise dispose of any Acquired Assets other than (i) immaterial dispositions thereof, (ii) in respect of any debtor-in-possession financing obtained by the Sellers in connection with Sellers' Chapter 11 Cases, or (iii) Inventory sold or disposed of in the Ordinary Course of Business; provided, that in no event shall the Sellers sell or dispose of Inventory in a bulk sale;

(g) not modify, amend, terminate or waive any rights under any Contract that is or could be an Assumed Contract as of the Closing or enter into any Contract (i) that would be material to the Business (other than in the Ordinary Course of Business) or (ii) with any Related Party;

(h) not amend their articles of incorporation, bylaws or other similar organizational documents (whether by merger, consolidation or otherwise) in a manner materially adverse to the Buyer;

(i) not split, combine or reclassify their shares of capital stock or membership interests or declare, set aside or pay any dividend or other distribution (whether in cash, stock or property or any combination thereof) in respect thereof;

(j) not change their methods of accounting, except as required by concurrent changes in GAAP;

(k) not waive or release any material right or claim of the Business (other than any right or claim to the extent relating to any Excluded Assets or Excluded Liabilities), other than in the Ordinary Course of Business or as otherwise provided for in any order entered in the Sellers' Chapter 11 Cases, including concerning debtor-in-possession financing;

(l) not incur or suffer to exist any indebtedness for borrowed money except any such indebtedness that is an Excluded Liability or as otherwise provided for in any order entered in the Sellers' Chapter 11 Cases, including concerning debtor-in-possession financing;

(m) not acquire, by merger or consolidation with, or by purchase of all or a substantial portion of the assets or stock of, or by any other manner, any business or entity, make any investment in any Person or enter into any joint venture, partnership or other similar arrangement for the conduct of the Business;

(n) not implement or announce any employee layoffs, furloughs, reductions-in-force, plant closings, material reductions in compensation or other similar actions, in each case, that could violate the WARN Act;

(o) not hire, engage or terminate any Service Provider with annual compensation in excess of \$50,000;

(p) not waive or release any noncompetition, nonsolicitation, nondisclosure or other restrictive covenant obligation of any current or former Service Provider;

(q) not (i) negotiate, modify, extend, terminate or enter into any Collective Bargaining Agreement, or (ii) recognize or certify any union, works council or other labor



organization or employee representative as the bargaining representative for any Service Provider; or

(r) not agree in writing to take any of the foregoing actions or support any other Person to take any of the foregoing actions.

**Section 5.5 Notice of Developments.** From the date hereof until the Closing Date, the Sellers shall promptly disclose to the Buyer, on the one hand, and the Buyer shall promptly disclose to the Sellers, on the other hand, in writing after attaining Knowledge of (i) the occurrence or non-occurrence of any event or the existence of any fact or condition that would cause or constitute a breach of any of its representations or warranties had any such representation or warranty been made as of the time of such Party's discovery of such event, fact or condition and (ii) any material failure on its part to comply with or satisfy any covenant, condition or agreement to be complied with or satisfied by it hereunder; provided, however, that the delivery of any notice pursuant to this Section 5.5 shall not limit or otherwise affect the remedies available to the Party receiving such notice under this Agreement.

**Section 5.6 Access.** Upon reasonable advance written request by the Buyer, the Sellers shall permit the Buyer and its Representatives to have reasonable access during normal business hours, and in a manner so as not to interfere unreasonably with the normal business operations of the Sellers, to all premises, properties, personnel, Records, Contracts and Leases related to the Sellers, in each case, for the purposes of evaluating the Business, preparing for and implementing transition arrangements for the Business following the Closing, and consummating the transactions contemplated hereby; provided, however, that, for avoidance of doubt, the foregoing shall not require any Party to waive, or take any action with the effect of waiving, its attorney-client privilege or any confidentiality obligation to which it is bound with respect thereto or take any action in violation of applicable Law.

**Section 5.7 Bulk Transfer Laws.** The Parties hereby waive compliance with the provisions of any bulk sales, bulk transfer, or similar Laws of any jurisdiction that may otherwise be applicable with respect to the sale of any or all of the Acquired Assets to the Buyer. The Parties intend that pursuant to section 363(f) of the Bankruptcy Code, the transfer of the Acquired Assets shall be free and clear of any Liens other than Permitted Liens in the Acquired Assets to the maximum extent permitted by Law, including any Liens 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.

**Section 5.8 Post-Closing Operation of the Sellers.** The Sellers hereby acknowledge and agree that upon the consummation of the transactions contemplated hereby, the Buyer shall have the sole right to the use of the trade names included in the Acquired Assets or similar or other relevant names or any service marks, trademarks, trade names, identifying symbols, logos, emblems or signs containing or comprising the foregoing, including any name or mark confusingly similar thereto (collectively, the "Assumed Trade Names"). After the Closing Date, none of the Sellers nor any of their respective Affiliates shall use the name or mark included in the Acquired Assets or any derivatives thereof or other relevant names or service marks (collectively, the "Assumed Marks"). Within thirty (30) days after the termination of the Transition Services Agreement, the Sellers and their respective controlled Affiliates shall promptly file with the applicable Governmental Entities all documents reasonably necessary to delete from their names

the Assumed Trade Names and/or Assumed Marks shall do or cause to be done all other acts, including the payment of any fees required in connection therewith, to cause such documents to become effective as promptly as reasonably practicable. Notwithstanding the foregoing, Sellers shall retain the right to use such Assumed Trade Names/Assume Marks through the date of the Final Decree in the Sellers' Chapter 11 Cases or the closure of the Sellers' bankruptcy case.

**Section 5.9 Transfer of Permits.** From and after the date hereof, and for up to ninety (90) days after the Closing Date, the Sellers shall reasonably cooperate to transfer to the Buyer as of the Closing Date (or as soon as reasonably practicable thereafter) all Permits included in the Acquired Assets; provided, that the Buyer shall compensate the Sellers for any reasonable, out-of-pocket, non-fixed costs with respect to the foregoing. To the extent that the Buyer has not obtained all of the Permits included in the Acquired Assets that are necessary for the Buyer to take title to all of the Acquired Assets at the Closing and to operate all aspects of the Business as of immediately following the Closing in the same manner in all material respects as it was operated by the Seller immediately prior to the Closing, the Seller shall, to the extent permitted by applicable Laws, use commercially reasonable efforts to maintain after the Closing such Permits that the Buyer reasonably requests, at the Buyer's sole expense, until the earlier of the time the Buyer has obtained such Permits and ninety (90) days following the Closing (or the remaining term of any such Permit, if shorter).

**Section 5.10 Bankruptcy Court Approval.** The Buyer and the Sellers acknowledge that, under the Bankruptcy Code, the sale of Acquired Assets is subject to approval of the Bankruptcy Court. The Buyer and the Sellers acknowledge that to obtain such approval, the Sellers must demonstrate that they have taken reasonable steps to obtain the highest or best value possible for the Acquired Assets, including giving notice of the transactions contemplated by this Agreement to creditors and other interested parties as ordered by the Bankruptcy Court, providing information about the Acquired Assets to prospective bidders, entertaining higher or better offers from qualified bidders and, if necessary, conducting an Auction and selling the Acquired Assets to another qualified bidder.

**Section 5.11 Public Announcements and Communications.** Neither the Buyer, on the one hand, nor the Sellers, on the other hand, shall issue any public report, statement, press release or otherwise make any public statement regarding this Agreement or the transactions contemplated hereby, without the prior written consent of the other Parties, unless otherwise required by applicable Law, in which case such Party shall coordinate and consult with the other Party with respect to the timing, basis, scope and content before issuing any such report, statement or press release; provided, however, that nothing in this Section 5.11 shall (a) delay any required filing or other disclosure with the Bankruptcy Courts, or any other Governmental Entity or otherwise hinder the Sellers' ability to timely comply with all Laws (including the Bankruptcy Code and the WARN Act) or (b) prohibit any public announcement containing information that is otherwise generally available to the public (including as a result of any filing or other disclosure with the Bankruptcy Court, or any other Governmental Entity).

## **ARTICLE VI OTHER COVENANTS**

The Parties agree as follows with respect to the period from and after the Closing:

**Section 6.1 Cooperation.** Each of the Parties shall cooperate with each other and shall use their commercially reasonable efforts to cause their respective Representatives to cooperate with each other, to provide an orderly transition of the Acquired Assets and Assumed Liabilities from the Sellers to the Buyer and to minimize the disruption to the Business resulting from the transactions contemplated hereby. The Sellers shall reasonably (i) provide any information necessary or reasonably requested to allow the Buyer to comply with any information reporting or withholding requirements contained in the IRC or other applicable Laws or to compute the amount of payroll or other employment Taxes due with respect to any payment made in connection with this Agreement; and (ii) provide certificates or forms, and timely execute any Tax Return, that are necessary or appropriate to establish an exemption for (or reduction in) any Transfer Tax.

**Section 6.2 Further Assurances.** In case at any time from and after the Closing Date any further action is necessary or reasonably required to carry out the purposes of this Agreement, subject to the terms and conditions of this Agreement and the terms and conditions of the Sale Order, at any Party's reasonable request and sole cost and expense, each Party shall take such further action (including the execution and delivery to any other Party of such other reasonable instruments of sale, transfer, conveyance, assignment, assumption or confirmation and providing materials and information) as another Party may reasonably request as shall be necessary to transfer, convey and assign to the Buyer all of the Acquired Assets, to confirm the Buyer's assumption of the Assumed Liabilities and to confirm Sellers' retention of the Excluded Assets and Excluded Liabilities. Without limiting the generality of this Section 6.2, to the extent that either the Buyer or the Sellers discover any additional assets or properties which should have been transferred or assigned to the Buyer as Acquired Assets but were not so transferred or assigned, the Buyer and the Sellers shall cooperate and execute and deliver any instruments of transfer or assignment necessary to transfer and assign such asset or property to the Buyer, and no additional consideration shall be due from the Buyer in connection therewith; provided, that the Buyer shall compensate the Sellers for any reasonable, documented, out-of-pocket, non-fixed costs with respect to the foregoing.

**Section 6.3 Availability of Business Records.** From and after the Closing Date, the Buyer shall reasonably promptly provide to the Sellers and their respective Representatives (after reasonable notice and during normal business hours and without charge to Seller), at the Sellers' sole cost and expense, reasonable access to all Records included in the Acquired Assets for periods prior to the Closing (as long as such access does not unreasonably interfere with the Buyer's business operations) to the extent such access is necessary in order for any Seller to comply with its obligations to administer Sellers' Chapter 11 Cases or applicable Law or any Contract to which it is a party, and so long as such access is subject to an obligation of confidentiality, and shall preserve such Records until the latest of (i) four (4) years after the Closing Date, (ii) the required retention period for all government contact information, records or documents, (iii) the conclusion of all bankruptcy proceedings relating to the Sellers' Chapter 11 Cases, and (iv) in the case of Records related to Taxes, the expiration of the statute of limitations applicable to such Taxes; provided, however, that, for avoidance of doubt, the foregoing shall not require any Party to waive, or take any action with the effect of waiving, its attorney-client privilege or any confidentiality obligation to which it is bound with respect thereto or take any action in violation of applicable Law. Such access shall include access to any information in electronic form to the extent reasonably available. The Buyer acknowledges that the Sellers have the right to retain copies of all of Records included in the Acquired Assets for periods prior to the Closing subject to all

confidentiality agreements applicable thereto. For a period of five (5) years following the Closing Date or the earlier dissolution of the Seller, prior to destroying any material Records included in the Acquired Assets for periods prior to the Closing, the Buyer shall notify the Sellers thirty (30) days in advance of any such proposed destruction of its intent to destroy such Records, and the Buyer shall permit the Sellers to retain such Records at Sellers' sole cost and expense. With respect to any litigation and claims that are Excluded Liabilities, the Buyer shall render, at the Sellers' expense, all reasonable assistance that the Sellers may request in defending such litigation or claim and shall make reasonable efforts to make the Transferred Employees most knowledgeable about the matter in question available to the Sellers.

**Section 6.4 Employee Matters.**

(a) The Buyer shall offer employment at its absolute discretion on or prior to the Closing Date to any of the then-active employees of the Business employed by the Sellers and listed in Section 3.9(a) of the Disclosure Schedules (such employees who accept such offers of employment from the Buyer, the "Transferred Employees"). Such offers of employment made by the Buyer shall require a commencement date of employment with the applicable the Buyer on or as soon as practicable after the Closing Date. The Sellers shall have no liability or obligation to (x) any Transferred Employee with respect to their employment with the Buyer after the Closing Date or (y) any such Person who is offered but declines an offer of employment from the Buyer. Nothing in this Agreement shall restrict the rights of the Buyer under applicable Law or any employment contract with respect to any Transferred Employee. Upon execution of this Agreement, the Sellers shall provide the Buyer with reasonable access to its employees for the purpose of allowing the Buyer to negotiate new employment terms, including, without limitation, retention agreements and/or incentive payment plans.

(b) If any Service Provider requires a work visa or work permit for such Service Provider to commence employment with the Buyer as of or after the Closing Date, Sellers shall, in conjunction with the Buyer and at Buyer's sole expense, use reasonable efforts to cause any such visa, permit, pass or other approval to be obtained and in effect prior to the Closing Date.

(c) Notwithstanding anything in this Agreement to the contrary:

(i) Each Seller shall be liable for the base wages or base salary and commissions, bonuses, benefits, or similar compensation that accrued on or prior to the Closing Date with respect to all Service Providers of such Seller (except to the extent the Buyer has expressly assumed any of the same pursuant to Section 2.3; and

(ii) Nothing in this Agreement is intended to (x) prevent the Buyer from terminating the employment of any Transferred Employee on or following the Closing Date (for any reason), or (y) create any third-party beneficiary rights in any Service Provider of any Seller, any beneficiary or dependent thereof, or any collective bargaining agreement representative.

**Section 6.5 Transfer Taxes.** The Buyer, on the one hand, and the Sellers, on the other hand, shall each pay 50% of all stamp, documentary, registration, transfer, added-value or similar Tax (each, a "Transfer Tax") imposed under any applicable Law in connection with the transactions contemplated by Article II. The Sellers and the Buyer shall cooperate to prepare and

timely file any Tax Returns required to be filed in connection with Transfer Taxes described in the immediately preceding sentence.

**Section 6.6 Wage Reporting.** The Buyer and the Sellers agree to utilize, or cause their respective Affiliates to utilize, the standard procedure set forth in Internal Revenue Service Revenue Procedure 2004-53 with respect to wage reporting.

**Section 6.7 Reasonable, Out-of-Pocket, Non-Fixed Costs.** With respect to any provision in this Agreement, including Sections 2.6(b), 2.6(h), 6.2, and 6.7, that requires the Buyer to compensate the Sellers for their reasonable, out-of-pocket, non-fixed costs, the Buyer and the Sellers shall each use their commercially reasonable efforts to agree in advance in writing as to such costs pursuant to, among other things, a Transition Services Agreement or an approved budget.

**Section 6.8 Post-Closing Payments.**

(a) After the Closing: (i) if the Sellers or any of their Affiliates receive any payment in respect of, or that is, an Acquired Asset or is otherwise properly due and owing to the Buyer in accordance with the terms of this Agreement, the Sellers promptly shall remit, or shall cause to be remitted, such amount to the Buyer in accordance with this Agreement and (ii) if the Buyer or any of its Affiliates receive any payment in respect of, or that is, an Excluded Asset or is otherwise properly due and owing to the Sellers or any of their Affiliates in accordance with the terms of this Agreement, the Buyer promptly shall remit, or shall cause to be remitted, such amount to the Sellers in accordance with this Agreement.

(b) As of the Closing Date, the Sellers hereby (i) authorize the Buyer and any Buyer designee to open any and all mail addressed to the Sellers relating to the Business or the Acquired Assets and delivered to the offices of the Business or otherwise to the Buyer or any Buyer designee if received on or after the Closing Date and (ii) appoints the Buyer, any Buyer designee or its attorney-in-fact to endorse, cash and deposit any monies, checks or negotiable instruments received by the Buyer of any Buyer designee after the Closing Date with respect to accounts receivable relating to work performed or products delivered by the Buyer after the Closing made payable or endorsed to the Sellers or the Sellers' order, for the Buyer's or any Buyer designee's own account.

**Section 6.9 Certain Covenants.**

(a) As a material inducement to the Buyer to enter into and perform its obligations under this Agreement, during the period beginning on the Closing Date and ending on the five-year anniversary of the Closing Date (such period, the "Restricted Period"), each Seller, on behalf of itself and its Affiliates, agrees not to, directly or indirectly, either for itself or for any other Person, own, operate, manage, control, engage in, participate in, invest in, permit its name to be used by, act as consultant or advisor to, render services for (alone or in association with any Person) or otherwise assist in any manner, any customer or any Person that engages in or owns, invests in, operates, manages or controls any venture or enterprise that directly or indirectly engages or proposes to engage in activities competitive with the Business (as conducted as of the Closing) in the jurisdictions in which the Sellers operate as of the Closing; provided, that the



passive ownership of less than 2% of the outstanding stock of any publicly-traded corporation shall not be deemed to be engaging solely by reason thereof in any of its businesses; provided, further, that this Section 6.9(a) will not prohibit (i) engaging in e-commerce sales of any flooring categories, including vinyl, wood, bamboo, carpet, rugs, tile flooring, moldings, installation sundry and related accessories, and any non-flooring category items, so long as such sales are not to Persons known by Seller to be customers of Buyer or its Affiliates or (ii) design, production, or distribution of any non-flooring goods and services. If the final judgment of a court of competent jurisdiction declares that any term or provision of this Section 6.9(a) is invalid or unenforceable, the Parties agree that the court making the determination of invalidity or unenforceability shall have the power to reduce the scope, duration or area of the term or provision, to delete specific words or phrases, or to replace any invalid or unenforceable term or provision with a term or provision that is valid and enforceable and that comes closest to expressing the intention of the invalid or unenforceable term or provision, and this Agreement shall be enforceable as so modified.

(b) Each Seller agrees that, during the Restricted Period, it (i) shall not, and shall cause its Affiliates not to, directly or indirectly contact, approach or solicit for the purpose of offering employment to or hiring (whether as an employee, consultant, agent, independent contractor or otherwise) or actually hire any Transferred Employee, without the prior written consent of Parent; provided, that this Section 6.9(b)(i) shall not prohibit a Seller or any of its Affiliates from (x) conducting any general solicitations in a newspaper, trade publication or other periodical or web posting not specifically targeted at any Transferred Employee or (y) participating in job fairs, career fairs or similar recruiting events; and (ii) shall not induce or attempt to induce any customer, supplier or other business relation of the Buyer into any business relationship. The term “indirectly” as used in this Section 6.9 is intended to mean any acts authorized or directed by or on behalf of a Seller or any Person controlled by such Seller.

(c) Each Seller acknowledges and agrees that in the event of a breach or alleged breach by such Seller of any of the provisions of this Section 6.9, monetary damages shall not constitute a sufficient remedy. Consequently, in the event of any such breach or alleged breach, the Buyer or its successors or assigns may, in addition to other rights and remedies existing in their favor, apply to any court of law or equity of competent jurisdiction for specific performance, injunctive relief, or both, or any other equitable remedies available to enforce or prevent any violations of the provisions hereof (including, without limitation, the extension of the Restricted Period by a period equal to (i) the length of the violation of this Section 6.9 plus (ii) the length of any court proceedings necessary to stop such violation), in each case without the requirement of posting a bond or proving actual damages.

(d) Prior to transferring any material portion of the Excluded Assets to a third-party, the Sellers will ensure that such transferee agrees to covenants substantially similar to the covenants contained in this Section 6.9 to which the Buyer is an express third-party beneficiary.

## ARTICLE VII CONDITIONS TO OBLIGATION TO CLOSING

**Section 7.1 Conditions to the Buyer’s Obligations.** Subject to Section 7.3, the Buyer’s obligation to consummate the transactions contemplated hereby in connection with the

Closing are subject to the Buyer becoming the Successful Bidder (whether following the conclusion of the Auction or thereafter as a result of the Successful Bidder failing to close) and to the satisfaction or waiver of the following conditions (any of which may be waived by the Buyer, in whole or in part, in its sole and absolute discretion):

(a) as of the date hereof and as of the Closing (in each case, except for any representation or warranty that is expressly made as of a specified date, in which case as of such specified date), (i) any Fundamental Representation shall be true and correct in all respects, and (ii) any other representations or warranties of the Sellers shall be true and correct in all material respects;

(b) each Seller shall have performed and complied in all material respects with such Seller's covenants and agreements hereunder to the extent required to be performed prior to the Closing;

(c) the Buyer shall have received the items listed in Section 2.8(a);

(d) no Governmental Entity of competent jurisdiction shall have threatened, enacted, issued, promulgated, enforced or entered any Decree that is in effect and that has the effect of making the Closing illegal or otherwise prohibiting the consummation of the Closing;

(e) the Sale Order shall have been entered by the Bankruptcy Court and shall be a Final Order; provided, however, that nothing in this Agreement precludes the Parties from consummating the transactions contemplated by this Agreement if the Sale Order has been entered and has not been stayed and the Buyer, in its sole discretion, waive in writing the condition that the Sale Order be a Final Order;

(f) the Assumption Approval with respect to the Buyer Designated Material Contracts shall have been entered by the Bankruptcy Court and shall be a Final Order; provided, however, that nothing in this Agreement precludes the Parties from consummating the transactions contemplated by this Agreement if the Assumption Approval has been entered and has not been stayed and the Buyer, in its sole discretion, waive in writing the condition that the Assumption Approval be a Final Order;

(g) there must not be in effect any Law or Decree that would prohibit or make illegal the consummation of the transactions contemplated by this Agreement;

(h) from the date of this Agreement until the Closing Date, there shall not have occurred and be continuing any Material Adverse Effect; and

(i) the Sellers shall have delivered a certificate from an authorized officer of the Sellers to the effect that each of the conditions specified in Section 7.1(a), Section 7.1(b) and Section 7.1(h) has been satisfied.

**Section 7.2 Conditions to the Sellers' Obligations.** Subject to Section 7.3, Sellers' obligation to consummate the transactions contemplated hereby in connection with the Closing are subject to the Buyer becoming the Successful Bidder (whether following the conclusion of the Auction, if any, or thereafter as a result of the Successful Bidder failing to close) and to the



satisfaction or waiver of the following conditions (any of which may be waived by the Sellers, in whole or in part, in their sole and absolute discretion):

(a) as of the date hereof and as of the Closing (in each case, except for any representation or warranty that is expressly made as of a specified date, in which case as of such specified date), (i) any representation or warranty contained in Section 4.1, Section 4.2 or Section 4.3 shall be true and correct in all material respects, and (ii) any other representation or warranty set forth in Article IV shall be true and correct in all material respects, except where the failure of such representations and warranties referred to in this clause (ii) to be true and correct, individually or in the aggregate with other such failures, would not reasonably be expected to materially prevent, restrict or delay the consummation of the transactions contemplated hereby or by any Related Agreement;

(b) the Buyer shall have performed and complied in all material respects with its covenants and agreements hereunder to the extent required to be performed prior to the Closing;

(c) the Seller shall have received the items listed in Section 2.8(b);

(d) no Governmental Entity of competent jurisdiction shall have enacted, issued, promulgated, enforced or entered any Decree that is in effect and that has the effect of making the Closing illegal or otherwise prohibiting the consummation of the Closing;

(e) the Sale Order shall have been entered by the Bankruptcy Court and shall be a Final Order; and

(f) the Buyer shall have delivered a certificate from an authorized officer of the Buyer to the effect that each of the conditions specified in Section 7.2(a) and Section 7.2(b) has been satisfied.

**Section 7.3 No Frustration of Closing Conditions.** Neither the Buyer nor any Seller may rely on the failure of any condition to its obligation to consummate the transactions contemplated hereby set forth in Section 7.1 or Section 7.2, as the case may be, to be satisfied if such failure was caused by such Party's failure to use commercially reasonable best efforts or commercially reasonable efforts, as applicable, with respect to those matters contemplated by the applicable Sections of this Agreement to satisfy the conditions to the consummation of the transactions contemplated hereby or other breach of a representation, warranty or covenant hereunder.

## **ARTICLE VIII TERMINATION**

### **Section 8.1 Termination of Agreement.**

(a) This Agreement may, by written notice given before the Closing, be terminated:

(i) by mutual written consent of the Buyer and the Sellers;

(ii) by the Buyer (so long as the Buyer is not then in material breach of any of their representations, warranties or covenants contained in this Agreement such that the conditions contained in Section 7.2 would not be satisfied), if there has been a breach of any of the Sellers' representations, warranties or covenants contained in this Agreement which would result in the failure of a condition set forth in Section 7.1 to be satisfied, and which breach has not been cured within ten (10) days after written notice of such breach has been delivered to the Sellers from the Buyer or cannot be cured by the End Date;

(iii) by the Sellers (so long as the Sellers are not then in material breach of any of their representations, warranties or covenants contained in this Agreement such that the conditions contained in Section 7.1 would not be satisfied), if there has been a breach of any of the Buyer's representations, warranties or covenants contained in this Agreement which would result in the failure of a condition set forth in Section 7.2 to be satisfied, and which breach has not been cured within ten (10) days after written notice of such breach has been delivered to the Buyer from the Sellers or cannot be cured by the End Date;

(iv) by either the Buyer or the Sellers, if there is in effect a Final Order restraining, enjoining or otherwise prohibiting the transactions contemplated by this Agreement; provided, however, that the right to terminate this Agreement under this Section 8.1(a)(iv) will not be available to any Party whose failure to fulfill any covenant or obligation under this Agreement is the cause of or resulted in the action or event described in this Section 8.1(a)(iv) occurring;

(v) by the Buyer if (A) any of the Sellers' Chapter 11 Cases is dismissed or converted into a case under Chapter 7 of the Bankruptcy Code, (B) an examiner with expanded powers or trustee is appointed in any of the Sellers' Chapter 11 Cases, or (C) the Bankruptcy Court enters an Order pursuant to section 362 of the Bankruptcy Code lifting the automatic stay with respect to any material portion of the Acquired Assets and the Sellers are thereafter impaired in their ability to deliver such material portion of Acquired Assets at the Closing;

(vi) by either the Buyer or the Sellers, if the Closing does not occur by the End Date; provided that no Party shall be permitted to terminate this Agreement pursuant to this Section 8.1(a)(vi) if the failure of the Closing to have occurred on or prior to the End Date was caused by the breach of such Party with respect to any obligation or condition of this Agreement;

(vii) by the Buyer, if any Milestone is not timely satisfied in accordance with Section 5.3(d); or

(viii) by the Buyer, if the Bidding Procedures Order (including the Bidding Procedures, except to the extent any modifications are made pursuant to the terms thereof), the Sale Order, or any other Order materially affecting this Agreement is modified in any material respect in a manner adverse to the Buyer without the Consent of the Buyer.

(b) This Agreement shall terminate automatically in the event that (i) the Buyer is not chosen at the Auction to be the Successful Bidder or the Back-Up Bidder, (ii) an Alternative Transaction has been consummated following approval by the Bankruptcy Court, or (iii) if the Buyer is chosen at the Auction to be the Back-Up Bidder, upon the expiration of the period during

which the Buyer is required to keep its back-up bid open and irrevocable under the Bidding Procedures and Bidding Procedures Order.

**Section 8.2 Effect of Termination.** If this Agreement is terminated pursuant to Section 8.1, this Agreement and all rights and obligations of the parties under this Agreement automatically end without Liability against any other Party or its Affiliates, except that Section 2.11 (Deposit Amount), this Article VIII, and Article IX (except for the last two sentences of Section 9.16) shall remain in full force and survive any termination of this Agreement. The Parties agree that if this Agreement is terminated, then (a) the Sellers' receipt of the Cash Deposit Amount and Debt Cancellation Deposit in accordance with this Agreement (when payable pursuant to Section 2.11) and (ii) the Buyer's receipt of the Break Up Fee and Expense Reimbursement (when payable pursuant to Section 8.5) shall be the sole and exclusive remedies of such Party against the other Parties and any of its or their respective Affiliates for any Liability, damage or other loss suffered as a result of any breach of any representation, warranty, covenant or agreement in this Agreement or the failure of the transactions contemplated hereby to be consummated, and upon the payment of such amounts (if due), neither the Buyer nor any of its respective Affiliates shall have any further monetary Liability relating to or arising out of this Agreement or the transactions contemplated by this Agreement.

**Section 8.3 Expenses.** The Sellers shall pay their own direct and indirect expenses incurred in connection with the preparation and negotiation of this Agreement, all Related Agreements, and the consummation of the transactions contemplated by this Agreement, including all fees and expenses of its advisors and representatives. Except as provided in Section 8.5, the Buyer shall pay its own direct and indirect expenses incurred in connection with the preparation and negotiation of this Agreement and the consummation of the transactions contemplated by this Agreement, including all fees and expenses of its advisors and representatives.

**Section 8.4 Acknowledgement.** Each of the Parties acknowledges that (i) the agreements contained in this Article VIII are an integral part of the transactions contemplated by this Agreement and (ii) without the agreements contained in this Article VIII, the Parties would not have entered into this Agreement. Except in the event of fraud, in no event shall any Party have any Liability to any other Party or any other Person for any special, incidental, exemplary, indirect, consequential or punitive damages, and except in the event of fraud, any such claim, right or cause of action for any damages that are special, incidental, exemplary, indirect, consequential or punitive is hereby fully waived, released and forever discharged.

**Section 8.5 Break-Up Fee and Expense Reimbursement.**

(a) In the event that this Agreement is terminated, other than pursuant to Section 8.1(a)(i) or Section 8.1(a)(iii), and an Alternative Transaction is consummated, in consideration for the Buyer having expended considerable time and expense in connection with this Agreement and the negotiation thereof and the identification and quantification of assets of the Sellers, and without the requirement of any notice or demand from the Buyer or any other application to or order of the Bankruptcy Court (other than the Bidding Procedures Order), the Sellers shall be jointly and severally liable for and shall pay (or cause to be paid to) the Buyer (i) the Break Up Fee and (ii) the Expense Reimbursement. In the event the Sellers become obligated under this Agreement to pay any or all of the Break Up Fee or the Expense Reimbursement

pursuant to the immediately preceding sentence, such Break-Up Fee and Expense Reimbursement shall be treated as allowed administrative expense claims in the Sellers' Chapter 11 Cases pursuant to sections 503(b) and 507 of the Bankruptcy Code payable, and the Sellers shall pay such amounts, in immediately available funds to such account or accounts as may be specified in written notice by the Buyer concurrently with (and solely from the proceeds of) the closing of the Alternative Transaction. For the avoidance of doubt, the provision of the administrative expense for the Break Up Fee and the Expense Reimbursement shall only be an obligation of the Sellers' estates if an Alternative Transaction closes.

(b) Each of the Parties further acknowledges that the payment by the Sellers of the Break Up Fee and the Expense Reimbursement is not a penalty, but rather liquidated damages in a reasonable amount that will compensate the Buyer, in the circumstances in which such Break Up Fee and the Expense Reimbursement is payable, for the efforts and resources expended and the opportunities foregone while negotiating this Agreement and in reliance on this Agreement and on the expectation of the consummation of the transactions contemplated by this Agreement, which amount would otherwise be impossible to calculate with precision. The obligation to pay the Break Up Fee and the Expense Reimbursement in accordance with the provisions of this Agreement will (i) be binding upon and enforceable jointly and severally against the Sellers immediately upon execution of this Agreement and approval by the Bankruptcy Court in the Bidding Procedures Order, and (ii) survive the subsequent termination of this Agreement, solely to the extent permitted by applicable Law. The obligation to pay the Break Up Fee and the Expense Reimbursement as and when required under this Agreement, is intended to be, and is, binding upon any successors or assigns of the Sellers.

## **ARTICLE IX MISCELLANEOUS**

**Section 9.1 Entire Agreement.** This Agreement, the Related Agreements, the Bidding Procedures Order (once entered) and the Sale Order (once entered), including all schedules and exhibits attached to any of the foregoing, and the documents and instruments referred to in this Agreement that are to be delivered at or in connection with the Closing, constitute the entire agreement among the Parties and supersede any prior understandings, agreements or representations (whether written or oral) by or among the Parties, written or oral, with respect to the subject matter hereof and the subject matter of the Related Agreements, including the Prior Agreement. If the Closing occurs, the First Amended Confidentiality Agreement, dated July 17, 2025, by and between AHF, LLC and WFCI will terminate effective as of the Closing.

**Section 9.2 Incorporation of Annexes, Exhibits and Disclosure Schedule.** The annexes and exhibits to this Agreement and the documents and other information made available in the Disclosure Schedule are incorporated herein by reference and made a part hereof.

**Section 9.3 Amendments and Waivers.** No amendment of any provision of this Agreement shall be valid unless the same shall be in writing and signed by each Party. No waiver of any breach of this Agreement shall be construed as an implied amendment or agreement to amend or modify any provision of this Agreement. No waiver by any Party of any default, misrepresentation, or breach of warranty or covenant hereunder, whether intentional or not, shall be valid unless the same shall be in writing and signed by the Party making such waiver, nor shall

such waiver be deemed to extend to any prior or subsequent default, misrepresentation or breach of warranty or covenant hereunder or affect in any way any rights arising by virtue of any prior or subsequent default, misrepresentation or breach of warranty or covenant. No conditions, course of dealing or performance, understanding or agreement purporting to modify, vary, explain or supplement the terms or conditions of this Agreement shall be binding unless this Agreement is amended or modified in writing pursuant to the first sentence of this Section 9.3 except as expressly provided herein. Except where a specific period for action or inaction is provided herein, no delay on the part of any Party in exercising any right, power or privilege hereunder shall operate as a waiver thereof.

**Section 9.4 Succession and Assignment.** This Agreement binds and benefits the Parties and their respective successors (including any trustee, receiver, receiver-manager, interim receiver or monitor or similar officer appointed in any respect of the Sellers under Chapter 11 or Chapter 7 of the Bankruptcy Code and any entity appointed as a successor to any Seller pursuant to a confirmed chapter 11 plan). No party may delegate any performance of its obligations under this Agreement, except that the Buyer may at any time assign or delegate the performance of its obligations to any Affiliate of the Buyer so long as the Buyer remains responsible for the performance of the delegated obligation. Without limiting the foregoing, the Buyer shall have the right to designate one or more Affiliates, including any special purpose entities that may be organized by or at the direction of the Buyer for such purpose, to bid at the Auction or take title to the Acquired Assets and assume the Assumed Liabilities at the Closing (or thereafter) or any portion thereof and operate the business going forward, and upon written notice to the Sellers of any such designation by the Buyer, the Sellers agree to execute and deliver all instruments of transfer with respect to the Acquired Assets directly to, and in the name of, the Buyer's assignees. In addition, notwithstanding the foregoing, the Buyer may assign any Indebtedness owed to it by the Sellers to any Affiliate of the Buyer, any other Buyer or any other assignee or designee at any time.

**Section 9.5 Notices.** All notices, requests, demands, claims and other communications hereunder shall be in writing except as expressly provided herein. Any notice, request, demand, claim or other communication hereunder shall be deemed duly given (i) when delivered personally or by electronic mail to the recipient; (ii) one (1) Business Day after being sent to the recipient by reputable overnight courier service (charges prepaid); or (iii) three (3) Business Days after being mailed to the recipient by certified or registered mail, return receipt requested and postage prepaid, and addressed to the intended recipient as set forth below:

If to the Sellers or any Seller:

Wellmade Floor Coverings International, Inc.  
c/o Aurora Management Partners  
1201 Peachtree Street, Suite 1570  
Atlanta, GA 30361  
Attn: David Baker (dbaker@auroramp.com)  
Greg Baker (gbaker@auroramp.com)

with a copy (which shall not constitute notice) to:

Greenberg Traurig, LLP  
3333 Piedmont Road, NE  
Suite 2500  
Atlanta, Georgia 30305  
Attn: John Elrod and David R. Yates  
Email: elrodj@gtlaw.com and david.yates@gtlaw.com

If to the Buyer:

AHF IC, LLC  
P.O. Box 566  
Mountville, PA 17754  
Attn: Timonthy Nieman  
Email: timothy.nieman@ahfproducts.com

with a copy (which shall not constitute notice) to:

King & Spalding LLP  
1180 Peachtree Street NE  
Suite 1600  
Atlanta, GA 30309  
Attention: W. Austin Jowers and Will Jordan  
Email: ajowers@kslaw.com and wjordan@kslaw.com

Any Party may change the physical address or e-mail address to which notices, requests, demands, claims and other communications hereunder are to be delivered by giving the other Party notice in the manner set forth in this Section 9.5.

**Section 9.6 Governing Law: Jurisdiction.** This Agreement shall in all aspects be governed by and construed in accordance with the internal Laws of the State of Georgia without giving effect to any choice or conflict of laws provisions or rules (whether of the State of Georgia or any other jurisdiction) that would cause the application of the Laws of any jurisdiction other than the State of Georgia, and the obligations, rights and remedies of the Parties shall be determined in accordance with such Laws. The Parties agree that any Litigation one Party commences against any other Party pursuant to this Agreement shall be brought exclusively in the Bankruptcy Court; provided that if the Bankruptcy Court is unwilling or unable to hear any such Litigation, then the courts of the State of Georgia, sitting in Fulton County, and the federal courts of the United States of America sitting in the State of Georgia shall have exclusive jurisdiction over such Litigation.

**Section 9.7 Consent to Service of Process.** In addition to any other method allowed by applicable Law, each of the Parties hereby consents to process being served by any Party in any suit, action or proceeding by delivery of a copy thereof in accordance with the provisions of Section 9.5.

**Section 9.8 Waivers of Jury Trial. EACH OF THE PARTIES IRREVOCABLY AND UNCONDITIONALLY WAIVES ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION DIRECTLY OR INDIRECTLY ARISING**



**OUT OF, UNDER OR IN CONNECTION WITH THIS AGREEMENT, THE RELATED AGREEMENTS OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY.**

**Section 9.9 Specific Performance.**

(a) Each of the Parties acknowledges and agrees that the other Parties (collectively, the “Enforcing Parties”) would be damaged irreparably in the event any provision of this Agreement is not performed in accordance with its specific terms or otherwise breached, so that, prior to the termination of this Agreement pursuant to Section 8.1, in addition to any other remedy that each of the Parties may have under Law or equity, each of the Parties shall be entitled to injunctive relief to prevent breaches of the provisions of this Agreement and to enforce specifically this Agreement and the terms and provisions hereof. Notwithstanding the foregoing, it is acknowledged and agreed that no Seller shall be entitled to specific performance of the Buyer’s obligations to consummate the transactions contemplated herein.

(b) Each of the Parties agrees that it shall not oppose the granting of specific performance or an injunction sought in accordance with this Section 9.9 on the basis that the Enforcing Parties have an adequate remedy at law or that any award of specific performance is, for any reason, not an appropriate remedy. The Enforcing Parties shall not be required to provide any bond or other security in connection with any such injunction or other equitable remedy. The End Date shall be tolled from the date any of the Enforcing Parties files a petition seeking specific performance or an injunction under this Section 9.9 until a final, non-appealable decision regarding this matter is obtained from a court of competent jurisdiction.

**Section 9.10 Severability.** The provisions of this Agreement shall be deemed severable, and the invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provisions of this Agreement. If any provision of this Agreement, or the application thereof to any Person or any circumstance, is invalid or unenforceable, (a) a suitable and equitable provision shall be substituted therefor in order 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 to other Persons or circumstances shall not be affected by such invalidity or unenforceability, nor shall such invalidity or unenforceability in any one jurisdiction affect the validity or enforceability of such provision, or the application thereof, in any other jurisdiction.

**Section 9.11 No Third-Party Beneficiaries.** This Agreement shall not confer any rights or remedies upon any Person other than the Parties and their respective successors and permitted assigns except such rights as may inure to a successor or permitted assignee or designee under Section 9.4.

**Section 9.12 No Survival of Representations, Warranties and Agreements.** None of the Parties’ representations, warranties, covenants, and other agreements in this Agreement, including any rights of the other Party or any third party arising out of any breach of such representations, warranties, covenants and other agreements, shall survive the Closing, except for (a) those covenants and agreements contained herein that by their terms apply or are to be performed in whole or in part after the Closing, (b) the Parties’ representations and warranties



relating to such Party's authority with regard to the execution of this Agreement to which it is a party and the consummation of the transactions contemplated hereby and thereby, (c) the Buyer's representations and warranties in connection with the Sellers' Chapter 11 Cases or the Bankruptcy Code, and (d) this Article IX.

**Section 9.13 Construction.** The definitions contained in this Agreement are applicable to the singular as well as the plural forms of such terms. Whenever the context may require, any pronouns used herein shall include the corresponding masculine, feminine or neuter forms, and the singular form of names and pronouns shall include the plural and vice versa. The word "including" and "include" and other words of similar import shall be deemed to be followed by the phrase "without limitation." The words "herein," "hereto," "hereby," and other words of similar import refer to this Agreement as a whole and not to any particular Article, Section or other subdivision of this Agreement. The words "includes" and "including" are not limiting. Unless expressly stated in connection therewith or the context otherwise requires, the phrase "relating to the Business" and other words of similar import shall be deemed to mean "relating to the operation of the Business as conducted as of the date hereof." Except as otherwise provided herein, references to Articles, Sections, clauses, subclauses, subparagraphs, Annexes, Exhibits and the Disclosure Schedule herein are references to Articles, Sections, clauses, subclauses, subparagraphs, Annexes, Exhibits and the Disclosure Schedule of this Agreement. Any reference herein to any Law (or any provision thereof) shall include such Law (or any provision thereof) and any rule or regulation promulgated thereunder, in each case, including any successor thereto, and as it may be amended, modified or supplemented from time to time. Any reference herein to "dollars" or "\$" means United States dollars. To the extent not contrary to the foregoing, the rules of construction contained in section 102 of the Bankruptcy Code shall apply. Any option, consent, approval, discretion or similar right of the Buyer set forth in this Agreement or any other Related Agreement may be exercised by the Buyer in its sole, absolute and unreviewable discretion (regardless of whether any or all such words are used in connection therewith), unless the provisions of this Agreement or Related Agreement specifically require another standard for such option, consent, approval, discretion or similar right. The term "made available" and words of similar import mean that the relevant documents, instruments or materials were posted and made available (and not removed) in the "Project Peach" electronic data room hosted by Datasite, in each case, at least one day prior to the date of this Agreement.

**Section 9.14 Computation of Time.** In computing any period of time prescribed by or allowed with respect to any provision of this Agreement that relates to a Seller's or the Sellers' Chapter 11 Cases, the provisions of Bankruptcy Rule 9006(a) shall apply.

**Section 9.15 Mutual Drafting.** Each of the Parties has participated jointly in the negotiation and drafting of this Agreement. In the event an ambiguity or question of intent or interpretation arises, this Agreement shall be construed as if drafted jointly by the Parties and no presumption or burden of proof shall arise favoring or disfavoring any Party by virtue of the authorship of any of the provisions of this Agreement.

**Section 9.16 Disclosure Schedule.** All capitalized terms not defined in the Disclosure Schedule shall have the meaning ascribed to them in this Agreement. The representations and warranties of the Sellers in this Agreement are made and given, and the covenants are agreed to, subject to the disclosures and exceptions set forth in the Disclosure Schedule. The Seller

Disclosure Schedule is arranged in sections and paragraphs corresponding to the numbered and lettered sections and paragraphs of this Agreement to which it relates. The disclosure in any section or paragraph of the Disclosure Schedule, and those in any amendment or supplement thereto, shall be deemed to relate to and to qualify only the particular representation or warranty set forth in the corresponding numbered or lettered section of this Agreement, except to the extent that: (a) such information is cross-referenced in another part of the Disclosure Schedule; or (b) it is reasonably apparent on the face of the disclosure (without reference to any document referred to therein or any independent knowledge on the part of the reader regarding the matter disclosed) that such information qualifies another representation or warranty of the Sellers. The listing of any matter shall expressly not be deemed to constitute an admission by any Seller, or to otherwise imply, that any such matter is material, is required to be disclosed under this Agreement or falls within relevant minimum thresholds or materiality standards set forth in this Agreement. No disclosure in the Disclosure Schedule relating to any possible breach or violation of any Contract or law shall be construed as an admission or indication that any such breach or violation exists or has actually occurred. All attachments to the Disclosure Schedule are incorporated by reference into the Disclosure Schedule in which they are directly or indirectly referenced. The Sellers will deliver final versions of the Disclosure Schedules (the "Final Disclosure Schedules") as promptly as practicable after the date hereof, but in no event later than August 27, 2025. From the date hereof until five days prior to the earlier of (i) a scheduled Auction or (ii) in the event no Auction is held, the hearing scheduled to consider entry of the Sale Order, the Sellers will have the continuing obligation to promptly supplement, modify, or amend the information set forth on the Disclosure Schedules; provided, that any supplements, modifications, or amendments to the Disclosure Schedules following the date hereof, including any information included in the Final Disclosure Schedules but not included in the version of the Disclosure Schedules delivered by the Sellers on the date hereof, will be disregarded for purposes of the closing condition set forth in Section 7.1(a) and will not limit the Buyer's termination rights pursuant to Section 8.1.

**Section 9.17 Headings; Table of Contents.** The section headings and the table of contents contained in this Agreement and the Disclosure Schedule are inserted for convenience only and shall not affect in any way the meaning or interpretation of this Agreement.

**Section 9.18 Counterparts: Facsimile and Email Signatures.** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument. This Agreement or any counterpart may be executed and delivered by facsimile or email with scan attachment copies, each of which shall be deemed an original.

**Section 9.19 Time of Essence.** Time is of the essence of this Agreement.

[SIGNATURE PAGES FOLLOW]

**SIGNATURE PAGES TO  
AMENDED AND RESTATED ASSET PURCHASE AGREEMENT**

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the date first above written.

**SELLERS:**

Wellmade Floor Coverings International, Inc.

By: \_\_\_\_\_  
Name:  
Title:

Wellmade Industries MFR. N.A LLC

By: \_\_\_\_\_  
Name:  
Title:

**BUYER:**

AHF IC, LLC

By: \_\_\_\_\_  
Name:  
Title:

**EXHIBIT A**

**Acquired Assets**

- (a) all Inventory, Furnishings and Equipment (including IT equipment), supplies, machinery, fixtures, tools, vehicles and other tangible personal property;
- (b) all assets that are located at or associated with the Leased Real Property, including the Cartersville Plant;
- (c) all open orders and customer deposits with respect to open orders;
- (d) all Assumed Contracts and Assumed Permits;
- (e) all Intellectual Property owned by the Sellers, including all Intellectual Property listed on Section 3.15 of the Disclosure Schedule;
- (f) all customer or potential customer lists and files, vendor lists and files, mailing lists, email lists, advertiser lists, databases (including archived databases) and similar material, whether in print or electronic form, including any lists relating to past, present or prospective customers;
- (g) all of Sellers' rights under confidentiality or non-disclosure agreements with respect to the Business or the Acquired Assets and with respect to solicitation and hiring of Transferred Employees;
- (h) all Specified Avoidance Actions; provided that, for the avoidance of doubt, neither the Buyer nor any Person claiming by, through, or on behalf of the Buyer (including by operation of law, sale, assignment, conveyance or otherwise) shall pursue, prosecute, litigate, institute or commence an action based on, assert, sell, convey, assign or file any claim that relates to the Specified Avoidance Actions;
- (i) all Litigation Claims other than D&O Litigation Claims;
- (j) all Prepaid Expenses;
- (k) all pending insurance claims and proceeds arising from or relating to claims made prior to the Closing with respect to uncured adverse effects on the Acquired Assets or Assumed Liabilities (for the avoidance of doubt insurance claims with respect to business interruption shall not be considered an Acquired Asset);
- (l) to the extent permitted by law, all Records of the Business, including books, records, ledgers, files, reports, plans, documents, manuals, and all customer sales, marketing, advertising, packaging and promotional materials, data, software (including all data and other information whether written, recorded or stored on discs, tapes or other media and including all computerized data), technical data and all other and all telephone, telex and telephone facsimile numbers and other directory listings, email addresses and domain

names (for the avoidance of doubt, the Acquired Assets shall not include (A) any attorney work product, attorney-client communications and other items protected by attorney-client privilege or (B) books and records relating to Taxes); and

(m)all of the goodwill, customer relationships, going concern value and other intangible assets.

**Exhibit 3**

Form Auction and Sale Notice

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

In re:

WELLMADE FLOOR COVERINGS  
INTERNATIONAL, INC., *et al.*,<sup>1</sup>

Debtors.

Chapter 11

Case No. 25-58764

(Jointly Administered)

**NOTICE OF PROPOSED SALE, BIDDING PROCEDURES,  
AUCTION, AND SALE HEARING**

**PLEASE TAKE NOTICE THAT:**

1. On August 4, 2025, the above-captioned debtors and debtors in possession (collectively, the “Debtors”) each filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code in the United States Bankruptcy Court for the Northern District of Georgia (the “Court”).

2. On August 8, 2025, the Debtors filed the *Motion of the Debtors for Entry of Orders (I)(A) Establishing Bidding Procedures Relating to the Sale of the Debtors’ Assets, (B) Approving the Debtors’ Entry into the Stalking Horse Purchase Agreement and Related Bid Protections, (C) Establishing Procedures Relating to the Assumption and Assignment of Certain Executory Contracts and Unexpired Leases, (D) Approving Form and Manner of Notices Relating Thereto, (E) Scheduling a Hearing to Consider the Proposed Sale, and (F) Granting Related Relief* (the “Bid Procedures Motion”); and *(II)(A) Approving the Sale of the Debtors’ Assets Free and Clear of All Liens, Claims, Encumbrances, and Interests, (B) Authorizing the Assumption and Assignment of Certain Executory Contracts and Unexpired Leases, and (C) Granting Related Relief* [D.I. 38] (the “Sale Motion”, and together with the Bid Procedures Motion, the “Motion”)<sup>2</sup> with the Court.

3. At a hearing on August 21, 2025, the Court approved the Bid Procedures Motion [D.I. [●]] (the “Bidding Procedures Order”).

4. The Debtors are seeking competitive bids in connection with a sale (the “Sale”) of any portion, or all, of the assets of the Debtors (the “Assets”).

<sup>1</sup> The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, include: Wellmade Industries MFR. N.A LLC (1058) and Wellmade Floor Coverings International, Inc. (8425). The mailing address for the Debtors for purposes of these chapter 11 cases is: 1 Wellmade Drive, Cartersville, GA 30121.

<sup>2</sup> Capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the Motion.



5. As set forth in the Motion and the Bidding Procedures (which are annexed to the Bidding Procedures Order), the Debtors have entered into the Stalking Horse Purchase Agreement for the sale of substantially all of the Assets, which is subject to higher or otherwise better offers.

6. Approval of the Sale of the Assets to the Stalking Horse Bidder or other Successful Bidder may result in, among other things, the assumption, assignment, and/or transfer by the Debtors of certain executory contracts and unexpired leases. If you are counterparty to an executory contract or unexpired lease with the Debtors, you will receive a separate notice regarding the Assumption and Assignment Procedures that contains additional relevant dates and other information that may impact you as counterparty to such executory contract or unexpired lease.

**CONTACT PERSONS FOR PARTIES INTERESTED IN SUBMITTING A BID**

7. The Bidding Procedures set forth the requirements for submitting a Qualified Bid, and any person interested in making an offer to purchase the Assets **must** comply strictly with the Bidding Procedures. **Only Qualified Bids will be considered by the Debtors.** Any interested persons should contact:

<b>[Proposed] Investment Banker to Debtors (via electronic mail)</b>	<b>[Proposed] Counsel to Debtors (via electronic mail)</b>
Hilco Corporate Finance  Attn: Teri Stratton (tstratton@hilcofc.com), copying Emily Xiao (exiao@hilcofc.com)	Greenberg Traurig, LLP Terminus 200 3333 Piedmont Road, NE, Suite 2500 Atlanta, Georgia 30305 Telephone: (678) 553-2100 Attn: John D. Elrod (elrodj@gtlaw.com) Allison J. McGregor (Allison.McGregor@gtlaw.com)  and  Greenberg Traurig, P.A. 333 S.E. 2 <sup>nd</sup> Avenue, Suite 4400 Miami, FL 33131 Telephone: (305) 579-0868 Attn: Ari Newman (newmanar@gtlaw.com)

**OBTAINING ADDITIONAL INFORMATION**

8. Copies of the Motion, the Bidding Procedures Order, the Bidding Procedures, and other case documents can be obtained free of charge (i) on the case website maintained by the Debtors' claims and noticing agent, Kurtzman Carson Consultants, LLC d/b/a Verita Global, at <https://www.veritaglobal.net/wellmade> or (ii) upon written request to counsel to the Debtors undersigned below.

### **IMPORTANT DATES AND DEADLINES**

9. The dates and deadlines set forth below have been approved by the Bidding Procedures Order:

- a) The deadline for Qualified Bidders to submit a binding Qualified Bid is September 19, 2025 at 4:00 p.m. (prevailing Eastern Time) (the “Bid Deadline”).
- b) The deadline to object to the Sale and entry of an order by the Court approving the Sale (a “Sale Objection”), including objections to Cure Costs and to the adequate assurance of future performance by the Stalking Horse Bidder, is September 19, 2025 at 4:00 p.m. (prevailing Eastern Time) (the “Sale Objection Deadline”).
- c) In the event that the Debtors receive two or more Qualified Bids by the Bid Deadline for the same Assets (in whole or in part), the Debtors intend to conduct an Auction to determine the highest or otherwise best bid with respect to the Assets. The Auction shall commence at 10:00 a.m. (prevailing Eastern Time) on September 23, 2025, at the offices of Greenberg Traurig, LLP, Terminus 200, 3333 Piedmont Road, NE, Suite 2500, Atlanta, Georgia 30305, or such other place as determined by the Debtors, and continue thereafter until completed. Any creditor that submits a written request to attend the Auction to counsel for the Debtors no later than one (1) business day prior to the Auction shall be entitled to attend the Auction; a request must include the creditor’s email address.
- d) In the event an Auction is conducted for the Assets, following the conclusion of the Auction and not later than September 24, 2025, subject to the filing of a notice by the Debtors indicating that the Auction has not concluded by such time, the Debtors will file a notice with the Court that provides the identities of the Successful Bidder and the Backup Bidder, as well as the Successful Bid and the Backup Bid. In addition to serving such notice on the United States Trustee, the Debtors will serve such notice by fax, electronic mail, or overnight delivery (with overnight delivery to be used solely in the event neither fax nor electronic mail information is available) on (i) the non-Debtor parties to the Assumed Contracts that have been identified in such Successful Bid and Backup Bid and (ii) those creditors who provide a written request for such notice along with their fax numbers, email addresses, or mailing addresses to counsel for the Debtors.
- e) The deadline by which all objections to (i) the manner of and conduct at the Auction (if applicable), and/or (ii) the identity/adequate assurance information of the Successful Bidder (other than the Stalking Horse Bidder) (an “Auction Objection”) is September 25, 2025 at 4:00 p.m. (prevailing Eastern Time) (the “Post-Auction Objection Deadline”).
- f) The Sale Hearing shall be conducted by the Court on September 29, 2025 at 10:00 a.m. (prevailing Eastern Time), or on such other date as the Court may direct.

### **OBJECTIONS**

10. All Sale Objections and Auction Objections must (a) be in writing, (b) state, with specificity, the legal and factual bases thereof, (c) comply with the Bankruptcy Code, the Bankruptcy Rules, the Local Rules, and any applicable orders of this Court, and (d) be filed with the Court and served so as to be **actually received** no later than the Sale Objection Deadline and Post-Auction Objection Deadline (as applicable) by:

a. proposed counsel for the Debtors, Greenberg Traurig, LLP, Terminus 200, 3333 Piedmont Road, NE, Suite 2500, Atlanta, Georgia 30305, Attn: John D. Elrod (elrodj@gtlaw.com), Ari Newman (newmanar@gtlaw.com), and Allison McGregor (Allison.McGregor@gtlaw.com);

b. the Office of the U.S. Trustee, 362 Richard B. Russell Federal Building, 75 Ted Turner Drive, S.W. Room 362, Atlanta, Georgia 30303, Attn: Lindsay P. S. Kolba, Esq. (lindsay.p.kolba@usdoj.gov);

c. counsel for the Debtors' Prepetition Lender and the Stalking Horse Bidder, King & Spalding LLP, 1180 Peachtree Street NE, Suite 1700, Atlanta, Georgia 30309, Attn: W. Austin Jowers (ajowers@kslaw.com) and Christopher K. Coleman (christopher.coleman@kslaw.com);

d. counsel to the DIP Lender, Rountree Leitman Klein & Geer, LLC, 2987 Clairmont Rd., Ste. 350, Atlanta, Georgia 30329, Attn: Will B. Geer (wgeer@rlkglaw.com) and William A. Rountree (wrountree@rlkglaw.com);

e. proposed counsel to the Official Committee of Unsecured Creditors appointed in these Chapter 11 Cases, Pachulski Stang Ziehl & Jones LLP, 1700 Broadway, 36<sup>th</sup> Floor, New York, New York 10019, Attn: Bradford J. Sandler, (Bsandler@pszjlaw.com), and Cia Mackle (Cmackle@pszjlaw.com); and

f. all parties that have requested notice in these Chapter 11 Cases.

### **CONSEQUENCES OF FAILING TO TIMELY ASSERT AN OBJECTION**

**ANY PARTY OR ENTITY WHO FAILS TO TIMELY FILE AND SERVE AN OBJECTION ON OR BEFORE THE APPLICABLE OBJECTION DEADLINE IN ACCORDANCE WITH THE ENTERED BIDDING PROCEDURES ORDER MAY BE FOREVER BARRED FROM ASSERTING ANY OBJECTION TO THE SALE, INCLUDING WITH RESPECT TO THE TRANSFER OF THE TRANSFERRED ASSETS OF THE DEBTOR ESTATES FREE AND CLEAR OF LIENS, CLAIMS, ENCUMBRANCES AND OTHER INTERESTS EFFECTED THEREUNDER.**

### **NO SUCCESSOR LIABILITY**

**THE SALE WILL BE FREE AND CLEAR OF, AMONG OTHER THINGS, ANY CLAIM ARISING FROM ANY CONDUCT OF THE DEBTORS PRIOR TO THE CLOSING OF THE SALE, WHETHER KNOWN OR UNKNOWN, WHETHER DUE OR TO BECOME**

**DUE, WHETHER ACCRUED, ABSOLUTE, CONTINGENT OR OTHERWISE, SO LONG AS SUCH CLAIM ARISES OUT OF OR RELATES TO EVENTS OCCURRING PRIOR TO THE CLOSING OF THE SALE. ACCORDINGLY, AS A RESULT OF THE SALE, THE SUCCESSFUL BIDDER WILL NOT BE A SUCCESSOR TO ANY OF THE DEBTORS BY REASON OF ANY THEORY OF LAW OR EQUITY, AND THE SUCCESSFUL BIDDER WILL HAVE NO LIABILITY, EXCEPT AS EXPRESSLY PROVIDED IN THE SUCCESSFUL BIDDER'S ASSET PURCHASE AGREEMENT, FOR ANY LIENS, CLAIMS, ENCUMBRANCES AND OTHER INTERESTS AGAINST OR IN ANY OF THE DEBTORS UNDER ANY THEORY OF LAW, INCLUDING SUCCESSOR LIABILITY THEORIES.**

Dated: \_\_\_\_\_, 2025

**GREENBERG TRAURIG, LLP**

/s/ \_\_\_\_\_  
John D. Elrod (Ga. Bar. No. 246604)  
Allison J. McGregor (Ga. Bar. No. 860865)  
Terminus 200  
3333 Piedmont Road, NE, Suite 2500  
Atlanta, Georgia 30305  
Telephone: (678) 553-2100  
Email: elrodj@gtlaw.com  
Allison.McGregor@gtlaw.com

*[Proposed] Counsel for the Debtors and  
Debtors in Possession*

**Exhibit 4**

**Form Notice of Potential Assumption and Assignment**

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

In re:

WELLMADE FLOOR COVERINGS  
INTERNATIONAL, INC., *et al.*,<sup>1</sup>

Debtors.

Chapter 11

Case No. 25-58764

(Jointly Administered)

**NOTICE OF PROPOSED ASSUMPTION AND  
ASSIGNMENT OF CERTAIN EXECUTORY CONTRACTS**

**PLEASE TAKE NOTICE THAT:**

1. On August 4, 2025, the above-captioned debtors and debtors in possession (collectively, the “Debtors”) each filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code in the United States Bankruptcy Court for the Northern District of Georgia (the “Court”).

2. On August 8, 2025, the Debtors filed the *Motion of the Debtors for Entry of Orders (I)(A) Establishing Bidding Procedures Relating to the Sale of the Debtors’ Assets, (B) Approving the Debtors’ Entry into the Stalking Horse Purchase Agreements and Related Bid Protections, (C) Establishing Procedures Relating to the Assumption and Assignment of Certain Executory Contracts and Unexpired Leases, (D) Approving Form and Manner of Notices Relating Thereto, (E) Scheduling a Hearing to Consider the Proposed Sale, and (F) Granting Related Relief* (the “Bid Procedures Motion”); and (II)(A) *Approving the Sale of the Debtors’ Assets Free and Clear of All Liens, Claims, Encumbrances, and Interests, (B) Authorizing the Assumption and Assignment of Certain Executory Contracts and Unexpired Leases, and (C) Granting Related Relief* [D.I. 38] (the “Sale Motion”, and together with the Bid Procedures Motion, the “Motion”)<sup>2</sup> with the Court.

3. On [●], 2025, the Court entered an order approving the Bid Procedures Motion [D.I. [●]] (the “Bidding Procedures Order”), granting certain of the relief sought in the Bid Procedures Motion, including, among other things, approving: (a) the Bidding Procedures, which establish the key dates and times related to the Sale and the Auction, and (b) the Assumption and Assignment Procedures.

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<sup>1</sup> The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, include: Wellmade Industries MFR. N.A LLC (1058) and Wellmade Floor Coverings International, Inc. (8425). The mailing address for the Debtors for purposes of these chapter 11 cases is: 1 Wellmade Drive, Cartersville, GA 30121.

<sup>2</sup> Capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the Motion.

4. **The hearing to consider the Sale (the “Sale Hearing”)** shall be conducted by the Court on September 29, 2025 at 10:00 a.m. (prevailing Eastern Time), or on such other date as the Court may direct. in the Bidding Procedures.

5. Upon the closing of the Sale, the Debtors may assume and assign to the Stalking Horse Bidder, or any other Successful Bidder, the Assumed Contracts.

6. A schedule listing the Assumed Contracts is attached hereto as **Schedule A** (the “Assumed Contracts List”). The cure costs, if any, necessary for the assumption and assignment of the Assumed Contracts (the “Cure Costs”) are also set forth on the Assumed Contracts List. The Cure Costs listed reflect the amount required to cure any defaults or arrears existing under each of the Assumed Contracts, based on the Debtors’ books and records. The Cure Costs are not dispositive for any other purpose, including for voting or distribution purposes.

7. **YOU ARE RECEIVING THIS NOTICE BECAUSE THE DEBTORS HAVE IDENTIFIED YOU AS A COUNTERPARTY TO A POTENTIAL ASSUMED CONTRACT.** The mere listing of an Assumed Contract on the Assumed Contracts List does not require or guarantee that such Assumed Contract will be assumed or assumed and assigned by the Debtors at any time or constitute any admission or agreement of the Debtors that such Assumed Contract is an executory contract or unexpired lease, and all rights of the Debtors, the Stalking Horse Bidder, or other Successful Bidder are reserved. Only those Assumed Contracts that are included on a schedule of assumed and acquired contracts attached to the final asset purchase agreement with the Successful Bidder (including amendments or modifications to such schedules in accordance with such asset purchase agreement) will be assumed and assigned to the Successful Bidder.

#### **OBTAINING ADDITIONAL INFORMATION**

8. Copies of the Motion, the Bidding Procedures Order, the Bidding Procedures, and other case documents can be obtained free of charge (i) on the case website maintained by the Debtors’ claims and noticing agent, Kurtzman Carson Consultants, LLC d/b/a Verita Global, at <https://www.veritaglobal.net/wellmade>, or (ii) upon written request to counsel to the Debtors undersigned below.

#### **FILING OBJECTIONS**

9. Pursuant to the Assumption and Assignment Procedures and the Bidding Procedures Order, any objections (each, an “Assumed Contract Objection”) to the proposed assumption and assignment of an Assumed Contract, the proposed Cure Costs (if any), and/or adequate assurance of future performance by the Stalking Horse Bidder must (a) state, with specificity, the legal and factual basis for the objection and, if applicable, what Cure Costs are required, (b) include appropriate documentation in support thereof, (c) comply with the Bankruptcy Code, the Bankruptcy Rules, the Local Rules, and any applicable orders of this Court, and (d) be filed with the Court and served so as to be **actually received** by no later than **September 19, 2025 at 4:00 p.m. (prevailing Eastern Time)** (the “Sale Objection Deadline”) on the following parties (collectively, the “Objection Notice Parties”):



- a) [proposed] counsel for the Debtors, Greenberg Traurig, LLP, Terminus 200, 3333 Piedmont Road, NE, Suite 2500, Atlanta, Georgia 30305, Attn: John D. Elrod (elrodj@gtlaw.com), Ari Newman (newmanar@gtlaw.com), and Allison McGregor (Allison.McGregor@gtlaw.com);
- b) the Office of the U.S. Trustee, 362 Richard B. Russell Federal Building, 75 Ted Turner Drive, S.W. Room 362, Atlanta, Georgia 30303, Attn: Lindsay P. S. Kolba, Esq. (lindsay.p.kolba@usdoj.gov);
- c) counsel for the Debtors' Prepetition Lender and the Stalking Horse Bidder, King & Spalding LLP, 1180 Peachtree Street NE, Suite 1700, Atlanta, Georgia 30309, Attn: W. Austin Jowers (ajowers@kslaw.com) and Christopher K. Coleman (christopher.coleman@kslaw.com);
- d) counsel to the DIP Lender, Rountree Leitman Klein & Geer, LLC, 2987 Clairmont Rd., Ste. 350, Atlanta, Georgia 30329, Attn: Will B. Geer (wgeer@rlkglaw.com) and William A. Rountree (wrountree@rlkglaw.com);
- e) proposed counsel to the Official Committee of Unsecured Creditors appointed in these Chapter 11 Cases, Pachulski Stang Ziehl & Jones LLP, 1700 Broadway, 36<sup>th</sup> Floor, New York, New York 10019, Attn: Bradford J. Sandler, (Bsandler@pszjlaw.com), and Cia Mackle (Cmackle@pszjlaw.com); and
- f) all parties that have requested notice in these Chapter 11 Cases.

10. Any objections (each, an "Adequate Assurance Objection") to the proposed form of adequate assurance of future performance by the Successful Bidder, other than any Stalking Horse Bidder, must (a) state, with specificity, the legal and factual basis for the objection, (b) include any appropriate documentation in support thereof, (c) comply with the Bankruptcy Code, the Bankruptcy Rules, the Local Rules, and any applicable orders of this Court, and (d) be filed with the Court and served so as to be **actually received** by the Objection Notice Parties no later than **September 25, 2025 at 4:00 p.m. (prevailing Eastern Time)** (the "Post-Auction Objection Deadline").

11. All Assumed Contract Objections and Adequate Assurance Objections will be considered at the Sale Hearing, or as soon thereafter as counsel may be heard.

#### **CONSEQUENCES OF FAILING TO TIMELY FILE AND SERVE AN OBJECTION**

**ANY COUNTERPARTY TO AN ASSUMED CONTRACT WHO FAILS TO TIMELY FILE AND SERVE AN ASSUMED CONTRACT OBJECTION BEFORE THE SALE OBJECTION DEADLINE OR AN ADEQUATE ASSURANCE OBJECTION BEFORE THE POST-AUCTION OBJECTION DEADLINE (IF APPLICABLE) SHALL BE FOREVER BARRED, ESTOPPED, AND ENJOINED FROM ASSERTING ANY OBJECTION TO THE ASSUMPTION AND ASSIGNMENT OF THE ASSUMED CONTRACT, THE CURE COSTS (IF ANY), AND THE ADEQUATE ASSURANCE OF FUTURE PERFORMANCE PROVIDED BY THE STALKING HORSE BIDDER OR OTHER SUCCESSFUL BIDDER.**

Dated: \_\_\_\_\_, 2025

**GREENBERG TRAURIG, LLP**

/s/

John D. Elrod (Ga. Bar. No. 246604)

Allison J. McGregor (Ga. Bar. No. 860865)

Terminus 200

3333 Piedmont Road, NE, Suite 2500

Atlanta, Georgia 30305

Telephone: (678) 553-2100

Email: [elrodj@gtlaw.com](mailto:elrodj@gtlaw.com)

[Allison.McGregor@gtlaw.com](mailto:Allison.McGregor@gtlaw.com)

*[Proposed] Counsel for the Debtors and  
Debtors in Possession*

**Schedule A**

**Executory Contracts and Unexpired Leases Subject to Assumption and Assignment**

**Exhibit 5**

**Form Notice of Successful Bidder**

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

In re:

WELLMADE FLOOR COVERINGS  
INTERNATIONAL, INC., *et al.*,<sup>12</sup>

Debtors.

Chapter 11

Case No. 25-58764

(Jointly Administered)

**NOTICE OF SUCCESSFUL BIDDER[S]**

**PLEASE TAKE NOTICE THAT** pursuant to the *Order (A) Establishing Bidding Procedures Relating to the Sale of the Debtors' Assets, (B) Approving the Debtors' Entry into the Stalking Horse Purchase Agreement and Related Bid Protections, (C) Establishing Procedures Relating to the Assumption and Assignment of Certain Executory Contracts and Unexpired Leases, (D) Approving Form and Manner of Notices Relating Thereto, (E) Scheduling a Hearing to Consider the Proposed Sale, and (F) Granting Related Relief [D.I. [●]]* (the "Bidding Procedures Order"),<sup>13</sup> entered by the United States Bankruptcy Court for the Northern District of Georgia (the "Bankruptcy Court") on [●], 2025, the above captioned debtors and debtors in possession (collectively, the "Debtors") have accepted a bid for the purchase of substantially all of the Debtors' assets (the "Sale") pursuant to the terms set forth in the asset purchase agreement (the, "Purchase Agreement") dated as of [●], 2025 between the Debtors and [●] (the "Purchaser"), substantially in the form attached hereto as **Exhibit[s] A.**

**PLEASE TAKE FURTHER NOTICE THAT** at the Sale Hearing to be held on September 29, 2025 at 10:00 a.m. (prevailing Eastern Time) before the Honorable Sage M. Sigler, at the Bankruptcy Court, Richard B. Russell Federal Building and United States Courthouse 75 Ted Turner Drive, SW Atlanta, Georgia 30303, the Debtors will seek entry of an order, approving the Sale free and clear of all liens, claims, interests and encumbrances except as otherwise provided in the Purchase Agreement with the Purchaser.

<sup>12</sup> The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, include: Wellmade Industries MFR. N.A LLC (1058) and Wellmade Floor Coverings International, Inc. (8425). The mailing address for the Debtors for purposes of these chapter 11 cases is: 1 Wellmade Drive, Cartersville, GA 30121.

<sup>13</sup> Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to such terms in the Bidding Procedures Order.

Dated: \_\_\_\_\_, 2025

**GREENBERG TRAURIG, LLP**

/s/

John D. Elrod (Ga. Bar. No. 246604)  
Allison J. McGregor (Ga. Bar. No. 860865)  
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*Counsel for the Debtors and Debtors in Possession*

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