United States Bankruptcy Court
Southern District of Texas
ENTERED
June 21, 2024
Nathan Ochsner, Clerk

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

In re:	:	Chapter 11
ROBERTSHAW US HOLDING CORP., *et al.*,	:	Case No. 24-90052 (CML)
Debtors.[1]	:	(Jointly Administered)

ORDER (I) APPROVING THE ASSET PURCHASE AGREEMENT, (II) AUTHORIZING THE SALE OF ASSETS, (III) AUTHORIZING THE ASSUMPTION AND ASSIGNMENT OF CONTRACTS AND LEASES, AND (IV) GRANTING RELATED RELIEF
[Relates to Motion at Docket No. 34]

Upon the motion [Docket No. 34] (the "Motion") of the above-captioned debtors and debtors-in-possession (collectively the "Debtors") for an order (this "Sale Order"), (a) approving (i) the proposed sale (the "Sale") of substantially all of the Debtors' assets (the "Purchased Assets") pursuant to that certain *Asset Purchase Agreement* [Docket No. 663-1] (as amended or modified, the "APA")[2] with Range Red Operating, Inc. (together with any successors and permitted assigns, or designees, the "Purchaser"), attached hereto as **Exhibit A**,[3] free and clear of all Encumbrances (as defined below), other than Permitted Encumbrances, pursuant to the terms of the APA, and (ii) assumption of certain executory contracts and unexpired leases of the Debtors (subject to

[1] The debtors in these cases, along with the last four digits of each debtor's federal tax identification number, are as follows: Range Parent, Inc. (7956); Robertshaw US Holding Corp. (1898); Robertshaw Controls Company (9531); Burner Systems International, Inc. (8603); Robertshaw Mexican Holdings LLC (9531); Controles Temex Holdings LLC (9531); Universal Tubular Systems, LLC (8603); and Robertshaw Europe Holdings LLC (8843). The primary mailing address used for each of the foregoing debtors is 1222 Hamilton Parkway, Itasca, Illinois 60143.

[2] Capitalized terms not otherwise defined herein shall have the meanings ascribed to such terms in the Motion or in the APA, as applicable.

[3] On June 20, 2024, the Debtors filed a *Notice of Revised Asset Purchase Agreement* [Docket No. 663] (the "APA Notice") which (a) notified parties in interest that the Debtors and the Purchaser had made certain modifications to the version of the APA that was annexed to the Motion, and (b) attached a redline highlighting such changes.

Section 2.05 of the APA) (the "Purchased Contracts") and assignment of the Purchased Contracts to the Purchaser; and (b) granting related relief; and the Court having entered the *Order (I) Approving Asset Purchase Agreement for Sale of Substantially All of Debtors' Assets; (II) Approving Bidding Procedures; (III) Approving Bidding Protections; (IV) Scheduling an Auction and a Sale Hearing; (V) Approving the Form and Manner of Notice Thereof; (VI) Approving Assumption and Assignment Procedures for Executory Contracts and Unexpired Leases; and (VII) Granting Related Relief* [Docket No. 359] (the "Bidding Procedures Order") approving the bidding procedures (the "Bidding Procedures"); and the Debtors having identified the Purchaser's bid as the sole bid for the Purchased Assets; and the Auction having been cancelled pursuant to the *Notice of Cancellation of Auction and Designation of Stalking Horse Bid as the Successful Bid* [Docket No. 537] in accordance with the Bidding Procedures; and the Stalking Horse Bidder/Purchaser being designated therein as the Successful Bidder for the Purchased Assets; and the Court having conducted a hearing on the Motion on June 21, 2024, (the "Sale Hearing"); and the Court having reviewed and considered the Motion, all relief related thereto, the objections thereto, and statements of counsel and the evidence presented in support of the relief requested by the Debtors in the Motion at the Sale Hearing including, among other things, (x) the *Declaration of Brendon Philipps in Support of Debtors' Motion for Entry of Orders (i) (a) Approving Asset Purchase Agreement for Sale of Substantially All of Debtors' Assets; (b) Approving Bidding Procedures; (c) Approving Bidding Protections; (d) Scheduling An Auction and a Sale Hearing; (e) Approving the Form and Manner of Notice Thereof; and (f) Approving Assumption and Assignment Procedures for Executory Contracts and Unexpired Leases; (ii) Approving (a) Sale of Substantially All of Debtors' Assets; and (b) Assumption and Assignment of Certain Executory Contracts and Unexpired Leases; and (iii) Granting Related Relief* [Docket No. 334] (the "Original Sale

Declaration"), (y) the *Declaration of Christian Cheney in Further Support of Debtors' Motion for Entry of Orders (I) (A) Approving Asset Purchase Agreement for Sale of Substantially All of Debtors' Assets; (B) Approving Bidding Procedures; (C) Approving Bidding Protections; (D) Scheduling an Auction and a Sale Hearing; (E) Approving the Form and Manner of Notice Thereof; and (F) Approving Assumption and Assignment Procedures for Executory Contracts and Unexpired Leases; (II) Approving (A) Sale of Substantially All of Debtors' Assets; and (B) Assumption and Assignment of Certain Executory Contracts and Unexpired Leases; and (III) Granting Related Relief* [Docket No. 657] (the "Cheney Sale Declaration"), and (z) the *Declaration of Neal Goldman in Support of Debtors' Motion for Entry of Orders (I) (A) Approving Asset Purchase Agreement for Sale of Substantially All of Debtors' Assets; (B) Approving Bidding Procedures; (C) Approving Bidding Protections; (D) Scheduling an Auction and a Sale Hearing; (E) Approving the Form and Manner of Notice Thereof; and (F) Approving Assumption and Assignment Procedures for Executory Contracts and Unexpired Leases; (II) Approving (A) Sale of Substantially All of Debtors' Assets; and (B) Assumption and Assignment of Certain Executory Contracts and Unexpired Leases; and (III) Granting Related Relief* [Docket No. 658] (the "Goldman Sale Declaration"), and together with the Original Sale Declaration and the Cheney Sale Declaration, the "Supporting Declarations"); and it appearing that the relief requested in the Motion is in the best interests of the Debtors, their estates, their creditors, and other parties in interest; and it further appearing that the legal and factual bases set forth in the Motion and at the Sale Hearing establish just cause for the relief granted herein; and after due deliberation thereon; and good and sufficient cause appearing therefor;

IT IS HEREBY FOUND, CONCLUDED, AND DETERMINED THAT:[4]

A. **Jurisdiction and Venue.** This Court has jurisdiction to consider the Motion under 28 U.S.C. §§ 157 and 1334. This is a core proceeding under 28 U.S.C. § 157(b). Venue of these chapter 11 cases and the Motion in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

B. **Statutory Predicates**. The statutory bases for the relief sought in the Motion are sections 105(a), 363, 365, 503 and 507 of title 11 of the United States Code, 11 U.S.C. §§ 101 et seq. (the "Bankruptcy Code"), rules 2002, 6004, 6006, 9007, 9008, and 9014 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"), the applicable Bankruptcy Local Rules for the Southern District of Texas (the "Local Rules"), and the Procedures for Complex Cases in the Southern District of Texas.

C. **Final Order.** This Sale Order constitutes a final order within the meaning of 28 U.S.C. § 158(a). Notwithstanding Bankruptcy Rules 6004(h) and 6006(d), and to any extent necessary under Bankruptcy Rule 9014 and Rule 54(b) of the Federal Rules of Civil Procedure, as made applicable by Bankruptcy Rule 7054, this Court expressly finds that there is no just reason for delay in the implementation of this Sale Order, waives any stay, and expressly directs entry of judgment as set forth herein.

D. **Notice**. As evidenced by the certificates of service previously filed with the Court, proper, sufficient and timely notice of the Motion, the APA, the Bidding Procedures, the Sale Hearing, the Sale, and the transactions contemplated thereby and hereunder has been provided in accordance with the Bidding Procedures Order, sections 105(a), 363(b), and 365 of the Bankruptcy Code, Bankruptcy Rules 2002, 6004, 6006, 9007, and 9008, and the Local Rules. The Debtors

[4] Findings of fact shall be construed as conclusions of law and conclusions of law shall be construed as findings of fact, where appropriate. *See* Bankruptcy Rule 7052.

have complied with all obligations to provide notice of the Motion, the Auction, the APA, and the Sale Hearing as set forth in the Bidding Procedures Order. The notices described above were good, sufficient, and appropriate under the circumstances, and no other or further notice of the Motion, the APA, the Auction, the Sale or the Sale Hearing is or shall be required. The disclosures made by the Debtors concerning the Motion, the APA, the Auction, the Sale and the Sale Hearing were good, complete, and adequate. The requirements of Bankruptcy Rule 6004(a) and the Local Rules are satisfied by such notice.

E. In accordance with the Bidding Procedures Order, the Debtors have filed and served the *Notice of Possible Assumption and Assignment of Certain Executory Contracts and Unexpired Leases* [Docket No. 392] and any supplements thereto (the "Cure Notice") identifying the amount required to cure any and all defaults and actual pecuniary losses to the non-Debtor counterparty to such Purchased Contracts resulting from such defaults including, but not limited to, all claims, demands, charges, rights to refunds, and monetary and non-monetary obligations that the non-Debtor counterparties can assert under the Purchased Contracts, whether legal or equitable, secured or unsecured, matured or unmatured, contingent or non-contingent, liquidated or unliquidated, senior or subordinate, relating to money now owing or owing in the future, arising under or out of, in connection with, or in any way relating to, the Purchased Contracts (the foregoing amounts as stated in the Cure Notice or Supplemental Cure Notice, as applicable, collectively referred to as the "Cure Amounts") upon each non-Debtor counterparty to a Purchased Contract. The service and provision of the Cure Notice was good, sufficient, and appropriate under the circumstances, and no further notice need be given in respect of assumption and assignment of the Purchased Contracts or establishing a Cure Amount for any respective Purchased Contract. Non-Debtor counterparties to the Purchased Contracts have had or will have, as applicable, an adequate opportunity to object to assumption and assignment of the applicable Purchased Contract and the Cure Amount set forth in the Cure Notice (including objections related to the adequate assurance of future performance and objections based on whether applicable law excuses the non-Debtor counterparty from accepting performance by, or rendering performance to, the Purchaser for purposes of section 365(c)(1) of the Bankruptcy Code). The deadline for a non-Debtor counterparty to file an objection to the stated Cure Amounts in the Cure Notice (a "Cure Objection") has expired and, to the extent any such party timely filed a Cure Objection, all such Cure Objections have been resolved, withdrawn, overruled, or continued to a later hearing by agreement of the parties. To the extent that any non-Debtor counterparty did not timely file a Cure Objection by the applicable objection deadline listed in the Cure Notice (the "Cure Objection Deadline"), such party shall be deemed to have consented to (x) the assumption and assignment of the Purchased Contract and (y) the proposed Cure Amount set forth on the Cure Notice.

F. **Corporate Authority**. The Debtors (i) have full corporate power and authority to execute, deliver, and perform their obligations under the APA and all other documents contemplated thereby and by this Sale Order, and the Debtors' sale of the Purchased Assets has been duly and validly authorized by all necessary corporate or similar action, (ii) have all of the corporate power and authority necessary to consummate the transactions contemplated by the APA, and (iii) have taken all corporate action necessary to authorize and approve the APA and the consummation of the transactions contemplated thereby. No consents or approvals, other than those expressly provided for herein or in the APA, are required for the Debtors to consummate such transactions.

G. **No Fraudulent Transfer**. The APA was not entered into for the purpose of hindering, delaying, or defrauding creditors under the Bankruptcy Code or under the laws of the

United States, any state, territory, possession, or the District of Columbia. Neither the Debtors nor the Purchaser is fraudulently entering into the transactions contemplated by the APA under any law including, but not limited to, for the purpose of statutory and common law fraudulent conveyance and fraudulent transfer claims.

H. The Debtors are the sole and lawful owner of the Purchased Assets. Subject to section 363(f) of the Bankruptcy Code, the transfer of each of the Purchased Assets to the Purchaser, in accordance with the APA and this Sale Order will be, as of the Closing Date (as defined in the APA), a legal, valid, binding and effective transfer of the Purchased Assets, which transfer vests or will vest the Purchaser with all right, title, and interest of the Debtors to the Purchased Assets free and clear of all Claims and Encumbrances (other than Permitted Encumbrances and Assumed Liabilities). Claims in the APA are defined by referencing the definition of "claim" in section 101(5) of the Bankruptcy Code and, the breadth of such definition includes, but is not be limited to, all debts arising under, relating to, or in connection with any act of the Debtors or claims, liabilities, obligations, demands, guaranties, options, rights, contractual commitments, restrictions, restrictive covenants, covenants not to compete, rights to refunds, escheat obligations, interests, and matters of any kind and nature, whether arising prior to or subsequent to the commencement of these chapter 11 cases, and whether imposed by agreement, applicable law, equity, or otherwise (including, without limitation, rights with respect to Claims and Encumbrances (as defined in the APA) (i) that purport to give to any party a right of setoff or recoupment against, or a right or option to effect any forfeiture, modification, profit sharing interest, right of first refusal, purchase or repurchase right or option, or termination of, any of the Debtors' or the Purchaser's interests in the Purchased Assets, or any similar rights, (ii) in respect of taxes owed by the Debtors for periods prior to the Closing Date including, but not limited to, sales, income, use, or any other type of tax, or (iii) in respect of restrictions, rights of first refusal, charges, or interests of any kind or nature, if any, including, without limitation, any restriction of use, voting, transfer, receipt of income, or other exercise of any attributes of ownership) relating to, accruing, or arising any time prior to the Closing Date, with the exception of the Assumed Liabilities.

I. **Business Judgment**. Good and sufficient reasons for approval of the APA and the transactions to be consummated in connection therewith and hereunder (including with respect to the settlement reached between the Debtors and the Official Committee of Unsecured Creditors appointed in these cases (the "Committee") that is embodied pursuant to the *First Amended Joint Plan of Liquidation of Robertshaw US Holding Corp. and its Affiliated Debtors under Chapter 11 of the Bankruptcy Code* [Docket No. 641] (as the same may be amended or modified, the "Plan") and that certain Settlement Term Sheet attached as Exhibit A to the *Notice of Settlement Term Sheet with Official Committee of Unsecured Creditors* [Docket No. 574] (the "Term Sheet"), pursuant to which, among other things, the Ad Hoc Group and One Rock Capital Partners, LLC (together with its managed funds, "ORC") have agreed not to seek any recovery with respect to certain Claims and to provide to holders of certain Claims consideration specified in the Plan and Term Sheet in exchange for certain releases provided under the Plan (the "Committee Settlement")) have been articulated, and the relief requested in the Motion is in the best interests of the Debtors, their estates, their creditors and other parties in interest. The Debtors have demonstrated both (i) good, sufficient, and sound business purposes and justifications and (ii) compelling circumstances for the Sale other than in the ordinary course of business, pursuant to section 363(b) of the Bankruptcy Code, outside of a plan of reorganization, in that, among other things, the immediate consummation of the Sale to the Purchaser is necessary and appropriate to preserve and maximize the value of the Debtors' estates.

J. The Sale must be approved and consummated promptly in order to preserve the viability of the Debtors' businesses as a going concern and to maximize the value of the Debtors' estates. Time is of the essence to implement the APA and to consummate the Sale contemplated thereby without any interruption. Given all of the circumstances of these chapter 11 cases and the adequacy and fair value of the Purchase Price (as defined below), the proposed Sale constitutes a reasonable and sound exercise of the Debtors' business judgment and should be approved.

K. The consummation of the Sale and the assumption and assignment of the Purchased Contracts are legal, valid, and properly authorized under all applicable provisions of the Bankruptcy Code including, without limitation, sections 105(a), 363, and 365 of the Bankruptcy Code, and all of the applicable requirements of such sections have been complied with in respect of the Sale and the transactions contemplated thereby.

L. **Good Faith of the Purchaser and the Debtors**. As demonstrated by (i) the Supporting Declarations; (ii) the testimony and other evidence proffered or adduced at the hearing with respect to the approval of the Bidding Procedures held on March 11, 2024 (the "Bidding Procedures Hearing"), the Invesco Adversary Proceeding, and the Sale Hearing held on June 21, 2024; and (iii) the representations of counsel made on the record at the Bidding Procedures Hearing and the Sale Hearing, substantial marketing efforts and a competitive sale process were conducted in accordance with the Bidding Procedures Order and, among other things: (a) the Debtors and the Purchaser complied with the provisions in the Bidding Procedures Order; (b) the Purchaser agreed to subject its bid to the competitive bidding procedures set forth in the Bidding Procedures Order; (c) the Debtors and their investment banker, Guggenheim Securities, LLC, engaged in a robust and extensive marketing and sale process, pursuant to the Bidding Procedures Order and the Bidding Procedures; and (d) all payments to be made by the Purchaser in connection with the Sale have been disclosed. The APA was negotiated, proposed, and entered into by the Debtors and the Purchaser, their management and their respective boards of directors or equivalent governing bodies, officers, directors, employees, agents, professionals, and representatives, without collusion, in good faith, and as the result of arm's length bargaining positions and is substantively and procedurally fair to all parties. The Purchaser is not an "insider" of any of the Debtors, as that term is defined in section 101(31) of the Bankruptcy Code, notwithstanding the fact that Range Finance Investors, L.P., an affiliate of ORC (*i.e.*, the Debtors' equity sponsor), is a minority owner in the Purchaser. Neither any of the Debtors nor the Purchaser has engaged in any conduct that would cause or permit the Sale or the APA to be avoided or subject to monetary damages under section 363(n) of the Bankruptcy Code. Specifically, the Purchaser has not acted in a collusive manner with any person and the Purchase Price was not controlled by any agreement among bidders. The Purchaser is purchasing the Purchased Assets, in accordance with the APA, in good faith, and is a good faith purchaser within the meaning of section 363(m) of the Bankruptcy Code and is therefore entitled to all of the protections afforded by such provision and otherwise has proceeded in good faith in all respects in connection with the Debtors' chapter 11 cases.

M. **Highest or Otherwise Best Offer.** The Debtors conducted the Sale in accordance with, and have otherwise complied in all material respects with, the Bidding Procedures Order. The procedures approved by the Bidding Procedures Order afforded a full, fair, and reasonable opportunity for any person or entity to make a higher or otherwise better offer to purchase the Purchased Assets. The Bidding Procedures were duly-noticed and the Sale was conducted in a non-collusive, fair, and good-faith manner, and a reasonable opportunity was given to any interested party to make a higher or otherwise better offer for the Purchased Assets. The transaction memorialized by the APA constitutes the highest or otherwise best offer for the Purchased Assets and will provide a greater recovery for the Debtors' estates than would be provided by any other available alternative. The Debtors' determination that the transaction memorialized by the APA constitutes the highest or otherwise best offer for the Purchased Assets is a valid and sound exercise of their fiduciary duties and constitutes a valid and sound exercise of the Debtors' business judgment.

N. **Consideration**. The consideration provided by the Purchaser pursuant to the APA and this Sale Order (a) was negotiated at arm's-length, (b) is fair and reasonable, (c) is the highest or otherwise best offer for the Purchased Assets, and (d) constitutes reasonably equivalent value and fair consideration (as those terms are defined in each of the Uniform Voidable Transactions Act (formerly the Uniform Fraudulent Transfer Act), Uniform Fraudulent Conveyance Act, and section 548 of the Bankruptcy Code) under the laws of the United States, any state, territory, possession, or the District of Columbia. No other person or entity or group of entities has offered to purchase the Purchased Assets for greater economic value to the Debtors' estates than the Purchaser. Approval of the Motion, the APA, the Sale and the consummation of the transactions contemplated thereby is in the best interests of the Debtors, their estates, their creditors, and other parties in interest.

O. **Secured Claims, Required Lenders, and Credit Bid**. The Purchaser is a Delaware corporation that was formed (i) by and at the direction of the Ad Hoc Group under that certain Prepetition Super-Priority Credit Agreement (the "Ad Hoc Group") who entered into the Restructuring Support Agreement (the "RSA") with the Debtors and ORC, and (ii) with the participation of an affiliate of ORC, Range Finance Investors, L.P. In accordance with the terms of the RSA and the APA, the Ad Hoc Group and ORC each have agreed to cause the Purchaser to purchase the Purchased Assets. The Ad Hoc Group constitutes "Required Lenders" under and as defined in the Super-Priority Credit Agreement and "Required Lenders" under and as defined in the DIP Credit Agreement. The Stalking Horse Bidder was formed by or at the direction of the Ad Hoc Group (who constitute "Required Lenders" under and as defined in each of the DIP Credit Agreement and Super-Priority Credit Agreement), with the participation of ORC. Furthermore, the Bidding Procedures Order, as entered by this Court, specifically stated that the Stalking Horse Bidder could credit bid for the Assets.

P. On the terms and subject to the conditions contained in the APA, the Purchaser agreed to provide, as aggregate consideration for the Purchased Assets, the Purchase Price including among other things (a) a credit bid pursuant to section 363(k) of the Bankruptcy for (i) all DIP Obligations including any and all costs, fees, expenses, premiums and other amounts under the DIP Credit Agreement and (ii) $217,000,000 of the obligations (including costs, fees, expenses, premiums and other amounts) under the Prepetition First Out Secured Indebtedness (the "Credit Bid Amount"), (b) an amount in cash (the "Closing Date Payment") equal to (i) the Post-Effective Date Budget (the "**Post-Effective Date Amount**") and (ii) the Additional Sale Consideration (as defined in the Plan), and (c) the assumption of the Assumed Liabilities as set forth in the APA (the amount of such consideration, collectively, the "Purchase Price"). The DIP Agent and/or the Prepetition Super-Priority Agent (as defined in the *Final Order (I) Authorizing Debtors to Obtain Post-Petition Financing; (II) Authorizing Debtors to Continue the Use of Cash Collateral; (III) Granting Liens and Providing Superpriority Administrative Expense Claims; (IV) Granting Adequate Protection to Prepetition First Out Super-Priority Secured Parties; (V) Modifying Automatic Stay and (VI) Granting Related Relief* [Docket No. 357] (the "Final DIP Order")), at the direction of the Required Lenders (under and as defined in each of the DIP Credit Agreement and Super-Priority Credit Agreement), have the right under section 363(k) of the Bankruptcy Code, and were authorized by this Court's Bidding Procedures Order, to credit bid up to the full amount of the underlying lenders' respective claims. Accordingly, this Court has already affirmatively ordered that the Stalking Horse Bid is a credit bid and such credit bid is a Qualified Bid (as defined in the Bidding Procedures Order).

Q. **No Successor Liability**. By virtue of the consummation of the transactions contemplated under the APA: (i) the Purchaser is not a continuation of any Seller and its respective estate, there is not substantial continuity between the Purchaser and the Sellers, and there is no continuity of enterprise between the Sellers and the Purchaser; (ii) the Purchaser is not holding itself out to the public as a continuation of the Debtors or their respective estates; (iii) the transactions do not amount to a consolidation, merger, or *de facto* merger of the Purchaser and the Debtors and/or the Debtors' estates; and (iv) the Purchaser is not a successor or assignee of the Debtors or their estates for any purpose including, but not limited to, under any federal, state or local statute or common law, or revenue, pension, ERISA, tax, labor, employment, environmental, escheat or unclaimed property laws, or other law, rule or regulation (including. without limitation. filing requirements under any such laws, rules. or regulations), or under any products liability law or doctrine with respect to the Debtors' liability under such law, rule or regulation or doctrine or common law, or under any product warranty liability law or doctrine with respect to the Debtors' liability under such law, rule or regulation or doctrine, and the Purchaser shall have no liability or obligation under the Workers Adjustment and Retraining Act (the "WARN Act"), 929 U.S.C. §§ 210 et seq. or the Comprehensive Environmental Response Compensation and Liability Act and shall not be deemed to be a "successor employer" for purposes of the Internal Revenue Code of

1986, Title VII of the Civil Rights Act of 1964, as amended, the Age Discrimination in Employment Act, the Americans with Disability Act, the Family Medical Leave Act, the National Labor Relations Act, the Labor Management Relations Act, the Older Workers Benefit Protection Act, the Equal Pay Act, the Civil Rights Act of 1866 (42 U.S.C. 1981), the Employee Retirement Income Security Act, the Multiemployer Pension Protection Act, the Pension Protection Act, and/or the Fair Labor Standards Act. Except for the Assumed Liabilities, (i) the transfer of the Purchased Assets to the Purchaser and (ii) the assumption and assignment to the Purchaser of the Purchased Contracts do not and will not subject the Purchaser to any liability whatsoever with respect to the operation of the Debtors' business before the Closing Date or by reason of such transfer under the laws of the United States, any state, territory, or possession thereof, or the District of Columbia, based on, in whole or in part, directly or indirectly, any theory of law or equity including, without limitation, any theory of antitrust or successor or transferee liability.

R. **Free and Clear**. The conditions of section 363(f) of the Bankruptcy Code have been satisfied in full and, therefore, the Debtors may sell the Purchased Assets free and clear of any liens, claims, defenses (including rights of setoff and recoupment), and interests, in each case, in, on, or related to the Purchased Assets, including security interests of whatever kind or nature, mortgages, conditional sales or title retention agreements, pledges, deeds of trust, hypothecations, mechanics' and materialman's liens, assignments, preferences, debts, easements, charges, suits, licenses, options, rights of recovery, judgments, orders and decrees of any court or foreign or domestic governmental entity, taxes (including foreign, state, and local taxes), licenses, covenants, restrictions, indentures, instruments, leases, options, off-sets, causes of action, contract rights and claims, to the fullest extent of the law, in each case, of any kind or nature in, on, or related to the Purchased Assets (including all "claims" as defined in section 101(5) of the Bankruptcy Code), known or unknown, whether prepetition or postpetition, secured or unsecured, choate or inchoate, filed or unfiled, scheduled or unscheduled, perfected or unperfected, liquidated or unliquidated, noticed or unnoticed, recorded or unrecorded, contingent or non-contingent, material or non-material, statutory or non-statutory, matured or unmatured, legal or equitable, including any and all such liabilities, causes of action, contract rights and claims arising out of the Debtors' continued operations following the Closing Date (collectively, "Encumbrances"), other than as expressly contemplated by the APA, including Permitted Encumbrances. The Purchaser would not have entered into the APA and would not consummate the transactions contemplated thereby if the Sale to the Purchaser and the assumption of any Assumed Liabilities by the Purchaser were not free and clear of all Encumbrances other than the Assumed Liabilities and Permitted Encumbrances. The Debtors may sell the Purchased Assets free and clear of any Encumbrances of any kind or nature whatsoever (other than Permitted Encumbrances) because, in each case, one or more of the standards set forth in section 363(f)(1)-(5) of the Bankruptcy Code has been satisfied. Each entity with an Encumbrance in the Purchased Assets to be transferred on the Closing Date: (i) has, subject to the terms and conditions of this Sale Order, consented to the Sale or is deemed to have consented to the Sale; (ii) could be compelled in a legal or equitable proceeding to accept money satisfaction of such Encumbrance; or (iii) otherwise falls within the provisions of section 363(f) of the Bankruptcy Code. Those holders of such Encumbrances who did not object, or withdrew their objections, to the Motion are deemed, subject to the terms of this Sale Order, to have consented pursuant to section 363(f)(2) of the Bankruptcy Code. All holders of Encumbrances (other than the Assumed Liabilities and Permitted Encumbrances) are adequately protected by having their Encumbrances attach to the proceeds received by the Debtors (if any) that are ultimately attributable to the property against or in which such Encumbrances are asserted, subject to the terms of such Encumbrances, with the same validity, force, and effect, and in the same order of priority, which such Encumbrances now have against the Purchased Assets or their proceeds, if any, subject to any rights, claims, and defenses the Debtors or their estates, as applicable, may possess with respect thereto.

S. The sale, conveyance, assignment and transfer of any personally identifiable information pursuant to the terms of the APA and this Sale Order complies with the terms of the Debtors' policy regarding the transfer of such personally identifiable information as of the Petition Date and, as a result, consummation of the Sale is permitted pursuant to Section 363(b)(1)(A) of the Bankruptcy Code. Accordingly, appointment of a consumer privacy ombudsman in accordance with sections 363(b)(1) or 332 of the Bankruptcy Code is not required with respect to the Sale.

T. **Cure/Adequate Assurance**. The assumption and assignment of the Purchased Contracts pursuant to the terms of this Sale Order is integral to the APA and is in the best interests of the Debtors and their estates, their creditors, and all other parties in interest, is integral to the Sale and the transactions contemplated pursuant to the APA, and represents a reasonable exercise of sound and prudent business judgment by the Debtors. Payment of the Cure Amounts by the Purchaser shall (i) to the extent necessary, cure or provide adequate assurance of cure, within the meaning of sections 365(b)(1)(A) and 365(f)(2)(A) of the Bankruptcy Code, and (ii) to the extent necessary, provide compensation or adequate assurance of compensation to any party for any actual pecuniary loss to such party resulting from a default prior to the date hereof with respect to the Purchased Contracts, within the meaning of sections 365(b)(1)(B) and 365(f)(2)(A) of the Bankruptcy Code. The Purchaser's financial wherewithal to consummate the transactions contemplated by the APA and the evidence presented at the Sale Hearing demonstrating the

Purchaser's ability to perform the obligations under the Purchased Contracts after the Closing Date shall constitute adequate assurance of future performance within the meaning of sections 365(b)(1)(C), 365(b)(3) (to the extent applicable), and 365(f)(2)(B) of the Bankruptcy Code.

U. All objections to the assumption and assignment of any of the Purchased Contracts by the Purchaser in accordance with the APA are hereby overruled. To the extent that any counterparty failed or fails to timely object to the proposed Cure Amounts, such counterparty is deemed to have consented to such Cure Amounts and the assumption and assignment of its respective Purchased Contract(s) to the Purchaser in accordance with the APA.

V. **Compelling Circumstances for Immediate Sale**. To maximize the value of the Purchased Assets, it is essential that the transactions contemplated by the APA including, without limitation, the Sale and the assumption and assignment of the Purchased Contracts occur within the time constraints set forth in the APA. Time is of the essence in consummating the transactions contemplated by the APA including, without limitation, the Sale and the assumption and assignment of the Purchased Contracts.

W. The Debtors have demonstrated compelling circumstances and a good, sufficient, and sound business purpose and justification for the approval and consummation of the transactions contemplated by the APA and this Sale Order including, without limitation, the Sale and the assumption and assignment of the Purchased Contracts outside of a chapter 11 plan because, among other things, the Debtors' estates will suffer irreparable harm if the relief requested in the Motion is not granted on an expedited basis; *provided, however*, that the consummation of the transactions contemplated by the APA and this Sale Order shall occur concurrent with the effective date of the Plan. The transactions contemplated by the APA and this Sale Order including, without limitation, the Sale, the Committee Settlement and the assumption and assignment of the Purchased Contracts neither impermissibly restructure the rights of the Debtors' creditors nor impermissibly dictate the terms of a chapter 11 plan for the Debtors, and, therefore, does not constitute a *sub rosa* plan.

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

1. **The Sale is Approved**. The Sale contemplated by the APA is hereby APPROVED as set forth herein.

2. **Objections Overruled**. Any objections to the entry of this Sale Order or the relief granted herein and requested in the Motion (other than the Adjourned Objections) that have not been withdrawn, waived, or settled as announced to the Court at the Sale Hearing (the full record of which is incorporated herein by reference), by stipulation filed with the Court, or by representation by the Debtors in a separate pleading, and all reservations of rights included therein, if any, are hereby denied and overruled on the merits with prejudice. In accordance with Debtors' request for relief in the *Debtors' Reply to Invesco Senior Secured Management, Inc.'s Objection to Debtors' Sale of Assets and Entry of Sale Order* [Docket No. 656] in response to Invesco Senior Secured Management, Inc.'s ("Invesco") *Objection to Debtors' Sale of Assets and Entry of Sale* [Docket No. 532] (the "Sale Objection"), the Sale Objection is hereby overruled in all respects.

3. **Approval**. The APA, and all other ancillary documents, and all of the terms and conditions thereof, including the credit bid pursuant to section 363(k) of the Bankruptcy Code in an amount up to the full amount of the Credit Bid Amount, are hereby approved in all respects subject to the terms hereof. Pursuant to sections 363(b) and 363(f) of the Bankruptcy Code, the Debtors are hereby authorized to (a) execute any additional instruments or documents that may be reasonably necessary or appropriate to implement the APA, the Sale and the transactions

contemplated thereby, (b) consummate the Sale in accordance with the terms and conditions of the APA, the instruments to the APA contemplated thereby and the Committee Settlement, and (c) execute and deliver, perform under, consummate, implement, and close fully the transactions contemplated by the APA, including the assumption and assignment to the Purchaser (in accordance with the APA) of the Purchased Contracts, together with all additional instruments and documents that may be reasonably necessary or desirable to implement the APA, the Sale and this Sale Order. The Purchaser shall not be required to seek or obtain relief from the automatic stay under section 362 of the Bankruptcy Code to enforce any of its remedies under the APA or any other Sale-related document; *provided*, that prior to the enforcement of any remedy that would relate to taking custody or possession of any property of the Debtors' estates, the Purchaser shall provide three (3) business days advance notice to the Debtors and the Committee. The automatic stay imposed by section 362 of the Bankruptcy Code is modified solely to the extent necessary to implement the preceding sentence and the other provisions of this Sale Order; *provided, however*, that this Court shall retain exclusive jurisdiction over any and all disputes with respect thereto. Subject in all respects to the Committee Settlement, the portion of the obligations under the Super-Priority Credit Agreement in excess of the Credit Bid Amount provided under the APA shall remain outstanding against the applicable Debtors and any of their assets not purchased by the Purchaser, and the Prepetition Super-Priority Agent and the lenders under the Prepetition Super-Priority Credit Agreement shall continue to be protected by and entitled to the benefit of the terms and provisions of the Prepetition Super-Priority Credit Agreement, the related loan documents, and other orders entered by this Court in respect thereof.

4. This Sale Order shall be binding in all respects upon the Debtors, their estates, all creditors of, and holders of equity interests in, the Debtors, any holders of Encumbrances or other

interests in, against, or on all or any portion of the Purchased Assets (whether known or unknown), the Purchaser, and all successors and assigns of the Purchaser, the Purchased Assets, and any trustees, if any, subsequently appointed in the Debtors' chapter 11 cases or upon a conversion to chapter 7 under the Bankruptcy Code of the Debtors' chapter 11 cases. This Sale Order and the APA shall inure to the benefit of the Debtors, their estates and creditors, the Committee, the Purchaser, and the respective successors and assigns of each of the foregoing.

5. **Transfer of Purchased Assets Free and Clear of Encumbrances**. Pursuant to sections 105(a), 363(b), and 363(f) of the Bankruptcy Code, the Debtors are authorized to transfer the Purchased Assets to the Purchaser in accordance with the APA, and such transfer shall constitute a legal, valid, binding, and effective transfer of such Purchased Assets and shall vest the Purchaser with title in and to the Purchased Assets and, other than the Assumed Liabilities, the Purchaser shall take title to and possession of the Purchased Assets free and clear of all Encumbrances and other interests of any kind or nature whatsoever (other than Permitted Encumbrances) including, but not limited to, successor or successor-in-interest liability and Claims in respect of the Excluded Liabilities, with all such Encumbrances and other interests to attach to the cash proceeds received by the Debtors that are ultimately attributable to the property against or in which such Encumbrances are asserted, subject to the terms of such Encumbrances with the same validity, force, and effect, and in the same order of priority, which such Encumbrances now have against the Purchased Assets or their proceeds, if any, subject to any rights, claims, and defenses the Debtors or their estates, as applicable, may possess with respect thereto; *provided that* pursuant to and in accordance with the APA and this Sale Order, subject to the terms of the Plan, the Committee Settlement, and the RSA, the Debtors shall receive from the Purchaser, or will retain sufficient cash to fund, the Wind-Down Amount, including the Professional Fee Escrow (as

defined below), as contemplated by the Wind-Down Budget, to fund the anticipated costs of the wind-down of the Debtors' operations, the administration of the estates following the Sale and the payment of all administrative and priority claims required to be paid pursuant to the Plan.

6. Unless otherwise expressly included in the definition of "Assumed Liabilities" or "Permitted Encumbrances" in the APA, the Purchaser shall not be responsible for any Encumbrances including, without limitation, in respect of the following: (a) any labor or employment agreements; (b) any mortgages, deeds of trust, and security interests; (c) any pension, welfare, compensation, or other employee benefit plans, agreements, practices, and programs including, without limitation, any pension plan of the Debtors; (d) any other employee, worker's compensation, occupational disease, or unemployment or temporary disability related claim, including, without limitation, claims that might otherwise arise under or pursuant to (i) the Employee Retirement Income Security Act, as amended, (ii) the Fair Labor Standards Act, (iii) Title VII of the Civil Rights Act of 1964, (iv) the Federal Rehabilitation Act of 1973, (v) the National Labor Relations Act, (vi) the WARN Act, (vii) the Age Discrimination in Employment Act, as amended, (viii) the Americans with Disabilities Act, (ix) the Family Medical Leave Act, (x) the Labor Management Relations Act, (xi) the Multiemployer Pension Protection Act, (xii) the Pension Protection Act, (xiii) the Consolidated Omnibus Budget Reconciliation Act of 1985, (xiv) the Comprehensive Environmental Response Compensation and Liability Act, (xv) state discrimination laws, (xvi) state unemployment compensation laws or any other similar state laws, or (xvii) any other state or federal benefits or claims relating to any employment with the Debtors or any of its respective predecessors; (e) any bulk sales or similar law; (f) any tax statutes or ordinances including, without limitation, the Internal Revenue Code of 1986, as amended, or any state or local tax laws; (g) any escheat or unclaimed property laws; (h) to the extent not included

in the foregoing, any of the Excluded Liabilities under the APA; and (i) any theories of successor or transferee liability.

7. All persons and entities that are in possession of some or all of the Purchased Assets on the Closing Date are directed to surrender possession of such Purchased Assets to the Purchaser in accordance with the APA on the Closing Date or at such time thereafter as the Purchaser may request. On the Closing Date, each of the Debtors' creditors is authorized and directed to execute such documents and take all other actions as may be reasonably necessary to release its Encumbrances or other interests in the Purchased Assets, if any, other than Permitted Encumbrances, as such Encumbrances may have been recorded or may otherwise exist.

8. If any person or entity that has filed statements or other documents or agreements evidencing Encumbrances (other than Permitted Encumbrances) on, against, or in, all or any portion of the Purchased Assets (other than statements or documents with respect to the Assumed Liabilities) shall not have delivered to the Debtors prior to the Closing Date, in proper form for filing and executed by the appropriate parties, termination statements, instruments of satisfaction, releases of liens and easements, and any other documents necessary for the purpose of documenting the release of such Encumbrances, liens, claims, interests, or other interests that the person or entity has or may assert with respect to all or any portion of the Purchased Assets, the Debtors are hereby authorized, and the Purchaser is hereby authorized, to execute and file such statements, instruments, releases, and other documents on behalf of such person or entity with respect to the Purchased Assets and otherwise seek relief from the Court pursuant to this Sale Order, if necessary.

9. On the Closing Date, this Sale Order shall be construed and shall constitute for any and all purposes a full and complete general assignment, conveyance, and transfer to the Purchaser

of the Debtors' interests in the Purchased Assets. This Sale Order is and shall be effective as a determination that, on the Closing Date, all Encumbrances or other interest of any kind or nature whatsoever existing as to the Purchased Assets prior to the Closing Date, other than the Assumed Liabilities and Permitted Encumbrances, shall have been unconditionally released, discharged, and terminated, and that the conveyances described herein have been effected. This Sale Order shall be binding upon and govern the acts of all persons and entities including, without limitation, all filing agents, filing officers, title agents, title companies, recorders of mortgages, recorders of deeds, registrars of deeds, administrative agencies, governmental departments, secretaries of state, federal, state, and local officials, and all other persons and entities who may be required by operation of law, the duties of their office, or contract, to accept, file, register, or otherwise record or release any documents or instruments, or who may be required to report or insure any title or state of title in or to any lease, and each of the foregoing persons and entities is hereby directed to accept for filing any and all of the documents and instruments necessary and appropriate to consummate the transactions contemplated by the APA. A certified copy of this Sale Order may be filed with the appropriate clerk and/or recorded with the recorder to act to cancel any Encumbrances and other interests of record except those assumed as Assumed Liabilities and other than Permitted Encumbrances.

10. **Prohibition of Actions Against the Purchaser**. Except for the Assumed Liabilities, the Purchaser shall not have any liability or other obligation of the Debtors arising under or related to any of the Purchased Assets or other Assumed Liabilities expressly identified in the APA including, but not limited to, any liability for any Encumbrances (other than Permitted Encumbrances), whether known or unknown as of the Closing, now existing or hereafter arising, whether fixed or contingent, with respect to the Debtors or any obligations of the Debtors

including, but not limited to, liabilities on account of any taxes arising, accruing, or payable under, out of, in connection with, or in any way relating to the operation of the Debtors' business prior to the Closing Date (*provided, however*, for the avoidance of doubt, that nothing in this paragraph shall limit any obligation of Purchaser to fund the Wind-Down Budget in accordance with the terms of this Sale Order and the APA).

11. Except with respect to the Assumed Liabilities, or as otherwise expressly provided for in this Sale Order or the APA, all persons and entities including, but not limited to, all debt holders, equity security holders, governmental, tax, and regulatory authorities, lenders, trade creditors, litigation claimants, and other creditors, holding Encumbrances or other interests of any kind or nature whatsoever against or in all or any portion of the Purchased Assets (whether legal or equitable, secured or unsecured, matured or unmatured, contingent or non-contingent, liquidated or unliquidated, senior or subordinate) arising under or out of, in connection with, or in any way relating to the Debtors, the Purchased Assets, the operation of the Debtors' businesses prior to the Closing Date, or the transfer of the Purchased Assets to the Purchaser in accordance with the APA are hereby forever barred, estopped, and permanently enjoined from asserting against the Purchaser, its successors or assigns, its property or the Purchased Assets such persons' or entities' Encumbrances in, on, or to the Purchased Assets including, without limitation, the following actions: (a) commencing or continuing in any manner any action or other proceeding against the Purchaser, its successors, assets, or properties; (b) enforcing, attaching, collecting, or recovering, in any manner, any judgment, award, decree, or order against the Purchaser, its successors, or their assets or properties; (c) creating, perfecting, or enforcing any Encumbrance, lien, claim, or interest against the Purchaser, its successors, their assets, or their properties; (d) asserting any setoff, right of subrogation, or recoupment of any kind against any obligation due to the Purchaser or its

successors; (e) commencing or continuing any action, in any manner or place, that does not comply or is inconsistent with the provisions of this Sale Order or other orders of the Court, or the agreements or actions contemplated or taken in respect thereof; or (f) revoking, terminating, or failing or refusing to transfer or renew any license, permit, or authorization to operate any of the Purchased Assets or conduct any of the businesses operated with the Purchased Assets. Notwithstanding the foregoing, the Debtors and the Committee reserve any and all rights to enforce the terms of the Committee Settlement and any and all of the Purchaser's, Ad Hoc Group's and ORC's rights to enforce the terms of the Committee Settlement are also reserved.

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

13. Pursuant to the terms of the APA, the Purchaser and the Debtors shall use their reasonable best efforts to take, or cause to be taken, all actions and to do, or cause to be done, all things necessary under applicable law to consummate and make effective the transactions contemplated by the APA including, without limitation, with respect to any and all applications, notices, reports, disclosures or other filings relating to the permits required under applicable Law referenced in the APA. If any permit approval is not obtained prior to the Closing, then, until the earlier of such time as (a) such permit approval is obtained by Debtors, (b) the Purchaser separately obtains any such permit (sufficient to conduct the business of the Company and its Subsidiaries in the Ordinary Course) and (c) the closing of the chapter 11 cases, Debtors shall, and shall cause

their respective Subsidiaries to continue to, use reasonable best efforts to obtain, or cause to be obtained, such permit approval, and the Purchaser shall reasonably cooperate with the Debtors, subject to any approval of this Court that may be required, and the Debtors shall and shall cause their Subsidiaries to enter into an arrangement reasonably acceptable to the Purchaser as set forth in the APA. Upon obtaining the relevant permit approval, each Debtor shall, and shall cause any of its applicable Subsidiaries to, promptly sell, convey, assign, transfer and deliver to the Purchaser such permit for no additional consideration.

14. [Reserved]

15. No governmental unit (as defined in Bankruptcy Code section 101(27)) or any representative thereof may deny, revoke, suspend or refuse to renew any permit, license or similar grant relating to the operation of the Purchased Assets on account of the filing or pendency of the chapter 11 cases or the consummation of the Sale to the extent that any such action by a governmental unit or any representative thereof would violate Bankruptcy Code section 525.

16. Other than with respect to rights of the Debtors, the Ad Hoc Group, ORC, and the Committee to enforce the Committee Settlement, all persons and entities are hereby forever prohibited and enjoined from taking any action that would adversely affect or interfere with the ability of the Debtors to sell and transfer the Purchased Assets to the Purchaser in accordance with the terms of the APA and this Sale Order.

17. The Purchaser has given substantial consideration under the APA and this Sale Order for the benefit of the Debtors, their estates, and their creditors. The consideration given by the Purchaser shall constitute valid and valuable consideration for the releases of any potential Encumbrances pursuant to this Sale Order, which releases shall be deemed to have been given in favor of the Purchaser by all holders of Encumbrances or liens against or interests in, or claims

against, any of the Debtors or any of the Purchased Assets, other than with respect to the Assumed Liabilities and other than Permitted Encumbrances. The consideration provided by the Purchaser for the Purchased Assets under the APA is fair and reasonable and may not be avoided under section 363(n) of the Bankruptcy Code.

18. None of the Purchaser or its affiliates, successors, assigns, equity holders, employees or professionals shall have or incur any liability to, or be subject to any action by any of the Debtors or any of their estates, predecessors, successors or assigns, arising out of the negotiation, investigation, preparation, execution, delivery of the APA and the entry into and consummation of the sale of the Purchased Assets, except as expressly provided in the APA, the Committee Settlement, and this Sale Order.

19. No bulk sales law or similar law of any state or other jurisdiction shall apply in any way to the transactions with the Debtors that are approved by this Sale Order including, without limitation, the APA and the Sale.

20. **Assumption and Assignment of Contracts.** The Debtors are hereby authorized and directed, in accordance with sections 105(a) and 365 of the Bankruptcy Code, to (a) assume and assign to the Purchaser, in accordance with the APA, effective upon the Closing Date, the Purchased Contracts free and clear of all Encumbrances and other interests of any kind or nature whatsoever (other than the Assumed Liabilities and Permitted Encumbrances) and (b) execute and deliver to the Purchaser such documents or other instruments as the Purchaser deems may be reasonably necessary to assign and transfer the Purchased Contracts and the Assumed Liabilities to the Purchaser in accordance with the APA.

21. With respect to the Purchased Contracts: (a) each Purchased Contract is an executory contract or unexpired lease under section 365 of the Bankruptcy Code; (b) the Debtors

may assume each of the Purchased Contracts in accordance with section 365 of the Bankruptcy Code; (c) the Debtors may assign each Purchased Contract in accordance with sections 363 and 365 of the Bankruptcy Code, and any provisions in any Purchased Contract that prohibit or condition the assignment of such Purchased Contract or allow the party to such Purchased Contract to terminate, recapture, impose any penalty, condition, renewal, or extension, or modify any term or condition upon the assignment of such Purchased Contract, constitute unenforceable anti-assignment provisions which are void and of no force and effect; (d) all other requirements and conditions under sections 363 and 365 of the Bankruptcy Code for the assumption by the Debtors and assignment to the Purchaser of each Purchased Contract, in accordance with the APA, have been satisfied; (e) the Purchased Contracts shall be transferred and assigned to, and following the Closing Date, remain in full force and effect for the benefit of the Purchaser in accordance with the APA, notwithstanding any provision in any such Purchased Contract (including those of the type described in sections 365(b)(2) and (f) of the Bankruptcy Code) that prohibits, restricts, or conditions such assignment or transfer and, pursuant to section 365(k) of the Bankruptcy Code, the Debtors shall be relieved from any further liability with respect to the Purchased Contracts after such assignment to and assumption by the Purchaser in accordance with the APA; and (f) upon the Closing Date, in accordance with sections 363 and 365 of the Bankruptcy Code, the Purchaser shall be fully and irrevocably vested in all right, title, and interest of each Purchased Contracts.

22. All defaults or other obligations of the Debtors under the Purchased Contracts arising or accruing prior to the Closing Date (without giving effect to any acceleration clauses or any default provisions of the kind specified in section 365(b)(2) of the Bankruptcy Code) shall be cured on the Closing Date or promptly thereafter by payment of the Cure Amounts in accordance

with the APA. To the extent that any counterparty to a Purchased Contract did not or does not object to its Cure Amount by the Cure Objection Deadline, such counterparty is deemed to have consented to such Cure Amount and the assumption and assignment of its respective Purchased Contract(s) to the Purchaser in accordance with the APA.

23. Unless otherwise represented by the Debtors in a separate pleading, in open court at the Sale Hearing, or pursuant to a contract or lease amendment entered into by the Debtors, the Purchaser, and the appropriate contract or lessor counterparty (any such amendment being deemed approved by this Sale Order), the Cure Notice reflects the sole amounts necessary under section 365(b) of the Bankruptcy Code to cure all defaults under the Purchased Contracts, and no other amounts are or shall be due in connection with the assumption by the Debtors and the assignment to the Purchaser of the Purchased Contracts in accordance with the APA.

24. Upon the Debtors' assignment of the Purchased Contracts to the Purchaser under the provisions of this Sale Order and any additional orders of this Court and payment of any Cure Amounts by the Debtors, no default shall exist under any Purchased Contract, and no counterparty to any Purchased Contract shall be permitted (a) to declare a default by the Purchaser under such Purchased Contract or (b) otherwise take action against the Purchaser as a result of Debtors' financial condition, bankruptcy, or failure to perform any of their obligations under the relevant Purchased Contract. Each non-Debtor party to a Purchased Contract is hereby also forever barred, estopped, and permanently enjoined from (i) asserting against the Debtors or the Purchaser, or the property of any of them, any default or claim arising out of any indemnity obligation or warranties for acts or occurrences arising prior to or existing as of the Closing, including those constituting Excluded Liabilities or, against the Purchaser, any counterclaim, defense, setoff, recoupment, or any other Claim asserted or assertable against the Debtors, and (ii) imposing or charging against

the Purchaser any rent accelerations, assignment fees, increases, or any other fees as a result of the Debtors' assumption and assignment to the Purchaser of any Purchased Contract in accordance with the APA. The validity of such assumption and assignment of each Purchased Contract shall not be affected by any dispute between the Debtors and any non-Debtors party to a Purchased Contract relating to such contract's respective Cure Amounts.

25. Except as provided in the APA or this Sale Order, after the Closing Date, the Debtors and their estates shall have no further liabilities or obligations with respect to any Assumed Liabilities, and all holders of Encumbrances, liens, claims, and interests are forever barred and estopped from asserting such Claims against the Debtors, their successors or assigns, their property, or their assets or estates. The failure of the Debtors or the Purchaser to enforce at any time one or more terms or conditions of any Purchased Contract shall not be a waiver of such terms or conditions, or of the Debtors' and the Purchaser's rights to enforce every term and condition of the Purchased Contracts.

26. Notwithstanding anything herein to the contrary and subject to the APA, prior to the Closing Date, the Purchaser may add or eliminate any Contract from the Original Contract & Cure Schedule (as defined in the APA), and thereby include or exclude such Contract from the definition of Purchased Contracts, pursuant to the procedures set forth in the APA. Automatically upon the elimination of any Contract as a Purchased Contract, such Contract will constitute an Excluded Asset and will not be assigned to the Purchaser, and no Liabilities arising thereunder or relating thereto shall be assumed by the Purchaser. The Debtors shall provide the Purchaser with the Contract & Cure Update Schedule (as defined in the APA) as required pursuant to the terms of the APA, and comply with all requirements pursuant to the terms of the APA including, without

limitation, using commercially reasonable efforts to establish proper Cure Costs for each Purchased Contract, including any added Contract, prior to the Closing Date.

27. The Purchaser has demonstrated adequate assurance of future performance under the relevant Purchased Contracts within the meaning of sections 365(b)(1)(C), 365(b)(3) (to the extent applicable), and 365(f)(2)(B) of the Bankruptcy Code.

28. **Whirlpool**. Notwithstanding anything to the contrary in the APA, the Motion, or this Sale Order, the Supply Agreement dated January 1, 2020, as amended by the First, Second, Third and Fourth Amendments thereto, between Whirlpool Corporation, Industrias Acros Whirlpool S. de R.L. de C.V. ("IAW"), Whirlpool Overseas Manufacturing S.a.r.l. ("WOM"), Whirlpool of India Limited ("WHR India") and Whirlpool S.A. ("WHR LAR") (collectively, Whirlpool Corporation, IAW, WOM, WHR India, and WHR LAR are sometimes referred to herein as "Whirlpool") and Robertshaw Controls Company and certain of its non-debtor affiliates (as so amended, the "Supply Agreement") and related bailment agreements between the Debtors and Whirlpool shall be assumed and assigned to the Purchaser on the Closing Date, subject to the Debtors' payment to Whirlpool of $450,000 in cure costs to be paid to Whirlpool no later than 3 days after the Closing Date (the "Whirlpool Cure Amount") on account of, among other things, currently asserted and known claims as of February 15, 2024 (collectively, the "Existing Claims"). In addition to the Whirlpool Cure Amount to be paid to Whirlpool, Whirlpool shall have the right to file a proof of claim in these chapter 11 cases by the June 20 General Bar Date established in these cases asserting a prepetition general unsecured claim on account of any unpaid Existing Claims and other pre-petition claims (the "Whirlpool General Unsecured Claim"). The Debtors and Whirlpool reserve all rights with respect to the Whirlpool General Unsecured Claim; and the Debtors, the Committee, and any party acting on behalf of the Debtors' estates shall have the right

to object to the Whirlpool General Unsecured Claim on any basis; *provided, however*, that any such objecting party shall be precluded from asserting that all Existing Claims have been satisfied by payment of the Whirlpool Cure Amount. Notwithstanding anything in this Sale Order or section 365 of the Bankruptcy Code to the contrary, and in addition to payment of the Whirlpool Cure Amount, all obligations due and unpaid under the Supply Agreement and related bailment agreements, including indemnification obligations related to claims and lawsuits brought against Whirlpool after February 15, 2024 (the "Future Claims"), shall pass through and survive assumption and assignment, and nothing in this Sale Order or section 365 of the Bankruptcy Code shall affect such obligations related to the Future Claims. The parties to the Supply Agreement and related bailment agreements do not waive any rights or defenses under the Supply Agreement and related bailment agreements or applicable law with respect to such Future Claim obligations, including the indemnification obligations, all of which are expressly reserved and preserved. For the avoidance of doubt, the Whirlpool Cure Amount and any allowed Whirlpool General Unsecured Claim shall be the sole source of recovery for Whirlpool against the Debtors with respect to any Existing Claims arising before the Closing Date and the Debtors shall have no further indemnification obligations with respect to the Existing Claims. Any tooling or other Whirlpool-owned property is not being sold to the Purchaser and shall remain the sole property of Whirlpool, subject to the applicable bailment agreements between Whirlpool and the Debtors.

29. **Sub-Zero**. The Debtors have included on their Supplemental Cure Schedule the following two agreements between Sub-Zero Group, Inc. (together with its subsidiaries "Sub-Zero") and Debtor Robertshaw Controls Company: (a) that certain Component Supply Agreement dated as of July 1, 2022 (the "CSA"), (b) that certain RIV/Spark Pack Project Agreement dated as of October 20, 2020 (the "RIV/Spark Pack Agreement") and (c) approximately 200 open Purchase

Orders between Sub-Zero and one or more of the Debtors relating to various parts and products sold to Sub-Zero under the Sub-Zero Contracts (the "Purchase Orders" and together with the CSA and the RIV/Spark Pack Agreement, the "Sub-Zero Contracts"). By so doing, and in accordance with the Bidding Procedures Order, the Debtors have confirmed their intention to assume and assign to the Purchaser as of the Closing Date the Sub-Zero Contracts. Because the Debtors contend that there are no monetary or nonmonetary defaults arising under or related to the Sub-Zero Contracts, such Supplemental Cure Schedule did not identify any cure amount associated with the proposed assumption and assignment of the Sub-Zero Contracts. Notwithstanding the foregoing, by virtue of the foregoing assumptions and assignments (a) all obligations arising under the Sub-Zero Contracts (including, without limitation, the obligations arising under the indemnification provision in Section 7 of the CSA), whether presently existing or hereafter arising, shall become the Purchaser's responsibility upon Closing and (b) nothing contained herein or attendant to the Sale shall impair or affect any of the parties' rights under the Sub-Zero Contracts including, without limitation, the Purchaser's rights to dispute the existence of any defaults arising under the Sub-Zero Contracts or claims asserted by Sub-Zero. Notwithstanding the above, Sub-Zero shall have no right of recovery against the Debtors or the Purchaser with respect to any claim on account of price increases implemented by the Debtors prior to the Petition Date other than an Allowed Go-Forward Trade Claim (as defined in the Plan) under the Plan in the amount of $400,000. Sub-Zero shall be entitled to a recovery on such Allowed Claim in accordance with the terms of the Plan and the APA. Neither the APA, any other document executed in connection with the Sale, or the Plan, nor any other order entered in this case shall be interpreted to impair, limit or affect Sub-Zero's rights under the Sub-Zero Contracts beyond the manner set forth in this paragraph.

30. Additionally, the Debtors, Sub-Zero and the Purchaser shall work in good faith to attempt to identify all assets, including tooling and equipment owned by Sub-Zero that is in the Debtors' possession as of the Closing Date (the "Sub-Zero Tooling"). Sub-Zero has consented to the Purchaser (a) taking physical possession of the Sub-Zero Tooling on the Closing Date in connection with the assumption and assignment of the Sub-Zero Contracts, and (b) prospectively enjoying use of the Sub-Zero Tooling consistent with the applicable terms of the Sub-Zero Contracts. However, neither the APA, any other document executed in connection with the Sale, the Plan, nor any other order entered in these cases shall be interpreted to impair, limit or affect Sub-Zero's ownership rights in the Sub-Zero Tooling.

31. **GE Appliances**. Notwithstanding anything to the contrary in this Sale Order, or any Cure Notice related thereto, (a) the Supply Agreement dated as of February 28, 2014 (as amended, the "GE Appliances Supply Agreement") between Debtor Robertshaw Controls Company f/k/a Invensys Controls and Haier US Appliance Solutions, Inc. d/b/a GE Appliances ("GE Appliances") as successor to General Electric Company and the Claims Handling Agreement dated as of January 1, 2020 between Debtor Robertshaw Controls Company and GE Appliances (as amended, the "GE Appliances Claims Handling Agreement" and together with the GE Appliances Supply Agreement, the "GE Appliances Contracts") shall be assumed and assigned to the Purchaser as of the Closing Date, (b) in lieu of cure, all due and unpaid obligations arising under the GE Appliances Contracts and accruing prior to the Closing Date shall pass through and survive assumption and assignment, (c) nothing in this Sale Order or section 365 of the Bankruptcy Code shall affect the parties' respective claims (including but not limited to those claims raised in GE Appliances' Objection to Assumption and Assignment of the GE Appliances Contracts (DN 466)), rights, obligations and defenses, and (d) all such claims, rights, obligations and defenses

are expressly reserved and preserved and shall not be deemed waived as the result of the assumption and assignment of the GE Appliances Contracts.

32. **Good Faith**. The transactions contemplated by the APA are undertaken by the Purchaser without collusion and in good faith, as that term is used in section 363(m) of the Bankruptcy Code and, accordingly, the reversal or modification on appeal of the authorization provided herein to consummate the Sale shall not affect the validity of the Sale (including the assumption and assignment of the Purchased Contracts) with the Purchaser, unless such authorization is duly stayed pending such appeal. The Purchaser is a good faith purchaser of the Purchased Assets, and is entitled to all of the benefits and protections afforded by section 363(m) of the Bankruptcy Code.

33. **Failure to Specify Provisions**. The failure specifically to include any particular provisions of the APA in this Sale Order shall not diminish or impair the effectiveness of such provisions, it being the intent of the Court that the APA be authorized and approved in its entirety; *provided*, *however*, that this Sale Order shall govern if there is any inconsistency between the APA (including all ancillary documents executed in connection therewith) and this Sale Order. All of the provisions of this Sale Order are nonseverable and mutually dependent. To the extent that this Sale Order is inconsistent with any prior order or pleading with respect to the Motion in these chapter 11 cases, the terms of this Sale Order shall control.

34. **Non-Material Modifications**. The APA and any related agreements, documents, or other instruments may be modified, amended, or supplemented by the parties thereto, in a writing signed by such parties, and in accordance with the terms thereof, without further order of the Court, provided that any such modification, amendment or supplement does not have a material adverse effect on the Debtors' estates or adversely impact in any respect the terms of the

Committee Settlement. Any modification, amendment or supplement to the APA or any related agreements documents or other instruments that adversely impacts in any respect the terms of the Committee Settlement shall require the prior consent of the Committee. For the avoidance of doubt, any references herein to the APA shall include any modifications to the APA as provided herein with respect to, or as may be required to effectuate, the Committee Settlement.

35. Additionally, consistent with the terms of the APA, the Debtors are authorized to (i) take all actions and file such other documents as may be required to change their legal names, and (ii) file any necessary documents to effectuate any such name change, without further order of the Court. The Debtors shall file any requisite notice in connection with any such name change to change the case caption in the chapter 11 cases.

36. **Post-Effective Date Amounts**. On the Closing Date, the Purchaser shall fund, or cause to be funded, subject to the terms of the Plan, the Committee Settlement, and the RSA, the Post-Effective Date Budget by payment of the Post-Effective Date Amount in accordance with the APA for the purpose of funding the orderly wind-down of Sellers in accordance with applicable Law. The Purchase Price shall include an amount of cash equal to the Post-Effective Date Amount; including the Professional Fee Escrow, subject to the Post-Effective Date Budget; *provided* that, in lieu of paying all or any portion of the Post-Effective Date Amount, the Purchaser may, solely to the extent funds are available, by delivery of a written notice to the Debtors no later than three (3) Business Days prior to the Closing Date, instruct the Debtors to retain a portion of (but not to exceed) the cash actually held at the Closing by Debtors in an amount set forth in such written notice (any such cash retained by Debtors, "Retained Cash") and such Retained Cash shall reduce, on a dollar-for-dollar basis, the Post-Effective Date Amount to be paid by the Purchaser at the Closing. The portion of the Post-Effective Date Amount allocable to professional fees and

expenses of estate professionals for the benefit of the professional service providers to the bankruptcy estates of the Debtors incurred or estimated in good faith to be incurred as set forth in the Plan, subject to the Committee Settlement, will be deposited in an escrow account for the benefit of such estate professionals (the "Professional Fee Escrow"). The Debtors shall utilize the Post-Effective Date Amount, including the Professional Fee Escrow, to fund the anticipated costs of the wind-down of the Debtors' operations, the administration of the estates following the Sale and the payment of all administrative and priority claims required to be paid pursuant to the Plan, in each case consistent in all respects with the RSA and the Committee Settlement.

37. **Amounts Payable by Debtors.** Any amounts payable by any Debtor under the agreements or any of the documents delivered by any Debtor in connection with the APA or this Sale Order shall be paid in the manner provided in the APA and the Bidding Procedures Order, without further order of this Court, shall be allowed administrative claims in an amount equal to such payments in accordance with sections 503(b) and 507(a)(2) of the Bankruptcy Code, shall have the other protections provided in the Bidding Procedures Order, and shall not be discharged, modified, or otherwise affected by any reorganization plan for the Debtor, except by an express agreement with the Purchaser, its successors, or assigns.

38. **Other Provisions**. Other than as set forth herein, including with respect to the Committee Settlement, nothing in the APA or this Sale Order shall be deemed to amend, modify, or limit the rights and claims of the DIP Agent and/or the Super-Priority Agent and their respective agents related to the DIP Documents and/or the Prepetition Super-Priority Credit Agreement, until the Closing Date of the Sale and only to the extent permitted and as contemplated by the APA and the transactions contemplated thereunder. For the avoidance of doubt, but subject in all respects to the Committee Settlement, any claims on account of the Prepetition First Out Secured

Indebtedness not included in the Credit Bid Consideration pursuant to section 363(k) of the Bankruptcy Code shall remain outstanding against the relevant Debtors until the repayment in full in cash or other agreed treatment of the Prepetition First Out Secured Indebtedness and all claims in respect of the Prepetition First Out Secured Indebtedness shall remain outstanding until the consummation of the Sale.

39. **Subsequent Plan Provisions**. Nothing contained in any chapter 11 plan confirmed in the Debtors' cases or any order confirming any such plan or in any other order in these chapter 11 cases (including any order entered after any conversion of any of these cases to a case under chapter 7 of the Bankruptcy Code) or any related proceeding subsequent to entry of this Sale Order shall alter, conflict with, or derogate from, the provisions of the APA or this Sale Order (including for the avoidance of doubt, the Committee Settlement).

40. **Survival**. The terms and provisions of this Sale Order and the terms and provisions of the APA and any actions taken pursuant hereto or thereto as of the date of the entry of the Sale Order shall survive the entry of any order that may be entered including, without limitation, converting the Debtors' cases from chapter 11 to chapter 7 or dismissing the Debtors' cases, and the terms and provisions of the APA, as well as the rights and interests granted pursuant to this Sale Order and the APA shall continue in these or any superseding cases and shall be binding upon the Debtors and all other parties and their respective successors and permitted assigns, including any trustee, examiner, party, entity, or other fiduciary hereafter appointed as a legal representative of the Debtors under chapter 7 or chapter 11 of the Bankruptcy Code.

41. **Timing of Closing**. The Closing shall occur no earlier than the effective date of the Plan.

42. **Calculation of Time.** All time periods set forth in this Sale Order shall be calculated in accordance with Bankruptcy Rule 9006(a).

43. **Further Assurances**. From time to time, as and when requested by any party, each party shall execute and deliver, or cause to be executed and delivered, all instruments and certificates (including deeds, bills of sale, instruments of conveyance, powers of attorney, assignments, assumptions and assurances), and shall take, or cause to be taken, all such further or other actions as such other party may reasonably deem necessary or desirable to consummate the transactions contemplated by the APA, including such actions as may be necessary to vest, perfect, or confirm, of record or otherwise, in the Purchaser its right, title, and interest in and to the Purchased Assets.

44. **Retention of Jurisdiction**. This Bankruptcy Court retains exclusive jurisdiction over all matters arising out of, or relating to, the chapter 11 cases and the Plan pursuant to sections 105(a) and 1142 of the Bankruptcy Code, including jurisdiction to interpret, implement, and enforce the terms and provisions of this Sale Order and the APA, all amendments to any of the foregoing, and any waivers and consents thereunder, and each of the agreements executed in connection therewith to which any Debtor is a party or which has been assigned by the Debtors to the Purchaser in accordance with the APA, and to adjudicate, if necessary, any and all disputes concerning or relating in any way to the Sale or the Invesco Adversary Proceeding, including, but not limited to, retaining jurisdiction to (a) interpret, implement, and enforce the provisions of this Sale Order and the APA, (b) adjudicate, if necessary, any and all disputes concerning or relating in any way to the Sale, (c) adjudicate, if necessary, any and all disputes concerning or relating in any way to the Committee Settlement, (d) protect the Purchaser against any Encumbrances or other interests in the Debtors or the Purchased Assets of any kind or nature whatsoever, attaching to the

proceeds of the Sale, (e) any dispute as to the determination that the Ad Hoc Group constitutes "Required Lenders" under and as defined in each of the DIP Credit Agreement and the Prepetition Super-Priority Credit Agreement, and (f) enter any orders under section 363, 1123, or 1146(a) of the Bankruptcy Code with respect to the Purchased Contracts.

45. **Exemptions from Transfer Taxes and Fees**. The transactions contemplated by the APA and this Sale Order, and the execution, delivery and/or recordation of any and all documents or instruments necessary or desirable to consummate the Sale, are exempt from any and all document recording tax, stamp tax, conveyance fee, intangibles or similar tax, mortgage tax, real estate transfer tax, mortgage recording tax, Uniform Commercial Code filing or recording fee, regulatory filing or fee, or other similar tax, fee or governmental assessment incurred or assessed by any federal, state, local, or foreign taxing authority (including interest and penalties, if any), pursuant to section 1146(a) of the Bankruptcy Code because the Debtors will confirm a chapter 11 plan and the closing of the Sale is necessary to consummate, and is an integral component of, such plan.

46. The requirements set forth in Bankruptcy Rule 6004(a) are hereby waived.

47. The Debtors are authorized to take all actions necessary or appropriate to implement the relief granted in this Sale Order in accordance with the Motion.

Signed: June 21, 2024

Christopher M. Lopez

Christopher Lopez
United States Bankruptcy Judge

EXHIBIT A

APA

ASSET PURCHASE AGREEMENT

by and among

RANGE RED OPERATING, INC.

as Buyer

and

RANGE PARENT, INC.

and

THE OTHER SELLERS NAMED HEREIN,

as Sellers

June [●], 2024

TABLE OF CONTENTS

EXHIBITS

ASSET PURCHASE AGREEMENT

THIS **ASSET PURCHASE AGREEMENT**, dated as of June [●], 2024 (this "**Agreement**"), is made and entered into by and among Range Red Operating Inc., a Delaware corporation ("**Buyer**"), Range Parent, Inc., a Delaware corporation (the "**Seller Parent**"), and those certain Subsidiaries of Seller Parent signatory hereto (collectively with Seller Parent, "**Sellers**" and each entity individually, a "**Seller**"). Sellers and Buyer are sometimes referred to collectively herein as the "**Parties**" and individually as a "**Party**." Capitalized terms used herein and not otherwise defined herein have the meanings set forth in Article 1.

W I T N E S S E T H:

WHEREAS, on February 15, 2024 (the "**Petition Date**"), Sellers as debtors and debtors in possession (collectively, the "**Debtors**") sought relief under Chapter 11 of Title 11, §§ 101-1330 of the United States Code (as amended, the "**Bankruptcy Code**") by filing cases (the "**Chapter 11 Cases**") in the United States Bankruptcy Court for the Southern District of Texas (the "**Bankruptcy Court**");

WHEREAS, subject to the terms and conditions set forth in this Agreement and the entry of the Sale Order, the Parties desire to enter into this Agreement, pursuant to which Sellers shall sell, assign, transfer, and convey to Buyer, and Buyer shall purchase and acquire from Sellers, all of Sellers' right, title and interest in and to the Purchased Assets, and Buyer shall assume all of the Assumed Liabilities, and the Parties intend to effectuate the transactions contemplated by this Agreement, upon the terms and conditions hereinafter set forth in a sale authorized by the Bankruptcy Court pursuant to, *inter alia*, Sections 105 and 363 of the Bankruptcy Code, §§ 101-1330, in accordance with the other applicable provisions of the Bankruptcy Code and the Federal Rules of Bankruptcy Procedure and the local rules for the Bankruptcy Court, all on the terms and subject to the conditions set forth in this Agreement and subject to entry of the Sale Order; and

WHEREAS, Sellers' ability to consummate the transactions set forth in this Agreement is subject to, among other things, the entry of the Sale Order by the Bankruptcy Court.

NOW, THEREFORE, in consideration of the premises and the mutual promises herein made, and in consideration of the foregoing and of the representations, warranties, covenants, agreements and conditions herein contained, the receipt and sufficiency of which are hereby acknowledged, the Parties, intending to be legally bound hereby, agree as follows:

ARTICLE 1

DEFINITIONS

SECTION 1.01 *Definitions*.

(a) The following terms, as used herein, have the following meanings:

"**Action**" means any claim, action, suit, arbitration or proceeding by or before any Governmental Authority.

"**Additional Sale Consideration**" means any additional amounts that, pursuant to the Sale Order, Buyer agrees to fund on the Closing Date including funds allocated toward settlements that Sellers and Buyer determine to improve Sellers' prospects of confirming and consummating a Chapter 11 plan of liquidation.

"**Affiliate**" means, with respect to any Person, another Person that, directly or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with, such Person, where "control" means the possession, directly or indirectly, of the power to direct the management and policies of a Person whether through the ownership of voting securities, by contract or otherwise. For the avoidance of doubt, ownership of more than fifty percent (50%) of the voting securities shall be deemed to be "control" for purposes of this definition. In no event shall Affiliates of any Seller be deemed to include portfolio companies of investment funds managed or advised by Affiliates of such Seller.

"**Antitrust Laws**" means any antitrust, competition, trade regulation or merger control Laws promulgated by any Governmental Authority.

"**Auction**" means an auction or auctions, if any, for the sale of Sellers' assets conducted pursuant to the terms and conditions of the Bidding Procedures Order.

"**Bankruptcy and Equity Exception**" means any Laws relating to bankruptcy, reorganization, insolvency, moratorium, fraudulent conveyance or preferential transfers, or similar Laws relating to or affecting creditors' rights generally and subject, as to enforceability, to the effect of general principles of equity (regardless of whether such enforceability is considered in any Proceeding in equity or at Law).

"**Bidding Procedures**" has the meaning set forth in the Bidding Procedures Motion.

"**Bidding Procedures Order**" means the order of the Bankruptcy Court approving the Bidding Procedures Motion [Docket No. 359].

"**Bidding Procedures Motion**" means the Debtors' Motion for Entry of Orders (I) (A) Approving Asset Purchase Agreement for Sale of Substantially All of Debtors' Assets; (B) Approving Bidding Procedures; (C) Approving Bidding Protections; (D) Scheduling an Auction and a Sale Hearing; (E) Approving the Form and Manner of Notice Thereof; and (F) Approving Assumption and Assignment Procedures for Executory Contracts and Unexpired Leases; (II) Approving (A) Sale of Substantially All of Debtors' Assets; and (B) Assumption and Assignment of Certain Executory Contracts and Unexpired Leases; and (III) Granting Related Relief [Docket No. 34], dated as of February 15, 2024, filed by Sellers in the Bankruptcy Court.

"**Business**" means the business of designing, engineering, manufacturing and selling controls, components and systems for the appliance, HVAC, refrigeration and transportation markets, as conducted by Sellers.

"**Business Day**" means a day other than Saturday, Sunday or other day on which commercial banks in New York, Illinois or Texas are authorized or required by Law to close.

"**CARES Act**" means the CARES Act (Pub. L. 116-136 (2020)) and any similar Law providing for the deferral of Taxes, the conditional deferral, reduction, or forgiveness of Taxes, the increase in the utility of Tax attributes, or other Tax-related measures, in each case, intended to benefit taxpayers in response to the COVID-19 pandemic and associated economic downturn.

"**Cash and Cash Equivalents**" means all of Sellers' cash (including petty cash and checks received prior to the close of business on the Closing Date), checking account balances, marketable securities, certificates of deposits, time deposits, bankers' acceptances, commercial paper, security entitlements, securities accounts, commodity Contracts, commodity accounts, government securities and any other cash equivalents, whether on hand, in transit, in banks or other financial institutions, or otherwise held.

"**Cash Collateral**" has the meaning set forth in Section 365(a) of the Bankruptcy Code.

"**Cash Collateral Order**" means the interim order in the Chapter 11 Cases authorizing the Debtors' use of Cash Collateral on a consensual basis.

"**Claim**" means a "claim" as defined in Section 101 of the Bankruptcy Code.

"**Closing Date**" means the date of the Closing.

"**COBRA**" means the health care continuation coverage requirements of the Consolidated Omnibus Reconciliation Act of 1985, as codified in Section 4980B of the Code and Section 601 et seq. of ERISA.

"**Code**" means the Internal Revenue Code of 1986, as amended.

"**Collective Bargaining Agreement**" means any Contract that any Seller or any of its Subsidiaries has entered into with any union, works council or collective bargaining agent ("**Labor Union**") with respect to terms and conditions of employment of Employees, not including any agreements covering non-U.S. Employees which are applicable on an industry-wide basis to Employees or which are not individually negotiated by any Seller or any Subsidiary of a Seller.

"**Contract**" means any written contract, agreement, license, sublicense, Lease, sales order, purchase order, instrument, undertaking or legally binding commitment.

"**Cure Costs**" means, with respect to any Purchased Contract, the Liabilities that must be paid or otherwise satisfied to cure all monetary defaults under such Purchased Contract to the extent required by Section 365(b) of the Bankruptcy Code in connection with the assignment and assumption of such Purchased Contract.

"**Cut-Off Date**" means the earlier of (a) twelve (12) months following the Closing and (b) the closing of the Chapter 11 Cases.

"**DIP Credit Agreement**" means that certain Senior Secured Super-Priority Debtor-In-Possession Credit Agreement dated as of March 27, 2024, among the Debtors, the Administrative Agent (as defined therein) and the lenders party thereto.

"**DIP Facility**" means a superpriority senior secured new money debtor-in-possession financing facility as further described in the DIP Credit Agreement, as approved by the Bankruptcy Court.

"**DIP Obligations**" means all "Obligations" under and as defined in the DIP Credit Agreement.

"**DIP Order**" means the Final Order approving the Debtors' entry into the DIP Facility and use of Cash Collateral.

"**Disclosure Schedules**" means the Disclosure Schedules delivered by Sellers to Buyer on the date hereof.

"**Employee Liabilities**" means all Liabilities of a Seller relating to, arising out of, or resulting from the employment or services, or termination of employment or services, of any Employee, including accrued and unused vacation, sick days and paid time off and any workers' compensation claims against any Seller, irrespective of when such claims arise or are made (whether prior to or after the Closing Date), and in each case including the employer portion of all applicable withholding, payroll and similar Taxes and Seller Plan payments.

"**Employees**" means all employees of Sellers, including those on disability or a leave of absence, whether paid or unpaid.

"**Encumbrance**" means any mortgage, lien, pledge, security interest, charge, easement, purchase option, right of first refusal or offer, right of way, option, claim, license, and other similar impositions, imperfections or restrictions on transfer or use or other encumbrance of any kind.

"**Environmental Laws**" means all applicable Laws concerning or relating to worker/occupational health and safety (solely to the extent related to exposure to Hazardous Materials, or pollution or protection of the environment, including those relating to the generation, handling, transportation, treatment, recycling, storage, disposal, distribution, labeling, discharge or release, of any Hazardous Materials).

"**Environmental Liabilities**" means all Liabilities arising out of or in connection with Environmental Laws, any Permits issued thereunder, and any Hazardous Materials.

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

"**ERISA Affiliate**" means any entity which is a member of (a) a controlled group of corporations (as defined in Section 414(b) of the Code), (b) a group of trades or businesses under common control (as defined in Section 414(c) of the Code), (c) an affiliated service group (as defined under Section 414(m) of the Code) or (d) any group specified in Treasury Regulations promulgated under Section 414(o) of the Code, any of which includes or included any Seller.

"**Excluded Taxes**" means any (a) Taxes imposed on or payable by Sellers or their Affiliates (including predecessors of each of the foregoing) for any taxable period without regard to whether such Taxes relate to periods ending on or before the Closing Date or thereafter, (b)

Taxes imposed on or with respect to the Purchased Assets, the Assumed Liabilities or the Business for any Pre-Closing Tax Period, (c) Taxes imposed on or with respect to the Excluded Assets or the Excluded Liabilities for any taxable period, (d) Taxes of Sellers for which Buyer or a Buyer Designee is liable as a transferee or successor as a result of the transfer of the Purchased Assets pursuant to this Agreement and (e) Taxes imposed on Sellers or their Affiliates (including predecessors of each of the foregoing) for the Taxes of any Person by operation of law by reason of joint or several liability, including under Treasury Regulations Section 1.1502-6 (or any similar provision of state, local or non-U.S. Law). For purposes of this Agreement, in the case of any Straddle Period, Taxes shall be allocated between the Pre-Closing Tax Period and the Post-Closing Tax Period in the manner set forth in <u>Section 7.06(b)</u>. For the avoidance of doubt, notwithstanding anything else, in no event will (A) Property Taxes allocable to any Post-Closing Tax Period; (B) Transfer Taxes; or (C) any Taxes of a Purchased Entity constitute, in each case, either Excluded Taxes or Excluded Liabilities.

"**Exit Financing Agreement**" means that certain credit agreement with Buyer (or a Buyer Designee) as borrower in form and substance consistent with the terms set forth in the RSA acceptable to Buyer and the Required Consenting Lenders (as defined in the RSA).

"**Expense Reimbursement**" means an amount in cash equal to the amount of all reasonable and documented out-of-pocket third-party expenses (including attorneys' fees and expenses) incurred by Buyer, its equity holder and Affiliates in connection with the consideration, evaluation and negotiation of this Agreement and the transactions contemplated hereby, and to the extent not otherwise actually paid under the terms of the DIP Facility, with such amount not to exceed $2,500,000 in the aggregate (the "**Expense Reimbursement Cap**").

"**FFCRA**" means the Families First Coronavirus Response Act, Pub. L. No. 116-127 (116th Cong.) (Mar. 18, 2020).

"**Final Order**" means an Order of the Bankruptcy Court (or any other court of competent jurisdiction) entered by the clerk of the Bankruptcy Court (or such other court) on the docket in the Chapter 11 Cases (or the docket of such other court), which has not been modified, amended, reversed, vacated or stayed (other than such modifications or amendments that are consented in writing to by Buyer) and as to which (a) the time to appeal, petition for certiorari, or move for a new trial, stay, reargument or rehearing has expired and as to which no appeal, petition for certiorari or motion for new trial, stay, reargument or rehearing shall then be pending or (b) if an appeal, writ of certiorari, new trial, stay, reargument or rehearing thereof has been sought, such Order of the Bankruptcy Court (or other court of competent jurisdiction) shall have been affirmed by the highest court to which such Order was appealed, or certiorari shall have been denied, or a right to a new trial, stay, reargument or rehearing shall have expired, as a result of which such Order shall have become final in accordance with Rule 8002 of the Federal Rules of Bankruptcy Procedure; <u>provided</u> that the possibility that a motion under Rule 60 of the Federal Rules of Civil Procedures, or any analogous rule under the Federal Rules of Bankruptcy Procedure, may be filed relating to such Order, shall not cause an Order not to be a Final Order.

"**Foreign Direct Investment Laws**" means foreign direct investment Laws promulgated by any Governmental Authority.

"**GAAP**" means generally accepted accounting principles in the United States.

"**Governmental Authority**" means any (a) multinational, tribal, federal, state, municipal, local or other governmental or public department, central bank, court, commission, commissioner, tribunal, board, bureau, agency or instrumentality, domestic or foreign, (b) subdivision or authority of any of the foregoing or (c) regulatory or administrative authority.

"**Hazardous Material**" means any material, substance or waste that is listed, regulated or otherwise defined as "toxic," or "hazardous," a pollutant or contaminant (or words of similar meaning) by any Environmental Law or with respect to which liability or standards of conduct are imposed under any Environmental Law because of its dangerous or deleterious properties or characteristics, including petroleum, petroleum constituents or byproducts, asbestos-containing materials, per- and polyfluoroalkyl substances, flammable substances, radioactive materials, pesticides, and polychlorinated biphenyls.

"**HSR Act**" means the Hart-Scott-Rodino Antitrust Improvements Act of 1976, and the regulations promulgated thereunder, as amended.

"**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), (c) all obligations of such Person under leases required to be capitalized in accordance with GAAP, (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 references 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 guaranties of such obligations, and (g) all obligations of the type referred to in clauses (a) through (f) of other Persons secured by any Encumbrance on any property or asset of such Person (whether or not such obligation is assumed by such Person).

"**Indirect Capital Gains Tax**" means any Taxes on indirect capital gains that are attributable to the indirect transfer of any Purchased Entity pursuant to this Agreement.

"**Intellectual Property**" means any and all intellectual property of every kind, whether protected or arising under the Laws of the United States or any other jurisdiction, including all intellectual or industrial property rights in any of the following: (a) all trademarks and service marks, and all registrations, renewals and applications therefor, and all brand names, product names, trade dress, logos, protectable distinguishing guises and indicia, slogans and other similar designations of source or origin and, in each case, all worldwide rights, title and interest associated with the foregoing, whether registered or not, in any form including abbreviation, derivation, variation, diffusion or otherwise, whether stylized or not stylized, and for all purposes and for all goods, products and services (collectively, "**Trademarks**"), (b) methods, techniques, ideas, know-how, research and development, technical data, molds, prototypes, models and designs, programs, materials, specifications, processes, inventions (patentable or unpatentable), patents, and other similar materials and improvements thereto, and all tangible embodiments of the foregoing (collectively, "**Patents**"), (c) all copyrights (registered or unregistered), works of authorship, and software (including source code, object code, operating systems and specifications), including applications and registrations thereof (collectively, "**Copyrights**"), (d) all trade secrets, confidential or proprietary business information, such as business data bases, data analytics, know-how, techniques, concepts, methods, processes, specifications, product designs, blue prints, surveys, customer reviews, customer/vendor lists, customer contact information, email lists, data bases, sales plans, formulae, reports, and other proprietary or confidential information and know-how (collectively, "**Trade Secrets**"), (e) all rights of publicity, (f) all moral and economic rights of authors, inventors, however denominated, and (g) all other intellectual property and proprietary rights recognized under the Laws of any applicable jurisdiction.

"**International Trade Laws**" means all applicable U.S. and non-U.S. laws, statutes, rules, regulations, judgments, orders (including executive orders), decrees or restrictive measures relating to economic, financial, or trade sanctions, export control, or anti-boycott measures administered, enacted, or enforced by a relevant Sanctions Authority, as well as applicable customs laws.

"**Invesco**" means Invesco Ltd., Invesco Senior Secured Management, Inc. and any of their Affiliates (including any funds, accounts or other investment vehicles advised, sub-advised, or directly or indirectly managed by them).

"**Invesco Action**" means that certain action commenced by Invesco Senior Secured Management, Inc. in the Supreme Court of the State of New York, County of New York, Index No. 656370/2023.

"**Invesco Adversary Complaint**" means the complaint filed by the Debtors commencing an adversary proceeding against Invesco seeking a declaratory judgment against Invesco and a temporary restraining order temporarily enjoining the continued prosecution of the Invesco Action, which shall include the motion seeking relief in the Bankruptcy Court under section 105(a) of the Bankruptcy Code.

"**Invesco Adversary Proceeding**" means the proceeding commenced by the Invesco Adversary Complaint.

"**IRS**" means the United States Internal Revenue Service.

"**Joint Plan of Liquidation**" means the First Amended Joint Plan of Liquidation of Robertshaw US Holding Corp. and Its Affiliated Debtors under Chapter 11 of the Bankruptcy Code [Docket No. 641], dated as of June 13, 2024, filed by the Debtors in the Bankruptcy Court, as the same may be amended or modified through subsequent filings with the Bankruptcy Court.

"**Knowledge of Sellers**" means the actual knowledge of the individuals set forth on Section 1.01(a) of the Disclosure Schedules, after reasonable inquiry.

"**Law**" means any law, treaty, statute, ordinance, code, directive, decree, Order, rule or regulation of any Governmental Authority.

"**Lease**" means any lease, together with any other subleases and similar agreements under which any Seller or Purchased Entity leases, uses or occupies, or has the right to use or occupy, any Leased Real Property.

"**Leased Real Property**" means any real property leased, subleased or which a Seller or Purchased Entity has the right to use or occupy as tenant or subtenant, pursuant to a Lease.

"**Liability**" means any and all debts, liabilities, commitments and obligations of any kind, whether fixed, contingent or absolute, matured or unmatured, liquidated or unliquidated, accrued or not accrued, asserted or not asserted, known or unknown, determined, determinable or otherwise, whenever or however arising (including, whether arising out of any Contract or tort based on negligence or strict liability) and whether or not the same would be required to be reflected in financial statements or disclosed in the notes thereto.

"**Material Adverse Effect**" means any change, effect, event, circumstance, occurrence or state of facts that, individually or in the aggregate, (a) has, or would reasonably be expected to have, a material adverse effect on the Purchased Assets or the Assumed Liabilities, taken as a whole, or (b) prevents or materially impairs, or would reasonably be expected to prevent or materially impair, the consummation of the transactions contemplated by this Agreement and the other Transaction Documents; provided, however, that in the case of clause (a), in no event shall any change, effect, event, circumstance, occurrence or state of facts that results from or arises out of the following be deemed to constitute, or be taken into account, in determining whether there has been, or would be, a Material Adverse Effect: (i) general changes or developments in global or national political, economic, business, monetary, financial or capital or credit market conditions or trends (including interest rates); (ii) geopolitical conditions or any outbreak or escalation of hostilities, acts of terrorism or war, civil unrest, regional, national or international emergency, or any acts of God or similar force majeure events; (iii) the failure of the financial or operating performance of any Seller or any of its respective businesses to meet any projections, forecasts, budgets estimates or predictions for any period (it being understood that the underlying cause of such failure to meet such projections, forecasts, budgets, estimates or predictions may be taken into account in determining whether a Material Adverse Effect has occurred); (iv) changes in Laws first proposed or implemented after the date hereof; (v) changes in GAAP or other accounting regulations or principles first proposed after the date hereof; (vi) any global or national health concern, epidemic, disease outbreak or pandemic (including the COVID-19 pandemic); (vii) any Law issued by a Governmental Authority requiring business closures, quarantine or sheltering-in-place or similar restrictions in connection with, or that arise out of, any epidemic, pandemic or disease outbreak (including the COVID-19 pandemic); (viii) acts taken or not taken at the specific request of, or with the written consent of, Buyer; or (ix) the Chapter 11 Cases, including (A) the Auction and any announced liquidation of Sellers or any of their respective assets, (B) any objections in the Bankruptcy Court to this Agreement or any of the transactions contemplated hereby, the reorganization of Sellers, the Bidding Procedures Order or the assumption or rejection of any Purchased Contract otherwise in compliance with this Agreement, and (C) any Order of the Bankruptcy Court or any actions or omissions of Sellers or their Subsidiaries required to be taken (or not taken) to comply therewith; provided, further, that in the case of clause (i), (ii), (iv), (v),

(vi) or (vii), to the extent that such impact is disproportionately adverse to the Purchased Assets or the Assumed Liabilities, taken as a whole, relative to other similarly situated businesses in the industries in which Sellers and the Purchased Entities operate, then such change, effect, event, circumstance, occurrence or state of facts may be taken into account in determining whether there has been or will be a Material Adverse Effect.

"**MLTN Opinion**" means a written, reasoned opinion, subject to customary and reasonable assumptions and representations, concluding that the relevant tax reporting position is supportable at a "more likely than not" or higher level of comfort.

"**Non-Participating Lender Adversary Complaint**" has the meaning ascribed to such term in the RSA.

"**Non-Participating Lender Adversary Proceeding**" means the proceeding commenced by the Non-Participating Lender Adversary Complaint.

"**Obligations**" has the meaning ascribed to such term in the Prepetition Super-Priority Credit Agreement.

"**Order**" means any award, writ, injunction, judgment, order, ruling, decision, subpoena, precept, directive, consent, approval, award, decree or similar determination or finding entered, issued, made or rendered by any Governmental Authority.

"**Ordinary Course**" means the ordinary course of business consistent with past practice.

"**Owned Real Property**" means any real property owned in fee by any Seller or any Purchased Entity.

"**Pandemic Response Laws**" means the CARES Act, the FFCRA, and any other similar, additional, or future federal, state, local, or foreign law, or administrative guidance intended to benefit taxpayers in response to the COVID-19 pandemic and associated economic downturn.

"**Permits**" means any franchises, permits, licenses, consents, certificates, clearances, approvals, exceptions, variances, permissions, filings, publications, declarations, notices, waivers, and authorizations, including permits required under Environmental Laws, of or with any Governmental Authority held, used or made by any Seller in connection with the Purchased Assets or the Assumed Liabilities.

"**Permitted Encumbrances**" means the following Encumbrances: (a) statutory Encumbrances for current Taxes, assessments or other governmental charges or levies that are not yet delinquent or that are being contested in good faith by appropriate Proceedings and for which adequate reserves have been established in accordance with GAAP or the non-payment of which is permitted or required by the Bankruptcy Code; (b) mechanics', materialmen's, repairmen's and other statutory Encumbrances incurred in the Ordinary Course, in each case for amounts not yet delinquent or that are being contested in good faith and for which adequate reserves have been established in accordance with GAAP and which would not, individually or in the aggregate, have a material impact on the Business; (c) Encumbrances incurred or deposits made in the Ordinary Course and on a basis consistent with past practice in connection with workers' compensation, unemployment insurance or other types of social security; (d) with respect to Owned Real Property or Leased Real Property, easements, declarations, covenants or rights-of-way, restrictions and similar non-monetary Encumbrances (that would be disclosed by a current survey of real property and otherwise affecting title to real property and other title defects or are otherwise filed or recorded in the applicable public records of the Owned Real Property or property subject to Leases) which do not, individually or in the aggregate, materially impair the use or occupancy of such Owned Real Property or Leased Real Property; (e) zoning ordinances, variances, conditional use permits and similar regulations, permits, approvals and conditions which do not, individually or in the aggregate, materially impair the use or occupancy of such Owned Real Property or Leased Real Property; (f) Encumbrances that will be released at the Closing with no Liability to Buyer or its Affiliates; (g) any Encumbrance granted or incurred pursuant to an Order of the Bankruptcy Court; (h) outbound Intellectual Property licenses, covenants not to sue and similar rights or licenses that are subject to Section 365(n) of the Bankruptcy Code; (i) Encumbrances of a lessor under any Lease; and (j) the Encumbrances disclosed on Section 1.01(b) of the Disclosure Schedules.

"**Person**" means any individual, corporation (including any non-profit corporation), partnership, limited liability company, joint venture, unincorporated organization, estate, trust, association, organization or other legal entity or group or Governmental Authority.

"**Post-Closing Tax Period**" means any Tax period beginning after the Closing Date and with respect to any Straddle Period the portion thereof beginning after the Closing Date.

"**Post-Effective Date Budget**" has the meaning set forth in the Joint Plan of Liquidation.

"**Pre-Closing Tax Period**" means any Tax period ending on or before the Closing Date and with respect to any Straddle Period, the portion thereof ending on the Closing Date.

"**Prepetition First Out Secured Indebtedness**" means all Obligations on account of the First-Out New Money Term Loans (as defined in the Prepetition Super-Priority Credit Agreement).

"**Prepetition Super-Priority Credit Agreement**" means that certain Super-Priority Credit Agreement, dated as of May 9, 2023, by and among Robertshaw US Holding Corp., the other borrowers party thereto, Range Parent, Inc., a Delaware corporation, as holdings, the guarantors party thereto, the lenders from time to time party thereto, and Acquiom Agency Services LLC and Seaport Loan Products LLC, as co-administrative agents, as amended pursuant to that certain Amendment No. 1 to Super-Priority Credit Agreement dated as of October 5, 2023, that certain Amendment No. 2 to Super-Priority Credit Agreement and First Amendment to Pledge and Security Agreement dated as of October 13, 2023, that certain Amendment No. 3 to Super-Priority Credit Agreement dated as of November 8, 2023, that certain Amendment No. 4 to Super-Priority Credit Agreement dated as of November 13, 2023, and that certain Amendment No. 5 to Super-Priority Credit Agreement dated as of December 8, 2023, and as further amended, supplemented, restated, replaced or otherwise modified from time to time.

"**Proceedings**" means any legal, governmental or regulatory suits, proceedings, arbitrations or actions, related to Liabilities, preference actions and preferential transfers, Contracts, debts, breaches of fiduciary duties, accounts, bills, covenants, agreements, damages, judgments, third-party Claims, counterclaims, and cross-claims, whether reduced to judgment or not reduced to judgment, liquidated or unliquidated, disputed or undisputed, secured or unsecured, assertable directly or derivatively, existing or hereinafter arising, in law or equity or otherwise.

"**Property Taxes**" means real, personal and intangible ad valorem property Taxes that are imposed on a periodic basis.

"**Purchased Entities**" means, collectively, the Purchased Companies and their respective Subsidiaries.

"**Receivables**" means all receivables (including accounts receivable, loans receivable and advances) arising from or related to the Business or Purchased Assets.

"**RSA**" means the Restructuring Support Agreement, dated as of February 14, 2024, among Sellers, the Consenting First Lien Lenders (as defined therein) and its Sponsor (as defined therein).

"**RSA Termination Event**" means an event described in Section 7 of the RSA which results in the termination of the RSA.

"**Sale Hearing**" means the hearing conducted by the Bankruptcy Court to approve the transactions contemplated by this Agreement.

"**Sale Order**" means an Order by the Bankruptcy Court, in form and substance acceptable to Buyer and Sellers, among other things, (a) approving this Agreement, (b) authorizing the sale of the Purchased Assets to Buyer pursuant to Section 363 of the Bankruptcy Code, pursuant to the terms and conditions set forth herein, free and clear of any Encumbrances (other than Permitted Encumbrances), (c) authorizing the assumption by, and assignment to, Buyer of the Purchased Contracts and the Assumed Liabilities pursuant to Section 365 of the Bankruptcy Code and (d) authorizing the other transactions contemplated by this Agreement.

"**Sanctioned Jurisdiction**" means a country or territory which is, or during the past five (5) years has been, the subject or target of comprehensive U.S. sanctions.

"**Sanctioned Person**" means a Person (a) identified on the United States' Specially Designated Nationals and Blocked Persons List, the United States' Denied Persons List, Entity List or Debarred Parties List, the United Nations Security Council Sanctions List, the European Union's List of Persons, Groups and Entities Subject to Financial Sanctions, the United Kingdom's Consolidated List of Financial Sanctions Targets, or any other similar list maintained by any Sanctions Authority having jurisdiction over the parties to this Agreement; (b) located, organized or resident in a Sanctioned Jurisdiction or (c) owned, fifty percent (50%) or more, individually or in the aggregate by, controlled by, or acting on behalf of a Person described in clause (a) or (b) above.

"**Sanctions Authority**" means the United States government, the Office of Foreign Assets Control of the U.S. Department of the Treasury, the U.S. Department of State, the Bureau of Industry and Security of the U.S. Department of Commerce, the United Nations Security Council, the European Union, any Member State of the European Union and the competent national authorities thereof, the United Kingdom, the Office of Financial Sanctions Implementation of His Majesty's Treasury, the Export Control Joint Unit of the UK Department of International Trade, and any other relevant governmental, intergovernmental or supranational body, agency or authority with jurisdiction over the parties to this Agreement.

"**Seller Plan**" means each (i) "employee benefit plan" as defined in Section 3(3) of ERISA, whether or not subject to ERISA, (ii) end of service or severance, termination protection, retirement, pension, profit sharing, deferred compensation, phantom, equity or equity-based, health or welfare, employment, independent contractor, vacation, change in control, transaction, retention, bonus or other incentive, fringe benefit, paid time off or similar plan, agreement, arrangement, program or policy, or (iii) other plan, Contract, policy or arrangement providing compensation or benefits, in each case whether or not written, in the case of clauses (i)-(iii), that is sponsored, maintained, administered, contributed to or entered into by any Seller or any Subsidiary of any Seller, for the benefit of any of its current or former Service Providers.

"**Service Provider**" means a director, officer, employee or individual independent contractor.

"**Software**" means any and all computer programs, software (in object and source code), firmware, middleware, applications, APIs, web widgets, code and related algorithms, models and methodologies, files, documentation and all other tangible embodiments thereof.

"**Subsidiary**" means, with respect to any Person, another Person in which such Person beneficially owns, directly or indirectly, capital stock or other equity securities representing more than fifty percent (50%) of the outstanding voting stock or other equity interests.

"**Systems**" means servers, hardware systems, databases, circuits, networks and other computer and telecommunications assets and equipment.

"**Tax**" means all federal, state, local or foreign income, gross receipts, franchise, estimated, alternative minimum, add-on minimum, sales, use, transfer, real property gains, registration, value added, excise, natural resources, severance, stamp, occupation, premium, windfall profit, environmental, customs, duties, real property, special assessment, personal property, escheat, unclaimed property, capital stock, social security, unemployment, disability, payroll, license, employee or other withholding tax, profits, lease, service, recording, documentary, filing, permit or authorization, gains, import, export, intangibles, or any other taxes, fees, assessments or charges of any kind whatsoever in the nature of a tax including any interest, penalties or additions to tax or additional amounts in respect of the foregoing, and including (i) any obligation or Liability to pay the Tax of another Person under Law or as a transferee or successor and (ii) any Liability for the payment of any Tax as a result of being a member of a consolidated, combined, unitary or affiliated group that includes any other Person.

"**Tax Return**" means any report, return, election, extension or similar document (including declarations, disclaimers, notices, disclosures, estimates, claims (including claims for refunds), real property transfer tax returns, information returns, schedules or any related or supporting information) filed or required to be filed with respect to Taxes with any Governmental Authority or other authority in connection with the determination, assessment or collection of any Tax or the administration of any Laws or administrative requirements relating to any Tax.

"**Tax Sharing Agreements**" means all Tax sharing, allocation, indemnification or similar agreements that provide for the allocation, apportionment, sharing or assignment of any Tax Liability.

"**Transaction Document**" means this Agreement, the Assignment and Assumption Agreements, the Bills of Sale, the Assignment of Patents, the Assignment of Trademarks and any other agreements, instruments or documents entered into pursuant to, or as contemplated by, this Agreement.

"**Transfer Taxes**" means any sales, use, purchase, direct or indirect real property, ad valorem, value added (including VAT), filing, permit or authorization, leasing, license, lease, severance, fixed asset, documentary, stamp, property transfer or gains, registration, intangible, conveyance, recording or similar Tax (including, for certainty, harmonized sales tax and land transfer tax) and any recording costs or fees, however styled or designated, or other similar amounts in the nature of transfer Taxes payable in connection with the sale or transfer of the Purchased Assets contemplated by this Agreement or any other Transaction Document. For the avoidance of doubt and notwithstanding anything to the contrary, Transfer Taxes shall not include any income Taxes or Indirect Capital Gains Taxes.

"**Treasury Regulations**" means the United States income tax regulations, including temporary regulations and, to the extent taxpayers are permitted to rely on them, proposed regulations, promulgated under the Code, as such regulations may be amended from time to time (including corresponding provisions of succeeding regulations).

"**WARN Act**" means the Worker Adjustment and Retraining Notification Act of 1988 and all similar state and local Laws.

"**Websites**" means all Internet websites, including content, text, graphics, images, audio, video, data, databases, Software and related items included on or used in the operation of and maintenance thereof, and all documentation, ASP, HTML, DHTML, SHTML, and XML files, cgi and other scripts, subscriber data, archives, and server and traffic logs and all other tangible embodiments related to any of the foregoing.

(b) Each of the following terms is defined in the Section set forth opposite such term:

Term	**Section**
Agreement	Preamble
Allocation Methodology	Section 2.07
Allocation Schedule	Section 2.07
Assignment and Assumption Agreements	Section 2.08(a)(i)
Assignment of Patents	Section 2.08(a)(iii)
Assignment of Trademarks	Section 2.08(a)(iii)
Assumed Liabilities	Section 2.02
Assumed Plans	Section 2.01(i)
Balance Sheet Date	Section 3.05(a)

Bankruptcy Code	Recitals
Bankruptcy Court	Recitals
Bankruptcy Period	Section 11.05
Bills of Sale	Section 2.08(a)(ii)
Buyer	Preamble
Buyer Benefit Plan	Section 7.05(a)
Buyer Designee	Section 2.01
Buyer Released Parties	Section 7.16(a)
Buyer Releasor	Section 7.16(b)
Chapter 11 Cases	Recitals
Closing	Section 2.08
Closing Date Payment	Section 2.06
Closing Payroll Period	Section 7.05(b)
Contested Reporting Position	Section 7.06(a)
Contract & Cure Update Schedule	Section 2.05(a)
Credit Bid	Section 2.06
D&O Indemnified Person	Section 7.17(a)
D&O Tail Policy	Section 7.17(a)
Debtors	Preamble
Disputed Amount Contract	Section 2.05(e)
End Date	Section 10.01(b)
Excluded Assets	Section 2.03
Excluded Contracts	Section 2.03(c)
Excluded Liabilities	Section 2.04
Excluded Plans	Section 2.03(f)
Excluded Records	Section 2.03(b)
Financial Statements	Section 3.05(a)
Interim Financial Statements	Section 3.05(a)
Inventory	Section 2.01(g)
Later Excluded Assets	Section 2.01
Later Excluded Contract	Section 2.05(a)
Latest Balance Sheet Date	Section 3.05(a)
Material Contracts	Section 3.09(a)
Material Customers	Section 3.19(a)
Material Suppliers	Section 3.19(b)
Non-Recourse Parties	Section 11.13
Offered Employee	Section 7.05(a)
Original Contract & Cure Schedule	Section 2.05(a)
Party or Parties	Preamble
Permit Approvals	Section 7.03(b)
Personal Information	Section 3.24(a)
Petition Date	Recitals
Post-Effective Date Amount	Section 2.06
Pre-Closing Severance Obligations	Section 2.02(c)
Privacy Laws	Section 3.24(a)
Privacy Requirements	Section 3.24(a)

Purchase Price	Section 2.06
Purchased Assets	Section 2.01
Purchased Company or Purchased Companies	Section 2.01(f)
Purchased Contracts	Section 2.01(a)
Purchased Intellectual Property	Section 2.01(e)
Purchased Shares	Section 2.01(f)
Released Parties	Section 7.16(b)
Renewal Period	Section 10.01(b)
Reorganization	Section 7.18
Representatives	Section 7.16(a)
Retained Cash	Section 2.06
Seller or Sellers	Preamble
Seller Released Parties	Section 7.16(b)
Seller Releasor	Section 7.16(a)
Seller Parent	Preamble
Service Provider Cash	Section 2.03(h)
Straddle Period	Section 7.06(b)
Surviving Post-Closing Covenants	Section 9.01
Title IV Plans	Section 3.14(d)
Transfer Consent	Section 2.05(c)
Transferred Employee	Section 7.05(a)
Transition Employees	Section 7.02(c)
Transition Period	Section 7.02(c)
Wind-Down	Section 7.14
Wind-Down Returns	Section 7.06(a)

SECTION 1.02 *Construction*. In construing this Agreement, including the Exhibits and Schedules hereto, the following principles shall be followed: (a) the terms "herein," "hereof," "hereby," "hereunder" and other similar terms refer to this Agreement as a whole and not only to the particular Article, Section or other subdivision in which any such terms may be employed unless otherwise specified; (b) except as otherwise set forth herein, references to Articles, Sections, Disclosure Schedules, Schedules and Exhibits refer to the Articles, Sections, Disclosure Schedules, Schedules and Exhibits of this Agreement, which are incorporated in and made a part of this Agreement; (c) a reference to any Person shall include such Person's successors and assigns; (d) the word "includes" and "including" and their syntactical variants mean "includes, but is not limited to" and "including, without limitation," and corresponding syntactical variant expressions; (e) a defined term has its defined meaning throughout this Agreement, regardless of whether it appears before or after the place in this Agreement where it is defined, including in any Schedule; (f) the word "dollar" and the symbol "$" refer to the lawful currency of the United States of America; (g) unless the context of this Agreement clearly requires otherwise, words importing the masculine gender shall include the feminine and neutral genders and vice versa; (h) the words "to the extent" shall mean "the degree by which" and not "if"; (i) the word "will" will be construed to have the same meaning and effect as the word "shall," and the words "shall," "will," or "agree(s)" are mandatory, and "may" is permissive; (j) where a word is defined herein, references to the singular will include references to the plural and vice versa; (k) all references to a day or days will be deemed to refer to a calendar day or calendar days, as applicable, unless Business Days are expressly

specified; (l) any reference to any Contract will be a reference to such Contract, as amended, modified, supplemented or waived; (m) any reference to any particular Code section or any Law will be interpreted to include any amendment to, revision of or successor to that section or Law regardless of how it is numbered or classified; provided that, for the purposes of the representations and warranties set forth herein, with respect to any violation of or non-compliance with, or alleged violation of or non-compliance, with any Code section or Law, the reference to such Code section or Law means such Code section or Law as in effect at the time of such violation or non-compliance or alleged violation or non-compliance; (n) references to "written" or "in writing" include in electronic form; (o) the headings contained in this Agreement and the other Transaction Documents are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement and the other Transaction Documents; (p) when calculating the period of time before which, within which or following which any act is to be done or step taken pursuant to this Agreement, the date that is the reference date in calculating such period shall be excluded and if the last day of such period is not a Business Day, the period shall end on the next succeeding Business Day; and (q) the word "or" shall not be exclusive.

ARTICLE 2

PURCHASE AND SALE

SECTION 2.01 *Purchase and Sale*. Subject to the entry of the Sale Order and upon the terms and subject to the conditions of this Agreement and the Sale Order, on the Closing Date, Sellers shall sell, transfer, assign, convey and deliver, or cause to be sold, transferred, assigned, conveyed and delivered, to Buyer or one or more Affiliates of Buyer or an entity designated by Buyer (a "**Buyer Designee**"), and Buyer shall, and shall cause its Buyer Designees (if any) to, purchase, acquire and accept from Sellers, free and clear of all Encumbrances (other than Permitted Encumbrances), all of Sellers' right, title and interest in the properties, interests, rights and other assets of Sellers as of the Closing of every kind and nature, whether tangible or intangible (including goodwill), real, personal or mixed, known or unknown, fixed or unfixed, accrued, absolute, contingent or otherwise, wherever located and whether or not required to be reflected on a balance sheet prepared in accordance with GAAP or specifically referred to in this Agreement, including any such properties, rights, interests, and other assets acquired by Sellers after the date hereof and prior to the Closing in accordance with Section 5.01, including the following properties, rights, interests and other assets of Sellers (collectively, the "**Purchased Assets**" and, for the avoidance of doubt, the transfer of the Purchased Shares held by any Seller to Buyer or a Buyer Designee will constitute the transfer of any assets owned by such Purchased Company (including any equity interests of any Subsidiary of any Purchased Company) and such assets shall not be separately transferred other than as required by applicable Law), other than the Excluded Assets, which, notwithstanding the foregoing provisions of this Section 2.01 to the contrary, will remain, as applicable, the assets, properties, interests and rights of Sellers and their Affiliates:

(a) subject to Section 2.05, all Contracts (including Leases to which a Seller is a Party with respect to Leased Real Property and licenses and other Contracts with respect to Intellectual Property), including (i) any confidentiality or non-disclosure agreements executed by any Person for the benefit of any Seller to the extent relating to the Purchased Assets or the Assumed Liabilities and (ii) all purchase orders (collectively, the "**Purchased Contracts**");

(b) (i) the Owned Real Property set forth on Section 2.01(b)(i) of the Disclosure Schedules and (ii) the Leased Real Property set forth on Section 2.01(b)(ii) of the Disclosure Schedules, in each case, together with any buildings, fixtures and improvements located on or attached to such real property, and all rights arising therefrom, and all tenements, hereditaments, appurtenances and other real property rights appertaining thereto;

(c) all tangible assets, including machinery, equipment, computers, information management systems (including software and hardware related thereto), telephone systems, supplies and other tangible personal property owned by any Seller, including any such personal property of a Seller located at any Owned Real Property or Leased Real Property and any such property on order to be delivered to any Seller;

(d) all warranties, indemnities or guaranties from any Person with respect to any Purchased Asset, including any item of real property, personal property or equipment;

(e) all Intellectual Property owned by Sellers that is used or held for use by Sellers in the conduct of the Business, including the Intellectual Property set forth on Section 2.01(e) of the Disclosure Schedules (the "**Purchased Intellectual Property**");

(f) all of Sellers' interests (the "**Purchased Shares**") in the Persons listed in Section 2.01(f) of the Disclosure Schedules (each, a "**Purchased Company**," and collectively, the "**Purchased Companies**");

(g) all inventory, including raw and packing materials, work-in-progress, finished goods, supplies, parts and similar items related to, used or held for use in connection with the Business (the "**Inventory**");

(h) to the extent permitted by applicable Law without the consent of any applicable Service Provider, all rights of Sellers under non-disclosure or confidentiality, invention assignment, work made for hire, non-compete, or non-solicitation agreements with current or former Service Providers of any Seller;

(i) all of the Seller Plans other than Excluded Plans (the "**Assumed Plans**"), all funding arrangements related thereto (including all assets, trusts, insurance policies and administrative service Contracts related thereto), and all rights and obligations thereunder;

(j) all Permits (to the extent transferable to Buyer pursuant to applicable Law);

(k) all Cash and Cash Equivalents (other than Retained Cash, if any, and Service Provider Cash);

(l) all bank accounts of Sellers (other than any account designated by Seller Parent to Buyer prior to the Closing which shall be retained solely for the purposes of the Wind-Down);

(m) all deposits, credits, prepaid expenses, deferred charges, advance payments, refunds, rights of set-off, rights of recovery, security deposits, prepaid items and duties related to the Purchased Assets (including Purchased Contracts);

(n) all accounts receivable, notes, negotiable instruments and chattel paper owned or held, together with any unpaid interest or fees accrued thereon or other amounts due with respect thereto, and other amounts receivable from any Person, whether or not in the Ordinary Course;

(o) all insurance policies relating to the Purchased Assets or the Assumed Liabilities, and all rights and benefits of any nature of Sellers with respect thereto (including any claims arising under such policies and all credits, premium refunds, proceeds, causes of action or rights thereunder);

(p) all director and officer insurance policies (including, for the avoidance of doubt, all current and prior director and officer insurance policies, and all rights and benefits of any nature of Sellers with respect thereto (including any claims arising under such policies and all credits, premium refunds, proceeds, causes of action or rights thereunder)); provided, however, that the D&O Tail Policy shall only be included as a Purchased Asset to the extent that (i) Seller Parent notifies Buyer in writing prior to Closing that it will be so included and (ii) such inclusion does not adversely affect the availability or terms and conditions of coverage thereunder;

(q) all confidentiality, non-competition, non-solicitation or similar agreements entered into by any Seller or any of its representatives in connection with a sale of any Seller, any Purchased Asset (including any Purchased Entity) or any Assumed Liabilities;

(r) all rights against any Person (including (i) customers, suppliers, vendors, lessors, lessees, licensees, or licensors of any Seller and (ii) Buyer, Buyer's Affiliates, Sellers or Sellers' Affiliates or any of its or their respective directors, officers, members, partners, shareholders, managers, advisors or representatives) arising under or related to any Purchased Contract, other Purchased Asset (including any use, ownership, possession, operation, sale or lease thereof) or Assumed Liability or the operation or conduct of the Business, including Proceedings, Claims, counterclaims, defenses, credits, rebates (including any vendor or supplier rebates), demands, allowances, refunds, rights of set off, rights of recovery (including rights to insurance proceeds), rights of subrogation, rights of recoupment, rights under or with respect to express or implied guarantees, warranties, representations, covenants, indemnities, exculpation, advancement, reimbursement of expenses or contract renewal rights and other similar rights, in each case, whether direct or derivative, known or unknown, liquidated or unliquidated, contingent or otherwise;

(s) all avoidance, recovery, subordination claims or causes of action of any Seller under Sections 502(d), 542, 544, 545, 547, 548, 549, 550, 551, 553(b) or 724(a) of the Bankruptcy Code or under applicable Law, and the proceeds of such claims and causes of action;

(t) all goodwill related to the Purchased Assets (including the goodwill associated with the Trademarks and other Intellectual Property included in the Purchased Assets);

(u) other than the Excluded Records, all of each Seller's and its Subsidiaries' current or historical written files, documents, instruments, papers, books, reports, records, tapes, microfilms, photographs, letters, budgets, forecasts, plans, operating records, safety and environmental reports, data, studies, Tax Returns (including all related schedules, workpapers and other material supporting information), ledgers, journals, title policies, customer lists, supplier lists, vendor lists, price lists, mailing lists, invoices, shipping records, standard forms of documents, regulatory filings, operating data and plans, research material, technical documentation (design specifications, engineering information, test results, maintenance schedules, functional requirements, operating instructions, logic manuals, processes, flow charts, *etc.*), user documentation (installation guides, user manuals, training materials, release notes, working papers, *etc.*), marketing documentation (catalogs, sales brochures, flyers, pamphlets, web pages, *etc.*), consulting materials, opinions and other documents commissioned by or on behalf of any Seller or its Subsidiaries, development, quality control, quality assurance, regulatory, records and other regulatory documents, all personnel and employment records for the Transferred Employees and any independent contractors of any Seller or its Subsidiaries, and other books and records of Sellers and any rights thereto owned by any Seller, in each case whether stored in hard copy form or on electronic, magnetic, optical or other media; and

(v) the other property and assets set forth on Section 2.01(v) of the Disclosure Schedules.

At any time but in any event no later than two (2) Business Days prior to the Qualified Bid Deadline (as defined in the Bidding Procedures Order), Buyer may, in its sole discretion, by written notice to the Seller Parent, and following good faith consultation with the Seller Parent, designate any of the Purchased Assets as additional Excluded Assets (other than in respect of a Purchased Contract, which shall be governed by Section 2.05(a)), which notice shall set forth in reasonable detail the Purchased Assets so designated ("**Later Excluded Assets**"); provided that the Post-Effective Date Budget and the Post-Effective Date Amount may be increased with respect to such Later Excluded Asset and any Liabilities arising therefrom; provided, further, that in no event shall any Purchased Shares be deemed a Later Excluded Asset without the prior written consent of Sellers (not to be unreasonably withheld). Notwithstanding any other provision hereof to the contrary, but subject to the provisions of this paragraph, the Liabilities of Sellers under or related to any Purchased Asset designated as a Later Excluded Asset pursuant to this paragraph will constitute Excluded Liabilities. The Parties acknowledge and agree that there will be no reduction in, or increase to, the Purchase Price as a result of any addition or elimination of any asset as a Purchased Asset unless otherwise agreed in the Post-Effective Date Budget.

SECTION 2.02 *Assumed Liabilities*. Upon the terms and subject to the conditions of this Agreement, Buyer agrees, effective at the time of the Closing, to assume the following Liabilities, and only such Liabilities, of Sellers (the "**Assumed Liabilities**"):

(a) all Liabilities, including Environmental Liabilities, relating to or arising out of the ownership or operation of the Purchased Assets by Buyer solely for periods following the Closing;

(b) all Cure Costs to the extent they have not been paid on or before the Closing;

(c) all Liabilities with respect to the Assumed Plans (other than any obligation to pay severance under any Assumed Plan that is a severance plan, policy or arrangement to a former employee of any Seller with respect to a termination of employment prior to the Closing ("**Pre-Closing Severance Obligations**"));

(d) all Employee Liabilities with respect to Transferred Employees arising on or after the Closing;

(e) the Liabilities assumed by Buyer pursuant to Section 7.05;

(f) all Liabilities of each Seller relating to or arising out of the Purchased Contracts, solely following the Closing and not to the extent relating to or arising out of any breach or default thereof or other activities on or prior to the Closing; provided that the foregoing shall not limit Buyer's obligation to assume Cure Costs pursuant to Section 2.02(b) or assume any other Liability necessary to assume such Purchased Contract;

(g) all (i) allowed and unpaid post-Petition Date accrued trade and non-trade payables, (ii) open purchase orders existing as of the Closing Date (except any purchase order entered into in connection with, or otherwise governed by, any Excluded Contract) (excluding any Liabilities arising out of default or breach thereof by any Seller), (iii) Liabilities arising under drafts or checks outstanding at Closing and (iv) all Liabilities arising from rebates, returns, recalls, chargebacks, coupons, discounts, failure to supply claims and similar obligations, but in each case, to the extent (and solely to the extent) (y) incurred in the Ordinary Course and otherwise in compliance with the terms and conditions of this Agreement (including Section 5.01) and (z) not arising under or otherwise relating to any Excluded Asset;

(h) all liabilities for Property Taxes allocable to any Post-Closing Tax Period and Transfer Taxes payable by Buyer pursuant to Section 7.06(f);

(i) any liability to indemnify, reimburse or advance amounts to any present officer, director, employee or agent of any Seller (including with respect to any breach of fiduciary obligations by any such party);

(j) all Claims arising prior to the Petition Date that are owed by any Debtor or Purchased Entity to any other Debtor, which Claims may be reinstated, set off, settled, distributed, contributed, cancelled and released without any distribution on account of such Claims, or such other treatment as is determined by the Required Consenting Lenders and Sellers;

(k) attorneys' fees and other professionals' fees directly incurred by any Seller after the Closing in connection with any appeal of (or any other proceeding to reconsider, amend, clarify, modify, vacate, or stay or to otherwise alter the Sellers' rights pursuant to) any Order (i) by the Bankruptcy Court (or any other court) if the Bankruptcy Court cannot close the Chapter 11 Cases under Section 350 of the Bankruptcy Code while such appeal or other proceeding is pending relating to consummation of this Agreement (including such appeal or other proceedings relating to confirmation of the Joint Plan of Liquidation), (ii) relating to the Invesco Adversary Proceeding (including the Motion Extending the Automatic Stay to Claims Asserted Against Non-Debtor Parties in the Invesco Adversary Proceeding), or (iii) relating to any Motion to Abstain or Transfer Venue; and

(l) the other Liabilities set forth on Section 2.02(l) of the Disclosure Schedules.

SECTION 2.03 *Excluded Assets*. Notwithstanding any provision in this Agreement to the contrary, Sellers shall not be deemed to sell, transfer, assign, convey or deliver, and Sellers will retain all right, title and interest to, in and under the following assets, properties, interests and rights of Sellers (whether owned, licensed, leased or otherwise) (the "**Excluded Assets**"):

(a) the organizational documents, corporate records and minute books, in each case to the extent solely pertaining to the organization, existence or capitalization of Sellers;

(b) any (i) records, documents or other information solely to the extent relating to any current or former Employee who is not or does not become a Transferred Employee and any materials to the extent containing information about any Employee, disclosure of which would violate applicable Law, and (ii) all attorney-client privilege and attorney work-product protection of Sellers or associated with their businesses solely to the extent arising with respect to legal counsel representation of Sellers or their Affiliates or their businesses in connection with the transactions contemplated by this Agreement or any of the other Transaction Documents (such documents described in clauses (i) and (ii), collectively, the "**Excluded Records**");

(c) subject to Section 2.05, any Contract that is not a Purchased Contract (collectively, the "**Excluded Contracts**");

(d) all rights, claims or causes of action that accrue or will accrue to any Seller or any of its Subsidiaries pursuant to this Agreement or any of the other Transaction Documents;

(e) other than the Purchased Shares or the equity interests of any Purchased Entity, all shares of capital stock or other equity interests of any Seller or any Subsidiary of any Seller;

(f) any Seller Plans set forth on Section 2.03(f) of the Disclosure Schedules (the "**Excluded Plans**" which such Excluded Plans include, in all events, all equity incentive and other long-term incentive plans and grants thereunder), together with all funding arrangements related thereto (including all assets, trusts, insurance policies and administrative service Contracts related thereto), and all rights and obligations thereunder;

(g) all Retained Cash (if any) and the Post-Effective Date Amount;

(h) all Cash and Cash Equivalents held in the accounts of the Debtors or in escrow for the benefit of professional service providers to the bankruptcy estate of the Debtors ("**Service Provider Cash**");

(i) all proceeds received from the sale or liquidation of any other Excluded Assets;

(j) any deposits, escrows, surety bonds or other financial assurances and any cash or cash equivalents securing any surety bonds or financial assurances, in each case, to the extent solely relating to the Excluded Assets or the Excluded Liabilities; and

(k) the other property and assets set forth on Section 2.03(k) of the Disclosure Schedules.

SECTION 2.04 *Excluded Liabilities*. Notwithstanding any provision in this Agreement to the contrary, Buyer shall not assume, or undertake any contractual obligation hereunder to pay, perform or discharge, or be liable hereunder for, any Liabilities of any Seller, of whatever nature, whether presently in existence or arising hereafter, whether or not related to the Business or the Purchased Assets, whether absolute, accrued, contingent or otherwise, liquidated or unliquidated, due or to become due, known or unknown, matured or unmatured, direct or indirect, and however arising, whether existing prior to or on the Closing Date or arising thereafter as a result of any act, omission or circumstances taking place prior to the Closing, other than the Assumed Liabilities, and Sellers shall retain and shall not contractually assign or otherwise transfer to Buyer, any other Liabilities of Sellers (other than the Assumed Liabilities), including the following (collectively, the "**Excluded Liabilities**"):

(a) all Liabilities for or in respect of Excluded Taxes;

(b) all Liabilities arising under any Excluded Contract;

(c) except to the extent of any Liabilities expressly assumed pursuant to Section 2.02(f) or Section 2.02(g), all Liabilities of Sellers for Indebtedness, including any intercompany Indebtedness among Sellers;

(d) all Employee Liabilities, other than (i) any Liabilities assumed by Buyer under Section 7.05 and (ii) Employee Liabilities (A) arising under or with respect to any Assumed Plan (excluding Pre-Closing Severance Obligations) or (B) relating to the employment or termination of employment of, or otherwise with respect to, any Employee of any Seller who is a Transferred Employee arising on or after the Closing;

(e) all Liabilities arising out of, relating to or with respect to any Excluded Plan, if any;

(f) all Liabilities arising in connection with any violation of any applicable Law (by Sellers) relating to the period prior to the Closing;

(g) all Liabilities of Sellers arising under or pursuant to any Environmental Laws due to Sellers' ownership, operation, leasing or use of any real property, whether or not used in the Ordinary Course, including any Environmental Liabilities of Sellers either for noncompliance with any Environmental Laws (including the release of Hazardous Materials) or remediation of any release of Hazardous Materials, in each case, only to the extent arising as a result of any act, omission, or circumstances taking place on or prior to the Closing, whether known or unknown as of the Closing;

(h) all Liabilities arising out of, relating to or with respect to any Order or Proceeding or threatened Proceeding involving, against or affecting any Purchased Asset, the Business, any Seller, or any assets or properties of any Seller (i) commenced, filed, initiated or threatened in writing as of the Closing or (ii) relating to facts, events or circumstances arising or occurring prior to the Closing;

(i) all claims for product liability or under warranties associated with the Business or Purchased Assets or otherwise (whether known or unknown, and whether recorded or reported), relating to facts, events or circumstances arising or occurring before the Closing (including with respect to products manufactured and sold by Sellers prior to the Closing);

(j) all Liabilities relating to an Excluded Asset, whether arising prior to or after the Closing Date; and

(k) all other Liabilities of Sellers that are not expressly included as Assumed Liabilities.

SECTION 2.05 *Assignment of Contracts and Rights*.

(a) Consistent with the requirements of the Bidding Procedures Order, on March 24, 2024, the Debtors filed the Notice of Possible Assumption and Assignment of Certain Executory Contracts and Unexpired Leases [Docket No. 392] to which the Debtors annexed a list of each Contract of Sellers and Sellers' good faith estimate of the amount of Cure Costs applicable to each such Contract (the "**Original Contract & Cure Schedule**") and have served notice on the counterparties to each such Contract in accordance with the Bidding Procedures Order. From the date hereof until the date which is five (5) days prior to the Closing Date, promptly following any changes to the information set forth on the Original Contract & Cure Schedule (including any new Contracts to which any Seller becomes a party and any change in the Cure Cost of any Contract), or as reasonably requested by Buyer, Sellers shall use commercially reasonable efforts to provide Buyer with a schedule that updates and corrects such information (as such schedule may be amended, supplemented or otherwise modified from time to time prior to the Closing Date in accordance with the terms of this Agreement, the "**Contract & Cure Update Schedule**"). Sellers shall use commercially reasonable efforts to verify all Cure Costs for each Purchased Contract and shall, in consultation with and subject to the consent of Buyer, use commercially reasonable efforts to establish proper Cure Costs for each Purchased Contract prior to the Closing Date. At any time but in any event no later than two (2) Business Days prior to the Qualified Bid Deadline (as defined in the Bidding Procedures Order), Buyer may, by written notice to Seller Parent, and following good faith consultation with Seller Parent, add or eliminate any Contract (including any Lease) as a Purchased Contract (any such eliminated Contract, a "**Later Excluded Contract**"). Automatically upon the addition of any Contract as a Purchased Contract in accordance with this Section 2.05(a), such Contract will constitute a Purchased Asset and will be assigned to Buyer under, and in accordance with the terms of, this Agreement at Closing (and, if applicable, will cease to constitute an Excluded Asset). Automatically upon the elimination of any Contract as a Purchased Contract in accordance with this Section 2.05(a), such Contract will constitute an Excluded Asset and will not be assigned to Buyer, and no Liabilities arising thereunder or relating thereto shall be assumed by Buyer. The Parties acknowledge and agree that, unless otherwise agreed between the Parties, there will be no reduction in, or increase to, the Purchase Price as a result of any addition or elimination of any Contract as a Purchased Contract; provided, however, that any such addition or elimination may increase or decrease (as applicable) the extent of the Assumed Liabilities, Purchased Assets or Excluded Contracts.

(b) Sellers and Buyer shall use commercially reasonable efforts to take all actions required to assign the Purchased Contracts to Buyer, including taking all actions reasonably required to facilitate any negotiations with the counterparties to such Purchased Contracts and to obtain an Order containing a finding that the proposed assumption and assignment of the Purchased Contracts to Buyer satisfies all requirements of Section 365 of the Bankruptcy Code.

(c) Except as to Purchased Contracts assigned pursuant to Section 365 of the Bankruptcy Code, this Agreement shall not constitute an agreement to contribute, transfer, assign or deliver any Purchased Asset or any claim, right or benefit arising thereunder or resulting therefrom if an attempted contribution, transfer, assignment, or delivery thereof without the consent of a third party or Governmental Authority (each, a "**Transfer Consent**"), would conflict with, violate, or constitute a breach or default under, any related Contract or violate any applicable Law. If such Transfer Consent is not obtained or such assignment is not attainable pursuant to Section 365 of the Bankruptcy Code, to the extent permitted and subject to any approval of the Bankruptcy Court that may be required, Seller Parent and Buyer will reasonably cooperate in a mutually agreeable arrangement (at Buyer's cost and expense) under which Buyer would obtain the claims, rights or benefits and assume the obligations thereunder in accordance with this Agreement without any further additional consideration; provided, however, that subject to Buyer receiving the claims, rights or benefits of, or under, the applicable Purchased Asset under any such arrangement, from and after the Closing, Buyer shall be responsible for, and shall promptly pay and perform, all payment and other obligations under such Purchased Asset (all of which shall constitute, and shall be deemed to be, Assumed Liabilities hereunder) to the same extent as if such Purchased Asset had been assigned or transferred at the Closing. For the avoidance of doubt, the failure to obtain any Transfer Consent with respect to any Purchased Asset shall not delay the Closing; provided that, from and after the Closing, Seller Parent and Buyer shall use commercially reasonable efforts (at Buyer's cost and expense) to obtain such Transfer Consent with respect to such Purchased Asset. Notwithstanding the foregoing, Sellers' obligations under this Section 2.05(c) shall not restrict or limit their ability to complete the Wind-Down or otherwise liquidate their estates, in each case, after the Closing, including by confirming and consummating a Chapter 11 plan of liquidation, or limit their ability to close the Chapter 11 Cases, after the Closing. Sellers' obligations under this Section 2.05(c) shall terminate upon the Cut-Off Date; provided that if the Transfer Consent in respect of a Purchased Asset has not been obtained by the Cut-Off Date, then following written notice by Buyer prior to the Cut-Off Date, and with the prior written consent of Sellers, Sellers shall use their commercially reasonable efforts to ensure that Buyer shall (at Buyer's cost and expense) continue to have the benefit of this Section 2.05(c) following the Cut-Off Date; provided that the obligations of each Seller under this Section 2.05(c) shall expire upon the completion of the Wind-Down of such Seller. Upon obtaining any such Transfer Consent with respect to the applicable Purchased Asset after the Closing, such Purchased Asset shall promptly be transferred and assigned to Buyer or a Buyer Designee in accordance with the terms of this Agreement, the Sale Order, and the Bankruptcy Code without any further additional consideration. Buyer may request, in its reasonable business judgment, certain modifications and amendments to any Contract as a condition to such Contract being designated as a Purchased Contract, and Sellers shall use their commercially reasonable efforts to obtain such modifications or amendments.

(d) At Closing, pursuant to the Sale Order and the Assignment and Assumption Agreements, Sellers shall assign or cause to be assigned to Buyer (the consideration for which is included in the Purchase Price) each of the Purchased Contracts that is capable of being assigned.

(e) If any Contract requires the payment of Cure Costs in order to be assumed pursuant to Section 365 of the Bankruptcy Code, and such Cure Costs are undetermined on the Closing Date because a non-Seller counterparty to such Contract proposed Cure Costs in an amount that is different from the amount of Cure Costs proposed by Sellers and such difference will not be resolved prior to the Closing Date (each such Contract, a "**Disputed Amount Contract**"), then Sellers shall provide Buyer, not less than three (3) days prior to the Closing Date, with a schedule that lists each such Disputed Amount Contract and the amount of Cure Costs that has been proposed by each such non-Seller counterparty; provided that Sellers shall agree to any Cure Costs for any Contract irrevocably designated by Buyer in writing as a Purchased Contract if instructed to do so by Buyer. If Sellers, with the consent of Buyer, and the non-Seller counterparty with respect to any Disputed Amount Contract, are unable to agree on Cure Costs for such Disputed Amount Contract within five (5) Business Days following the Closing Date, solely upon Buyer's written request, Sellers shall, at the expense of Buyer, seek to have the amount of Cure Costs related to such Disputed Amount Contract determined by the Bankruptcy Court. Upon final determination of such Cure Costs, Buyer may elect to re-designate such Purchased Contract as an Excluded Contract. If such Purchased Contract is not so re-designated, (x) the applicable Sellers shall promptly take such steps as are reasonably necessary, including, if applicable and reasonably practicable, promptly on delivery of no less than five (5) Business Days' notice to the non-Seller counterparty to such Contract, to cause such Contract to be assumed by the applicable Seller and assigned to Buyer, including by executing and delivering to Buyer an Assignment and Assumption Agreement with respect to such Purchased Contract, and (y) Buyer shall pay the Cure Costs with respect to such Purchased Contract either (i) concurrently with Sellers' assumption and assignment thereof to Buyer or (ii) as agreed in writing by Buyer and the applicable counterparty to such Purchased Contract, and execute and deliver to the applicable Sellers an Assignment and Assumption Agreement with respect to such Purchased Contract. Notwithstanding the foregoing, if, following the Closing, it is discovered that a Contract that should have been listed on the Original Contract & Cure Schedule or any Contract & Cure Update Schedule was not so listed, Sellers shall, to the extent Sellers are still debtors-in-possession in the Chapter 11 Cases, promptly following the discovery thereof, notify Buyer in writing of any such Contract and Sellers' good faith estimate of the amount of Cure Costs applicable to each such Contract (and if no Cure Cost is estimated to be applicable with respect to any such Contract, the amount of such Cure Cost shall be designated for such Contract as "$0.00"), and upon Buyer's request, take all actions reasonably required to assume and assign to Buyer such Contract, provided that Buyer shall pay the applicable Cure Cost.

SECTION 2.06 *Purchase Price*. On the terms and subject to the conditions contained herein, the aggregate consideration for the Purchased Assets (the "**Purchase Price**") shall consist of (a) a credit bid pursuant to Section 363(k) of the Bankruptcy Code for (i) all DIP Obligations, including any and all costs, fees, expenses, premiums and other amounts under the DIP Credit Agreement and (ii) $217,000,000 of the obligations (including costs, fees, expenses, premiums and other amounts) under the Prepetition First Out Secured Indebtedness (the "**Credit Bid**"), (b) an amount in cash (the "**Closing Date Payment**") equal to (i) the Post-Effective Date Budget (the "**Post-Effective Date Amount**") and (ii) the Additional Sale Consideration (if any), and (c) the assumption of the Assumed Liabilities; provided, however, that Buyer reserves the right, in its sole discretion, to increase the Purchase Price (including any component thereof), subject to the Bidding Procedures Order and applicable Law. At the Closing, in lieu of paying all or any portion of the Post-Effective Date Amount or the Additional Sale Consideration (if any), Buyer may, by delivery of a written notice to Seller Parent no later than three (3) Business Days prior to the Closing Date, instruct Sellers to retain a portion of (but not to exceed) the cash actually held at the Closing by Sellers in an amount set forth in such written notice (any such cash retained by Sellers, "**Retained Cash**") and such Retained Cash shall reduce, on a dollar-for-dollar basis, the Post-Effective Date Amount and the Additional Sale Consideration (if any) to be paid by Buyer at the Closing.

SECTION 2.07 *Purchase Price Allocation*. The Parties agree to allocate for applicable Tax purposes (and, as applicable, to cause their Affiliates to allocate for Tax purposes) the Purchase Price and any other amounts, in each case, to the extent properly treated as consideration for applicable Tax purposes by the Parties among the Purchased Assets in accordance with the following procedures and, to the extent applicable, in accordance with the applicable provisions of the Code and the Treasury Regulations promulgated thereunder. No later than sixty (60) days after the Closing Date, Buyer shall deliver to Sellers a schedule allocating the amounts treated as consideration for U.S. federal income tax purposes (a) among Sellers and (b) among the Purchased Assets and any other assets acquired or deemed acquired in connection with the transactions contemplated hereby (the "**Allocation Schedule**"), which Allocation Schedule shall in all events be consistent with the applicable principles set forth on Exhibit A (the "**Allocation Methodology**"). The Allocation Schedule shall be deemed final unless Sellers notify Buyer in writing that Sellers object to one or more items reflected in the Allocation Schedule within fifteen (15) Business Days after delivery of the Allocation Schedule to Sellers. In the event of any such objection, Buyer and Seller Parent shall negotiate in good faith to resolve such dispute and, if any such dispute cannot be resolved within thirty (30) days from delivery of the notice of disagreement by Seller Parent to Buyer, such dispute shall be submitted to a mutually agreed nationally recognized accounting firm (provided, that the resolution of such dispute shall in all cases be consistent with the Allocation Methodology). The Parties shall file all income Tax Returns reporting the transactions contemplated hereby, including Form 8594 (Asset Acquisition Statement under Code Section 1060), in a manner consistent with the Allocation Schedule and shall not take any position inconsistent therewith upon examination of any income Tax Return, in any income Tax refund claim, in any Action related to income Taxes, or otherwise, in each case, except to the extent otherwise required by a "determination" within the meaning of Section 1313(a) of the Code (or any analogous provision of applicable state, local or non-U.S. Law).

SECTION 2.08 *Closing*. The closing (the "**Closing**") of the purchase and sale of the Purchased Assets and the assumption of the Assumed Liabilities hereunder shall take place via the exchange of documents by mail or electronic delivery services as soon as possible following entry of the Sale Order, but in no event later than three (3) Business Days after satisfaction of the conditions set forth in Article 8, or at such other time or place as Buyer and Seller Parent may agree in writing. At the Closing:

(a) Sellers shall deliver, or cause to be delivered, to Buyer:

(i) one or more assignment and assumption agreements, in a form and substance reasonably acceptable to Seller Parent and Buyer (the "**Assignment and Assumption Agreements**"), duly executed by each applicable Seller;

(ii) one or more bills of sale, in a form and substance reasonably acceptable to Seller Parent and Buyer (the "**Bills of Sale**"), duly executed by each applicable Seller;

(iii) (x) one or more instruments of assignment of the Patents in form and substance reasonably acceptable to Seller Parent and Buyer (the "**Assignment of Patents**") and (y) one or more instruments of assignment of Trademarks in a form and substance reasonably acceptable to Seller Parent and Buyer (the "**Assignment of Trademarks**"), in each case, duly executed by each applicable Seller;

(iv) a letter of direction directing the administrative agent of the DIP Facility to release to Buyer (or a Buyer Designee) original stock, unit or interest certificates evidencing the equity interests of any Purchased Entity (including the Purchased Shares) (if any) duly endorsed in blank or accompanied by stock powers or other instruments of transfer duly executed in blank, with any required stock transfer tax stamps affixed thereto;

(v) a certificate, dated as of the Closing Date, executed by a duly authorized officer of Seller Parent certifying that the conditions set forth in Section 8.02(a) and Section 8.02(b) have been satisfied; and

(vi) each third party consent, waiver, authorization or approval set forth on Section 2.08(a)(vi) of the Disclosure Schedules, each in form and substance reasonably acceptable to Buyer.

(b) Buyer shall deliver, or cause to be delivered, to Seller Parent or to such other Person(s) as may be entitled to payment therefrom (for the satisfaction and discharge of the DIP Obligations and the Cure Costs), as applicable:

(i) the Closing Date Payment (which shall include the Post-Effective Date Amount and the Additional Sale Consideration (if any) to the extent that the Post-Effective Date Amount and the Additional Sale Consideration are not reduced to zero (0) by Retained Cash);

(ii) the Assignment and Assumption Agreements, duly executed by Buyer or the applicable Buyer Designee;

(iii) the Bills of Sale, duly executed by Buyer or the applicable Buyer Designee;

(iv) the Assignment of Patents and the Assignment of Trademarks, in each case, duly executed by Buyer or the applicable Buyer Designee;

(v) a certificate, dated as of the Closing Date, executed by a duly authorized officer of Buyer certifying that the conditions set forth in Section 8.03(a) and Section 8.03(b) have been satisfied; and

(vi) a letter of direction (A) directing the administrative agent of the DIP Facility to make the Credit Bid (as to the DIP Obligations) and (B) directing the administrative agent of the Prepetition Super-Priority Credit Agreement to make the Credit Bid (as to the Prepetition First Out Secured Indebtedness).

SECTION 2.09 *Withholding*. Buyer shall be entitled to deduct and withhold (or cause to be deducted and withheld) from the consideration otherwise payable pursuant to this Agreement to any Person such amounts as Buyer is required to deduct and withhold under the Code, or any Tax Law, with respect to the making of such payment; provided, however, that at least five (5) Business Days prior to the Closing, Buyer shall use commercially reasonable efforts to notify Sellers of any potentially applicable withholding requirement and, in the event any Seller informs Buyer that such Seller believes such deduction or withholding is inapplicable, the Parties shall use commercially reasonable efforts to cooperate to eliminate or reduce any such withholding obligation; provided, further, that Buyer shall have no obligation to eliminate or reduce withholding (i) arising as a result of Sellers' failure to provide the documentation described in Section 7.06(d) on or prior to the Closing, or (ii) that relates to compensation, benefits and other terms of employment (or in each case of clause (i) or (ii), to so notify Sellers). To the extent that amounts are withheld, such withheld amounts shall be treated for all purposes of this Agreement as having been paid to the Person in respect of whom such deduction and withholding was made.

ARTICLE 3

REPRESENTATIONS AND WARRANTIES OF SELLERS

Except as set forth in the Disclosure Schedules, each Seller hereby jointly and severally represents and warrants to Buyer as follows:

SECTION 3.01 *Organization and Qualification*. Each Seller is duly organized, validly existing and in good standing (where applicable) under the Laws of its respective jurisdiction of formation or organization and, subject to the provisions of the Bankruptcy Code, has requisite power and authority to own, lease and operate its properties and conduct its business (including the Business) as currently conducted, except in the case of good standing, where the failure to be in good standing would not, individually or in the aggregate, have a Material Adverse Effect. Each Seller is duly qualified to do business and is in good standing (where applicable) as a foreign entity in each jurisdiction where such qualification is required for the ownership or operation of the Purchased Assets, except for failures to be so qualified or to be in such good standing as would not, individually or in the aggregate, have a Material Adverse Effect.

SECTION 3.02 *Authorization; Execution and Delivery; Enforceability*. The execution, delivery and performance of this Agreement and each other Transaction Document to which each Seller is a party and the consummation of the transactions contemplated hereby and thereby have been, or prior to the Closing will be, duly authorized by all necessary corporate or other action on the part of such Seller. Each Seller has all necessary power and authority to execute and deliver this Agreement and each other Transaction Document to which such Seller is a party and to consummate the transactions contemplated hereby and thereby and to perform its obligations hereunder and thereunder. Subject to entry of the Sale Order and any other Order necessary to consummate the transactions contemplated by this Agreement and the other Transaction Documents, this Agreement has been, and at or prior to the Closing, each other Transaction Document to which each Seller is a party will be, duly and validly executed and delivered by such Seller and, assuming due authorization, execution and delivery by the other Parties and the entry of the Sale Order, this Agreement constitutes, and each other Transaction Document (when duly and validly executed and delivered) will constitute, the legal, valid and binding obligation of such Seller, enforceable against such Seller in accordance with its terms, subject to the Bankruptcy and Equity Exception.

SECTION 3.03 *Noncontravention; Consents and Approvals*.

(a) Neither the execution and delivery by Sellers of this Agreement and each other Transaction Document to which any Seller is a party, nor the consummation of the transactions contemplated hereunder or thereunder, will, subject to entry of the Sale Order, (i) conflict with or result in a breach of the organizational documents of any Seller, (ii) violate any Law or Order to which any Seller, or its assets or properties, or any of the Purchased Assets may be subject, or (iii) conflict with, result in a breach of, constitute a default (with or without notice or lapse of time, or both) under, result in the acceleration of, create in any Person the right to accelerate, terminate, modify or cancel or require any notice under, or result in the creation of any Encumbrance (other than Permitted Encumbrances) on, any Material Contract, after giving effect to the Sale Order and any applicable Order of the Bankruptcy Court authorizing the assignment and assumption of any such Material Contract hereunder, except, in the case of clause (ii) or (iii), for such conflicts, breaches, defaults, rights or failures to give notice as would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

(b) Except for (i) the entry of the Sale Order, (ii) compliance with any applicable requirements of the HSR Act or any other Antitrust Laws, or any Foreign Direct Investment Laws, (iii) the Permit Approvals and (iv) as set forth on Section 3.03(b) of the Disclosure Schedules, no consent, waiver, approval, Order or authorization of, or declaration or filing with, or notification to, any Person or Governmental Authority is required on the part of any Seller in connection with the execution and delivery of this Agreement or any other Transaction Document which any Seller is a party, the compliance by Sellers with any of the provisions hereof or thereof, the consummation of transactions contemplated hereby or thereby or any other action by any Seller contemplated hereby or thereby (with or without notice or lapse of time, or both), except for such consents, waivers, approvals, Orders, authorizations, declarations, filings or notifications, the failure of which to obtain or make would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

SECTION 3.04 *Purchased Entities*.

(a) Section 3.04(a) of the Disclosure Schedules sets forth, with respect to each Purchased Entity, (i) the name, (ii) the jurisdiction of formation or organization, (iii) the authorized, issued and outstanding equity interests and (iv) each owner of record of the equity interests of such Purchased Entity (including, in the case of the Purchased Companies, the Purchased Shares). The equity interests of each Purchased Entity have been duly authorized and validly issued, are fully paid and non-assessable (where applicable) and have not been issued in violation of any preemptive rights, rights of first offer, rights of first refusal or similar rights, and are owned beneficially, of record and with good and valid title by the applicable Seller as set forth on Section 3.04(a) of the Disclosure Schedules, free and clear of any Encumbrances (other than Permitted Encumbrances).

(b) Section 3.04(a) of the Disclosure Schedules sets forth, with respect to each Purchased Entity, any Subsidiary or any other Person in which such Purchased Entity owns, of record or beneficially, any direct or indirect equity or similar interests or any right (contingent or otherwise) to acquire any direct or indirect equity or similar interests.

(c) No Purchased Entity is under any obligation, or is bound by any Contract (other than the organizational documents of any Purchased Entity) pursuant to which such Purchased Entity may become obligated to, (i) declare, make or pay any dividends or distributions, whether current or accumulated or due or payable or (ii) make any loan to, investment in, or capital contribution to, any Person. There are no outstanding options, warrants, calls, rights, subscriptions, arrangements, claims, commitments (contingent or otherwise) or any other agreement or Contract to which any Purchased Entity is a party, or is otherwise subject, that requires the issuance, sale or transfer of any additional shares of capital stock or other equity securities of any Purchased Entity convertible into, exchangeable for or evidencing the right to subscribe for or purchase capital stock or other equity securities of any Purchased Entity. No Seller or any Purchased Entity is a party, or is otherwise subject, to any voting trust or other voting agreement with respect to the equity interests of any Purchased Entity or to any agreement or Contract relating to the issuance, sale, redemption, transfer, acquisition, disposition or registration of the equity interests of any Purchased Entity.

SECTION 3.05 *Financial Statements; No Undisclosed Liabilities*.

(a) True and complete copies of the audited consolidated balance sheet of the Business as of March 31, 2023 (the "**Balance Sheet Date**"), and the related audited consolidated statements of results of operations and cash flows of the Business, together with all related notes and schedules thereto (collectively referred to as the "**Financial Statements**") and the unaudited consolidated balance sheet of the Business as at December 31, 2023 (the "**Latest Balance Sheet Date**") and the related consolidated statements of results of operations and cash flows, together with all related notes and schedules thereto (collectively referred to as the "**Interim Financial Statements**"), are attached hereto as Section 3.05(a) of the Disclosure Schedules. Except as set forth in Section 3.05(a) of the Disclosure Schedules, each of the Financial Statements and the Interim Financial Statements (i) are correct and complete in all material respects and have been prepared in accordance with the books and records of Sellers pertaining to the Business in all material respects, (ii) have been prepared in all material respects in accordance with GAAP (except as may be indicated in the notes thereto) and (iii) fairly present, in all material respects, the consolidated financial position, results of operations and cash flows of the Business as at the respective dates thereof and for the respective periods indicated therein, except as otherwise noted therein and subject, in the case of the Interim Financial Statements, to normal and recurring year-end adjustments and the absence of notes thereto throughout the periods covered thereby that, in each case, would not reasonably be expected to, individually or in the aggregate, be material to the Business, taken as a whole.

(b) Except as and to the extent adequately accrued or reserved against in Financial Statements or the Interim Financial Statements, since the Balance Sheet Date, Sellers do not have any liability or obligation of any nature arising out of, relating to or affecting the Purchased Assets that is an Assumed Liability, whether accrued, absolute, contingent or otherwise, whether known or unknown and whether or not required by GAAP to be reflected in a consolidated balance sheet of the Business or disclosed in the notes thereto, except for liabilities and obligations (i) incurred in the Ordinary Course since the Balance Sheet Date or (ii) that are not, individually or in the aggregate, material to the Business, taken as whole.

(c) The books of account and financial records of Sellers pertaining to the Business are true and correct in all material respects and have been prepared and are maintained in accordance with sound accounting practice in all material respects.

SECTION 3.06 *Title to and Sufficiency of Purchased Assets*. Except as set forth on Section 3.06 of the Disclosure Schedules, Sellers have good and valid title to, valid leasehold interests in, or other valid right to use, all of the Purchased Assets, free and clear of all Encumbrances (other than Permitted Encumbrances) and, at the Closing, subject to the Sale Order and obtaining any Transfer Consent, Sellers will transfer, convey and assign good and valid title to, valid leasehold interests in, or other valid right to use, the Purchased Assets (including record and beneficial ownership of the equity interests of the Purchased Entities (including the Purchased Shares)) free and clear of all Encumbrances (other than Permitted Encumbrances). The Purchased Assets collectively with the Excluded Assets described in Section 2.03(b) Section 2.03(c), Section 2.03(e), Section 2.03(f) and Section 2.03(j) constitute all of the material assets, properties and rights held for use or necessary to operate and conduct the Business in the Ordinary Course.

SECTION 3.07 *Litigation*. Except as set forth on Section 3.07 of the Disclosure Schedules, there are no Proceedings pending, or, to the Knowledge of Sellers, threatened against any Seller, the Purchased Entities, the Purchased Assets, the Assumed Liabilities or the Business, or any Order outstanding, which, in each case, would adversely affect the ability of any Seller to enter into this Agreement or to consummate the transactions contemplated hereby or otherwise would, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

SECTION 3.08 *Permits; Compliance with Laws*.

(a) Sellers are in possession of all Permits necessary for Sellers to own, lease and use the Purchased Assets as currently owned, leased or used and to carry on and operate the Business as currently conducted, except where the failure to possess such Permit, individually or in the aggregate, has not had, and would not reasonably be expected to be material to the Business, taken as a whole. Section 2.01(j) of the Disclosure Schedules is a true, correct and complete list of all material Permits held by Sellers. To the Knowledge of Sellers, there is no fact or circumstance relating to the Permits or Sellers that would cause a Governmental Authority to deny or refrain from issuing any Permit Approval.

(b) Except as set forth in Section 3.08(b) of the Disclosure Schedules, (i) all Permits held by Sellers are valid and in full force and effect, except where such failure to be valid or in full force and effect would not reasonably be expected to be, individually or in the aggregate, material to the Business taken as a whole, (ii) Sellers are, and in the last three (3) years have been, in compliance with the terms of all Permits except where the failure to comply with the terms of such Permit would not reasonably be expected to be, individually or in the aggregate, material to the Business taken as a whole, and there are no Proceedings pending or, to the Knowledge of Sellers, threatened that seek the revocation, cancellation, suspension, failure to renew or adverse modification of any Permits or that would reasonably be expected to result in the imposition of a substantial fine, forfeiture, or civil penalty against any Seller except as would not reasonably be expected to be, individually or in the aggregate, material to the Business taken as a whole, (iii) Sellers have timely filed applications to renew all Permits other than any failure to timely file to renew that would not reasonably be expected to be, individually or in the aggregate, material to the Business taken as a whole and no Governmental Authority has commenced, or given written notice to Sellers that it intends to commence, any Proceeding to revoke, or suspend, rescind, modify or not renew, or to impose any adverse condition on, any Permit, except as would not reasonably be expected to be, individually or in the aggregate, material to the Business taken as a whole and (iv) all reports and filings required to be filed with any Governmental Authority by Sellers with respect to any Permit have been timely filed, and all regulatory fees, contributions and surcharges required to be paid by Sellers with respect to the Permits have been timely paid, except, in each case, where such failure to be filed or paid have now been remedied or would not reasonably be expected to be, individually or in the aggregate, material to the Business taken as a whole.

(c) Sellers are in compliance with applicable Laws with respect to the Purchased Assets and the Assumed Liabilities, except where any non-compliance, individually or in the aggregate, has not had, and would not reasonably be expected to have, a Material Adverse Effect. No Seller has received any written notice from any Governmental Authority relating to violations or alleged violations of, failure to comply with or defaults under, any Law, Order or Permit, in each case, with respect to the Purchased Assets and the Assumed Liabilities, except where any non-compliance or default, individually or in the aggregate, has not had, and would not reasonably be expected to have, a Material Adverse Effect.

SECTION 3.09 *Material Contracts*.

(a) Section 3.09(a) of the Disclosure Schedules sets forth a true, correct and complete list of the following Purchased Contracts (other than with respect to purchase orders) as of the date hereof (the "**Material Contracts**") (and Sellers have made available to Buyer true, correct and complete copies of all such Material Contracts, together with all amendments, modifications or supplements thereto):

(i) any partnership, joint venture, strategic alliance or similar Contract involving a sharing of profits, losses, costs or liabilities with any other Person;

(ii) any Contract relating to any options, rights (preemptive or otherwise), warrants, calls, convertible securities or commitments or any other agreements or arrangements with respect to any equity securities of the Purchased Entities;

(iii) any Contract relating to (A) the indebtedness of any Seller for borrowed money (excluding, for the avoidance of doubt, any factoring arrangements) involving borrowings in excess of $100,000 or (B) the mortgage or pledge of, or otherwise creating an Encumbrance (other than a Permitted Encumbrance) on, any of the Purchased Assets in each case, other than (x) intercompany Indebtedness amongst Sellers, (y) Indebtedness which will be fully discharged under the Bankruptcy Code or (z) the Prepetition Super-Priority Credit Agreement and the DIP Credit Agreement;

(iv) any Contract relating to the acquisition or disposition of any business, assets or properties for consideration in excess of $1,000,000 (whether by merger, sale of stock, sale of assets or otherwise) (A) entered into in the last three (3) years or (B) pursuant to which any material earn-out, indemnification or deferred or contingent payment obligations remain outstanding (in each case, excluding for the avoidance of doubt, purchase of inventory or equipment in the Ordinary Course);

(v) any Lease with respect to the Leased Real Property;

(vi) any Contract for the lease of personal property (tangible or intangible) to or from any Person providing for lease payments in excess of $100,000 per annum;

(vii) any Contract with any Material Customer;

(viii) any Contract with any Material Supplier;

(ix) any Contract with any Governmental Authority;

(x) any Contract that (A) prohibits or limits in any material respect the freedom of the Business to compete in any line of business with any Person or in any geographic area, (B) contains exclusivity obligations or restrictions binding on the Business or (C) grants any right of first refusal or right of first offer obligations or restrictions to any Person;

(xi) any Contract to which any Seller is a party (A) pursuant to which any Seller is granted a right to use any third party Intellectual Property that is material to the Business, other than non-exclusive licenses for commercially available or off-the-shelf software or software entered into by Sellers in the Ordinary Course, invention assignment or employment-related agreements (B) pursuant to which any Seller grants a third party the right to use any Purchased Intellectual Property that is material to the Business, other than any Contract with any customer, supplier or end user of any Seller's products or services which is entered into in the Ordinary Course or any agreement which contains an incidental trademark license to use such Seller's Trademarks, (C) that contains a settlement of any claims related to any Intellectual Property that is material to the Business and (D) which materially prohibits or restricts a Seller's or Purchased Entity's use of any Purchased Intellectual Property;

(xii) any Contract with any Employee as of the date hereof that includes base annual compensation in excess of $200,000 that is not terminable at-will on no more than thirty (30) days' advance notice and includes no severance-type benefits, and any Contract that grants any severance or post-termination payments to any employee of any Seller pursuant to which such Seller is or may become obligated to incur any bonus or compensation obligations as a result of or related to the consummation of the transactions contemplated by this Agreement (other than offer letters for at-will employees entitling such employees to no severance pay upon termination); and

(xiii) any Contract that is a Collective Bargaining Agreement.

(b) With respect to each Contract set forth on Section 3.09(a) of the Disclosure Schedules, (i) such Contract is in full force and effect and constitutes the legal, valid and binding of the Seller party thereto and, to the Knowledge of Sellers, the counterparty thereto, enforceable against such Seller and, to the Knowledge of Sellers, the counterparty thereto in accordance with its terms and conditions, subject to the Bankruptcy and Equity Exception, (ii) neither the Seller party thereto nor, to the Knowledge of Sellers, the counterparty thereto is in material breach or default thereof and (iii) no Seller and, to the Knowledge of Sellers, no counterparty thereto, has commenced any Proceeding against any other party to such Contract or given or received any written notice of any breach or default under such Contract that has not been withdrawn or dismissed, except, in the cases of clauses (ii) and (iii), for breaches or defaults (A) caused by or resulting from the Chapter 11 Cases or (B) which are not, and would not reasonably be expected to be, individually or in the aggregate, material to the Business taken as a whole.

SECTION 3.10 *Intellectual Property*.

(a) Section 3.10(a) of the Disclosure Schedules contains a complete and accurate list of all issued Patents constituting Purchased Intellectual Property, including name, patent number and issuance date. To the Knowledge of Sellers, all of the Patents set forth on Section 3.10(a) of the Disclosure Schedules are subsisting and in full force and effect. Except as set forth on Section 3.10(a) of the Disclosure Schedules, all necessary maintenance and renewal documentation and fees in connection with such Patents have been timely filed with the appropriate authorities and paid.

(b) Section 3.10(b) of the Disclosure Schedules contains a complete and accurate list of all registered and applied-for Trademarks constituting Purchased Intellectual Property, including for each the applicable trademark or service mark, application number, filing date, trademark registration number and registration date, as applicable. To the Knowledge of Sellers, all of the registered Trademarks set forth on Section 3.10(b) of the Disclosure Schedules are subsisting and in full force and effect. There are no pending oppositions, invalidation or cancellation proceedings against any Seller involving such Trademarks.

(c) Section 3.10(c) of the Disclosure Schedules contains a complete and accurate list of all registered Copyrights constituting Purchased Intellectual Property, including title, registration number and registration date. To the Knowledge of Sellers, all of the registered Copyrights set forth on Section 3.10(c) of the Disclosure Schedules are in full force and effect. There are no pending oppositions, invalidation or cancellation proceedings against any Seller involving such Copyrights.

(d) Sellers exclusively own all right, title and interest in and to the Purchased Intellectual Property. All registered or issued Purchased Intellectual Property is valid, subsisting and, to the Knowledge of Sellers, enforceable, except, in each case, as would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

(e) To the Knowledge of Sellers, no Person is infringing or misappropriating any Purchased Intellectual Property in a material manner. Except as set forth on Section 3.10(e) of the Disclosure Schedules, there is no pending dispute, including any pending Proceeding and, to the Knowledge of Sellers, there is no threatened Claim against any Seller, with respect to (i) the Purchased Intellectual Property, challenging the ownership, validity or enforceability of any such Purchased Intellectual Property or (ii) any Purchased Contract pursuant to which any Seller receives a license or other right under any Intellectual Property of any other Person, challenging any Seller's rights under such Purchased Contract, the enforceability of such Purchased Contract, or any Seller's compliance with the terms and conditions of such Purchased Contract. Sellers have not received service of process or been charged in writing as a defendant, in the twelve (12)-month period prior to the date of this Agreement, in any Proceeding that alleges that any of the Purchased Intellectual Property infringes any intellectual property right of any Person, except as would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

(f) Sellers and their Affiliates have taken commercially reasonable security measures to protect the secrecy, confidentiality and value of all Trade Secrets and confidential information included in the Purchased Intellectual Property, except, in each case, as would not, individually or in the aggregate, reasonably be expected to have, a Material Adverse Effect.

SECTION 3.11 *Real Property*.

(a) Section 3.11(a) of the Disclosure Schedules sets forth a true, correct and complete list of all Owned Real Property. Sellers have fee simple title to the Owned Real Property, free and clear of all Encumbrances (other than Permitted Encumbrances). To the Knowledge of Sellers, none of the Owned Real Property is subject to any Lease or grant to any Person of any right to the use, purchase, occupancy or enjoyment of such Owned Real Property (or any portion thereof).

(b) Section 3.11(b) of the Disclosure Schedules sets forth a true, correct and complete list of all Leased Real Property. Sellers have valid leasehold or sublease interest relating to the Leased Real Property, free and clear of all Encumbrances (other than Permitted Encumbrances). To the Knowledge of Sellers, except as set forth on Section 3.11(b) of the Disclosure Schedules, none of the Leased Real Property is subject to any sublease or grant to any Person of any right to the use, occupancy or enjoyment of the Leased Real Property (or any portion thereof) that would materially impair the use of the Leased Real Property, as currently used, in the operation of the Business.

SECTION 3.12 *Environmental Matters*.

(a) Sellers are in compliance with all applicable Environmental Laws with respect to the Purchased Assets, the Owned Real Property and the Leased Real Property, except in any such case where the failure to be in compliance would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect. To the Knowledge of Sellers, no Seller has received any written notice regarding any material violation of, or Liability under, Environmental Law relating to the Purchased Assets, the Owned Real Property or the Leased Real Property arising under Environmental Law, other than any such notice that has now been resolved. There are no material outstanding Orders issued to any Seller, or any Proceedings pending, or to the Knowledge of Sellers, threatened, relating to compliance with or Liability under any Environmental Law affecting the Purchased Assets, the Owned Real Property or any Leased Real Property.

(b) Sellers have made available to Buyer (i) all material documents held by Sellers with respect to any outstanding Orders or any pending or, to the Knowledge of Sellers, threatened Proceedings involving the Business or the Purchased Assets under or relating to any Environmental Laws and (ii) all material environmental reports, studies, audits and reviews in any Seller's possession with respect to the Purchased Assets, the Owned Real Property and the Leased Real Property.

SECTION 3.13 *Taxes*.

(a) All income and other material Tax Returns required to be filed relating to the Purchased Entities, the Purchased Assets, the Business or the Assumed Liabilities have been timely filed with the appropriate Governmental Authority. Such Tax Returns are true, correct, and complete in all material respects and have been prepared in compliance with all applicable Laws. No Seller or any Purchased Entity is currently the beneficiary of any extension of time within which to file any Tax Return (other than extensions granted automatically under applicable Law).

All material Taxes (whether or not reflected on such Tax Returns) relating to the Purchased Assets, the Purchased Entities or the Assumed Liabilities required to be paid have been timely paid in full.

(b) No Claims, audits, actions, suits, proceedings, examinations or investigations with respect to any Taxes have been asserted, no material Taxes have been assessed and no proposals or deficiencies for material Taxes, in each case (i) against any Seller relating to the Purchased Assets, the Assumed Liabilities or the Business, or (ii) against any Purchased Entities, are being asserted, proposed or, to the Knowledge of Sellers, threatened by any Governmental Authority. No written notice from any Governmental Authority of any proposed adjustment, deficiency or underpayment of material Taxes by, or with respect to, any Purchased Entity or the Purchased Assets, the Assumed Liabilities or the Business has been received by any Seller that has not since been fully satisfied by payment or been finally withdrawn, and no written notification has been provided by any Governmental Authority of an intent to raise such issues. No Purchased Entity has made any requests for rulings or determinations with respect to any material Taxes of or related to any Purchased Entity that are currently pending before a Governmental Authority or will be in effect after the Closing Date.

(c) No Claim has been made in the past six (6) years by a Governmental Authority that Tax Returns of a certain type involving a material amount of Tax are required to be filed in relation to the Purchased Assets, the Purchased Entities or the Assumed Liabilities in a jurisdiction where no such Tax Returns of that type are currently filed. No Purchased Entity is or has been a resident for income Tax purposes, or is or has had, any branch, agency, permanent establishment or other taxable presence for income tax purposes, in any jurisdiction other than the jurisdiction in which it was organized. No Purchased Entity that is incorporated or organized in a jurisdiction outside of the United States is a (i) "passive foreign investment company" within the meaning of Section 1297 of the Code or (ii) "surrogate foreign corporation" within the meaning of Section 7874(a)(2)(B) of the Code.

(d) No agreement or waiver extending the period for assessment, reassessment or collection of any material Taxes relating to the Purchased Assets, the Assumed Liabilities, the Business or the Purchased Entities has been executed or filed with any Governmental Authority. No Purchased Entity has waived any statute of limitations in respect of Taxes which waiver is still in effect or agreed to any extension of time with respect to an assessment or deficiency for Taxes which extension is still in effect (other than pursuant to extensions of time to file Tax Returns duly obtained in the Ordinary Course).

(e) No Encumbrances for Taxes (other than Permitted Encumbrances) exist with respect to any of the Purchased Assets or assets of the Purchased Entities.

(f) No Purchased Entity is, or has ever been, a member of an affiliated group of corporations filing a consolidated U.S. federal income Tax Return (other than any such group the common parent of which is Range Parent, Inc. or any of its Subsidiaries) or has any Liability for the Taxes of any Person under Treasury Regulations Section 1.1502-6 (or any similar provision of any state, local or non-U.S. Law), as a transferee or successor, by Contract, operation of Law or otherwise (other than, in each case, (i) any Tax liabilities under applicable Law with respect to its participation in a combined, consolidated or similar group the common parent of which is Range

Parent, Inc.; and (ii) any liabilities under commercial Contracts entered into in the Ordinary Course the primary purpose of which does not relate to Taxes).

(g) No Purchased Entity has been a party to a "listed transaction" as such term is defined in Treasury Regulations Section 1.6011-4(b)(2) (or similar provision of state, local or non-U.S. Tax Law).

(h) Each Purchased Entity has collected or withheld all material amounts required to be collected or withheld by such Purchased Entity for all material Taxes or assessments, including on amounts paid to any Person, and all such amounts have been fully and timely paid to the appropriate Governmental Authority to the extent required by applicable Law. Each Purchased Entity has complied in all material respects with all applicable Laws relating to information reporting and record retention (including to the extent necessary to claim any exemption from sales Tax collection and maintaining adequate and current resale certificates to support any such claimed exemptions).

(i) No Purchased Entity has (within the last three (3) years) distributed stock of another Person, or has had its stock distributed by another Person, in a transaction that was purported or intended to be governed in whole or in part by Section 355 or 361 of the Code.

(j) No Purchased Entity will be required to include any material item of income in, or exclude any material item of deduction from, taxable income for any taxable period (or portion thereof) ending after the Closing Date, as a result of (i) any change in method of accounting made or requested prior to the Closing, (ii) any "closing agreement" as described in Section 7121 of the Code (or any corresponding or similar provision of state, local or non U.S. income Tax Law) executed prior to the Closing, (iii) any intercompany transactions undertaken, or any excess loss account described in Treasury Regulations under Section 1502 of the Code (or any corresponding or similar provision of state, local or non U.S. income Tax Law) arising on or existing prior to the Closing, (iv) any installment sale or open transaction disposition made by such Purchased Entity prior to the Closing, (v) any prepaid amount received or deferred revenue accrued by such Purchased Entity outside the ordinary course of business prior to the Closing, (vi) any investment in "United States property" within the meaning of Section 956 of the Code made on or prior to the Closing, (vii) any "Subpart F income" under Section 951 of the Code as a result of any investment under or transaction closed on or prior to the Closing, (viii) any "global intangible low-taxed income," within the meaning of Section 951A of the Code, attributable to a Pre-Closing Tax Period, (ix) Section 362(e) of the Code or (x) any gain recognition agreement under Section 367 of the Code. No Purchased Entity or any of its Affiliates has made an election under Section 965(h) of the Code.

(k) Section 3.13(k) of the Disclosure Schedules sets forth a list of the current entity classifications of each of the Purchased Entities for U.S. federal income Tax purposes (and, if applicable, the entity classification elections of each of the Purchased Entities made in the six (6) year period ending on the date hereof).

(l) None of the Purchased Entities has deferred any payment of Taxes otherwise due through a grant of relief provided by a Pandemic Response Law or through a similar special grant of relief that is not generally available to taxpayers.

(m) None of the Purchased Entities is a party to, is otherwise bound by or has any material obligation under, any Tax Sharing Agreement (other than (i) a Tax Sharing Agreement between or among Sellers, any retained Subsidiaries or any of their Affiliates, on the one hand, and any Purchased Entity, on the other hand, which will be terminated at or prior to the Closing with respect to any of the Purchased Entities, (ii) a Tax Sharing Agreement exclusively between or among the Purchased Entities, or (iii) an Ordinary Course Contract the primary subject of which does not relate to Taxes).

(n) Each Purchased Entity has properly collected and remitted all material amounts of sales, use, value added and similar Taxes with respect to sales or leases made to, purchases made from, or services provided to their customers or have properly received and retained or otherwise complied in all material respects with rules relating to the collection of Tax exemption certificates and other documentation for all services provided, or sales, leases or purchases made, without charging or remitting sales, use, value added, or similar Taxes that qualify such sales, leases, purchases or services as exempt from sales, use, value added and similar Taxes.

(o) No power of attorney with respect to any Tax matter is currently in force with respect to any Purchased Entity, the Purchased Assets, the Assumed Liabilities, the Business or any Seller would, in any manner, bind, obligate or restrict Buyer, except, in each case, any power of attorney granted with respect to Ordinary Course filing, compliance, payroll or similar Tax matters.

(p) None of the Purchased Entities has made any requests for, or has received, any material rulings, determination, exemption, holiday or other special regime with respect to any Taxes of or related to any Purchased Entity.

(q) None of the Purchased Entities is, nor has any of the Purchased Entities been, a "U.S. real property holding corporation" within the meaning of Section 897 of the Code.

SECTION 3.14 *Employee Benefits*.

(a) Section 3.14(a) of the Disclosure Schedules contains a true, correct and complete list of all material Seller Plans. With respect to each material Assumed Plan, Sellers have made available to Buyer true, correct and complete copies of (i) the current plan document, including any amendments thereto, (ii) the most recent summary plan description (including any material modification), (iii) any material written communication to or from any Governmental Authority, (iv) the most recently filed IRS Form 5500, (v) the most recent actuarial report, financial statement and trustee report and (vi) the most recent determination or opinion letter from the IRS.

(b) (i) Each Assumed Plan has been and is being administered, maintained and operated in all material respects in compliance with all applicable Laws and in accordance with its terms, (ii) each Assumed Plan that is intended to be "qualified" within the meaning of Section 401(a) of the Code has received or is the subject of a currently applicable favorable determination letter, opinion letter or advisory letter from the IRS, stating that its related trust is exempt from taxation under Section 501(a) of the Code, and, to the Knowledge of Sellers, no event or circumstance exists that has affected or is likely to adversely affect the qualified status of any such Assumed Plan, and (iii) there are no Proceedings (other than routine claims for benefits) relating to any

Assumed Plan or the assets, fiduciaries or administrators thereof pending or, to the Knowledge of Sellers, threatened.

(c) No Seller or any Purchased Entity has any obligation to provide or make available post-employment benefits under any Assumed Plan which is a "welfare plan" (as defined in Section 3(1) of ERISA), except as may be required under COBRA or similar Law, and at the sole expense of such individual.

(d) No Seller maintains or contributes to, or has any Liability (including as a result of its relationship to an ERISA Affiliate) in respect of any plan that is subject to Section 412 or 430 of the Code, Section 302 or 303 of ERISA or Title IV of ERISA or that is subject to Section 4063, 4064 or 4069 of ERISA ("**Title IV Plans**"), no Title IV Plan has failed to meet the minimum funding standard (whether or not waived) within the meaning of Section 412 of the Code or Section 302 of ERISA, no Liability under Title IV or Section 302 of ERISA has been incurred by any Seller (either directly or indirectly as a result of any ERISA Affiliate) that has not been satisfied in full, and, to the Knowledge of Sellers, no condition exists that presents a risk to Sellers (either directly or indirectly as a result of any ERISA Affiliate) of incurring any such Liability, and no Seller has now or at any time in the past six years contributed to (or incurred any liability in respect of) a "multiemployer plan" (as defined in Section 3(37) of ERISA).

(e) The consummation of the transactions contemplated by this Agreement will not, either alone or in combination with another event, (i) increase any benefits or result in the acceleration of the timing of payment, vesting or funding of any benefits under any Assumed Plan, (ii) entitle any Service Provider to any Seller or any Purchased Entity who, as of the date of this Agreement, is providing services in connection with the Purchased Assets or the Assumed Liabilities, to, or accelerate the time of payment or vesting, or increase the amount of, any compensation or benefit due such Service Provider, (iii) result in the triggering or imposition of any restrictions or limitations on the rights to amend or terminate any Assumed Plan, or (iv) result in any payment that would be nondeductible pursuant to Section 280G of the Code. No Purchased Entity has any obligation to indemnify any Person for any Tax imposed pursuant to Section 409A or 4999 of the Code.

SECTION 3.15 *Labor Matters*.

(a) Seller Parent has provided Buyer on a confidential basis a materially true, complete and correct list of the Employees employed as of the date hereof, specifying, as applicable and to the extent permitted by applicable Law, each individual's (i) title or position, (ii) base salary, (iii) date of hire, (iv) classification as exempt or non-exempt under the Fair Labor Standards Act of 1938, and (v) leave status.

(b) Except as set forth on Section 3.15(b) of the Disclosure Schedules, (i) no Seller is a party to any Collective Bargaining Agreement, (ii) no Employee as of the date hereof is represented by any Labor Union in connection with their employment with Sellers or the Purchased Entities, (iii) no Labor Union as of the date hereof has made a written demand for recognition as the bargaining unit representative of any group of Employees that is pending as of the date hereof, nor have there been any such demands in the last three (3) years, and (iv) there are no representation or certification Proceedings presently pending or, to the Knowledge of Sellers, threatened, to be brought or filed with the National Labor Relations Board or other labor relations tribunal involving any Seller or its Subsidiaries or any Purchased Entity, nor have there been any such proceedings in the last three (3) years. There are no material labor strikes, lockouts, work stoppages or slowdowns pending or, to the Knowledge of Sellers, threatened against or involving any Seller or any Purchased Entity, and there have been no such events in the past three (3) years.

(c) Except as set forth on Section 3.15(c) of the Disclosure Schedules, there are no material Proceedings pending or, to the Knowledge of Sellers, threatened against any Seller or any Purchased Entity relating to the employment or termination of employment of any individual or group of individuals by any Seller or any Purchased Entity.

(d) No Seller or any Purchased Entity has experienced a "plant closing" or "mass layoff" (as defined in the WARN Act) with respect to which there is any unsatisfied Liability.

(e) No allegation of sexual or other unlawful harassment has been made in the past three (3) years against any current officer or supervisory employee of Sellers. Sellers have reasonably investigated any sexual or other harassment or discrimination allegations against officers, directors and employees of any Seller which have been reported to a Seller or with respect to which a Seller otherwise had knowledge in the past three (3) years. With respect to each such allegation (except those a Seller reasonably deemed to not have merit), Sellers have taken corrective action reasonably calculated to prevent further improper action, and Sellers do not reasonably expect any material liability with respect to any such allegations.

SECTION 3.16 *Absence of Certain Changes*. Except as set forth on Section 3.16 of the Disclosure Schedules, and other than as a result of the commencement of the Chapter 11 Cases, (a) since the Latest Balance Sheet Date, there has not been or occurred any Material Adverse Effect and (b) from the Latest Balance Sheet Date through the date of this Agreement, there has not been, occurred or arisen any agreement, condition, action, omission or event which, if occurred or existed after the date hereof, would be prohibited (or require consent from Buyer) under Section 5.01.

SECTION 3.17 *Insurance Policies*. Section 3.17 of the Disclosure Schedules sets forth each material insurance policy (other than any insurance policy that funds or relates to any Seller Plans) held by any Seller relating to the Purchased Assets or the Assumed Liabilities. With respect to each such material insurance policy, (a) such policy is in full force and effect and constitutes the legal, valid and binding of the Seller party thereto and, to the Knowledge of Sellers, the counterparty thereto, enforceable against such Seller and, to the Knowledge of Sellers, the counterparty thereto in accordance with its terms and conditions, subject to the Bankruptcy and Equity Exception, (b) no Seller has received any written notice of cancellation or termination with respect to such policy, (c) premiums due and payable by Sellers or their Affiliates under such policy prior to the date hereof have been duly paid and (d) there is no material claim pending under such policy, except in the case of the foregoing clauses (a) through (c) as would not reasonably be expected to be, individually or in the aggregate, material to the Business taken as a whole.

SECTION 3.18 *Affiliate Transactions*. Except as set forth in Section 3.18 of the Disclosure Schedules, no Affiliate of any Seller (other than any other Seller, any Purchased Entity, or any of their Subsidiaries) or any officer, director or employee of any Seller (a) is a party to any Contract or arrangement with any Seller having a potential or actual value or a contingent or actual

Liability exceeding $250,000, other than (i) employment and indemnification arrangements in the Ordinary Course and (ii) the Seller Plans, (b) has any material interest in any property (tangible or intangible) used by any Seller in the operation of any Purchased Asset or (c) owns any material interest in, or is an officer, director or employee of, any Person which is a Material Customer or Material Supplier.

SECTION 3.19 *Material Customers and Suppliers*.

(a) Section 3.19(a) of the Disclosure Schedules sets forth a true, correct and complete list of the ten (10) largest customers of the Business during the twelve (12)-month period ending on December 31, 2023 (collectively, the "**Material Customers**"), as measured by the dollar amount of revenue during such period. Since the Latest Balance Sheet Date, no Material Customer has terminated, canceled, suspended, failed to renew or reduced, or given any Seller or Purchased Entity notice, in writing, that states its intention to terminate, cancel, suspend, fail to renew or materially reduce its business relationship with the Business.

(b) Section 3.19(b) of the Disclosure Schedules sets forth a true, correct and complete list of the ten (10) largest suppliers of the Business during the twelve (12)-month period ending on December 31, 2023 (collectively, the "**Material Suppliers**"), as measured by the dollar amount of purchases therefrom during such period. Since the Latest Balance Sheet Date, no Material Supplier has terminated, canceled, suspended, failed to renew or reduced, or given any Seller or Purchased Entity notice, in writing, that references its intention to terminate, cancel, suspend, fail to renew or materially reduce its business relationship with the Business.

SECTION 3.20 *Receivables*. All Receivables reflected in the Interim Financial Statements represent *bona fide* and valid obligations arising from sales actually made or services actually performed in the Ordinary Course, except as would not, individually or in the aggregate, reasonably be expected to be material to the Business, taken as whole. To the Knowledge of Sellers, there is no contest, claim or right of set-off, other than returns, rebates or allowances in the Ordinary Course, under any Contract with any obligor of any Receivables related to the amount or validity of such Receivable, and no bankruptcy, insolvency or similar proceedings have been commenced by or against any such obligor, except, in each case, as would not, individually or in the aggregate, reasonably be expected to be material to the Business, taken as whole.

SECTION 3.21 *Inventory*. All Inventory reflected in the Interim Financial Statements, is, in all material respects, generally, in the aggregate, of a quality and quantity usable and/or salable in the Ordinary Course. The Inventory is, in all material respects, adequate for the conduct of the Business in the Ordinary Course.

SECTION 3.22 *Product Liability*. Except as set forth in the Financial Statements, there are no product warranty claims against any Seller or any of their respective Subsidiaries for an amount in excess of $100,000.

SECTION 3.23 *Warranties*. Sellers have heretofore delivered to Buyer true and correct copies of all material written warranties currently in effect covering the respective products and services of the Business. The aggregate warranty expenses of the Business are fairly presented in the Financial Statements.

SECTION 3.24 *Privacy and Security*.

(a) Except as would not, individually or in the aggregate, reasonably be expected to be material to the Business taken as a whole, Sellers are in compliance with all applicable U.S., state, foreign and multinational Laws relating to privacy or data security of Personal Information ("**Privacy Laws**"), binding reputable industry practice, standards, self-governing rules and policies and their own published policies, and contractual obligations to which Sellers are bound in each case relating to privacy or data security of Personal Information (all of the foregoing collectively, "**Privacy Requirements**") with respect to personally identifiable information (including name, address, telephone number, electronic mail address, social security number, bank account number or credit card number), sensitive personal information and any special categories of personal information regulated under any Privacy Laws ("**Personal Information**").

(b) Except as would not, individually or in the aggregate, reasonably be expected to be material to the Business taken as a whole, Sellers take all commercially reasonable steps designed to protect the operation, confidentiality, integrity and security of their respective Software, Systems and Websites and Personal Information against any unauthorized or improper use, access, transmittal, interruption, modification or corruption, and to the Knowledge of Sellers, in the past one (1) year there have been no breaches of same that has triggered a notification or reporting requirement under any Privacy Laws or resulted in any material liability to Sellers.

SECTION 3.25 *Brokers*. Except as to Guggenheim Securities, LLC or as otherwise set forth in Section 3.25 of the Disclosure Schedules, the fees and expenses of which, in each case, will be paid by any Seller on or prior to the Closing Date, no broker, finder, financial advisor or other Person is entitled to any broker's, finder's, financial advisor's or other similar fee or commission, or the reimbursement of expenses in connection therewith, in connection with the transactions contemplated hereby based upon arrangements made by or on behalf of any Seller or any of its Subsidiaries.

SECTION 3.26 *International Trade Laws*.

(a) Sellers are and for the past five (5) years have been in compliance with International Trade Laws, and have not taken any action that violates, evades or avoids, or attempts to violate, evade or avoid International Trade Laws, except, in each case, as would not, individually or in the aggregate, reasonably be expected to be material to the Business, taken as whole. No Seller nor any of its Subsidiaries, nor any of its directors, executives, or employees, or, to the Knowledge of Sellers, any representative or agent acting on behalf of Sellers, currently or during the past five (5) years: (i) is or has been a Sanctioned Person or has acted, directly or indirectly, on behalf of a Sanctioned Person; (ii) is unlawfully conducting or has unlawfully conducted any business or engaged in making or receiving any contribution of funds, goods or services to or for the benefit of any Sanctioned Person; or (iii) is unlawfully dealing in or has unlawfully dealt in, or otherwise engaged in, any transaction relating to, any property or interests in property of any Sanctioned Person, except, in each case, as would not, individually or in the aggregate, reasonably be expected to be material to the Business, taken as whole.

(b) No Seller has received and, to the Knowledge of Sellers, no Seller is aware of, any current or threatened investigation, inquiry, complaint, lawsuit, voluntary or involuntary disclosure, warning letter, penalty notice, or other regulatory action, by a Governmental Authority, alleging any material violation of International Trade Laws, and no Seller, nor, to the Knowledge of Sellers, any of its employees or representatives, has been convicted by a Governmental Authority of violating any International Trade Laws.

(c) Each Seller has adopted and implemented policies and procedures reasonably designed to prevent, detect and deter violations of applicable International Trade Laws.

ARTICLE 4

REPRESENTATIONS AND WARRANTIES OF BUYER

Buyer represents and warrants to each Seller as follows:

SECTION 4.01 *Corporate Existence and Power*. Buyer is a corporation duly incorporated, validly existing and in good standing under the laws of the State of Delaware and has all power and authority to carry on its business as presently conducted.

SECTION 4.02 *Authorization; Execution and Delivery; Enforceability*. The execution, delivery and performance of this Agreement and each Transaction Document to which Buyer is a party and the consummation of the transactions contemplated hereby and thereby have been, or prior to the Closing will be, duly authorized by all necessary corporate or other action on the part of Buyer. Buyer has all necessary power and authority to execute and deliver this Agreement and each other Transaction Documents to which Buyer is a party and to consummate the transactions contemplated hereby and thereby and to perform its obligations hereunder and thereunder. Subject to entry of the Sale Order and any other Order necessary to consummate the transactions contemplated by this Agreement and the other Transaction Documents, this Agreement has been, and at or prior to the Closing, each other Transaction Document to which each Seller is a party will be, duly and validly executed and delivered by Buyer and, assuming due authorization, execution and delivery by the other Parties and the entry of the Sale Order, this Agreement constitutes, and each other Transaction Document (when duly and validly executed and delivered) will constitute, the legal, valid and binding obligation of Buyer, enforceable against Buyer in accordance with its terms, subject to the Bankruptcy and Equity Exception.

SECTION 4.03 *Noncontravention; Consents and Approvals*.

(a) Subject to entry of the Sale Order, neither the execution and delivery by Buyer of this Agreement and each other Transaction Document to which Buyer is a party, nor the consummation of the transactions contemplated hereunder or thereunder, will, subject to entry of the Sale Order, (i) conflict with or result in a breach of the organizational documents of Buyer, (ii) violate any Law or Order to which Buyer or its assets and properties may be subject, (iii) conflict with, result in a breach of, constitute a default (with or without notice or lapse of time, or both) under, result in the acceleration of, create in any Person the right to accelerate, terminate, modify or cancel or require any notice under, or result in the creation of any Encumbrance (other than Permitted Encumbrances) on, any Contract to which Buyer is a party or by which Buyer or its assets and properties is bound, except, in the case of clause (ii) or (iii), for such conflicts, breaches, defaults, rights or failures to give notice as would not, individually or in the aggregate, reasonably be expected to have a material adverse effect on Buyer's ability to consummate the transactions contemplated by this Agreement.

(b) Other than (i) the entry of the Sale Order, (ii) compliance with any applicable requirements of the HSR Act or any other Antitrust Laws, or any Foreign Direct Investment Laws and (iii) the Permit Approvals, no consent, waiver, approval, Order or authorization of, or declaration or filing with, or notification to, any Person or Governmental Authority is required on the part of any Buyer in connection with the execution and delivery of this Agreement or any other Transaction Document to which Buyer is a party, the compliance by Buyer with any of the provisions hereof or thereof, the consummation of transactions contemplated hereby or thereby or any other action by Buyer contemplated hereby or thereby (with or without notice or lapse of time, or both), except for such consents, waivers, approvals, Orders, authorizations, declarations, filings or notifications, the failure of which to obtain or make would not, individually or in the aggregate, reasonably be expected to have a material adverse effect on Buyer's ability to consummate the transactions contemplated by this Agreement.

SECTION 4.04 *Availability of Funds; Solvency*. Buyer will have sufficient funds at the Closing to pay (i) the cash components of the Purchase Price, including the Post-Effective Date Amount (including to the extent adjusted pursuant to this Agreement) and the Additional Sale Consideration (if any) (to the extent that the Post-Effective Date Amount and the Additional Sale Consideration are not reduced to zero (0) by Retained Cash), and (ii) any other costs, fees and expenses which may be required to be paid by or on behalf of Buyer under this Agreement and the other Transaction Documents. Upon consummation of the transactions contemplated by this Agreement, (a) Buyer will not be insolvent as defined in Section 101 of the Bankruptcy Code, (b) Buyer will not be left with unreasonably small capital, (c) Buyer will not have incurred debts beyond its ability to pay such debts as they mature, and (d) the capital of Buyer will not be impaired.

SECTION 4.05 *Brokers*. Except as to Houlihan Lokey Capital, Inc., no broker, finder, financial advisor or other Person is entitled to any broker's, finder's, financial advisor's or other similar fee or commission, or the reimbursement of expenses in connection therewith, in connection with the transactions contemplated hereby based upon arrangements made by or on behalf of Buyer.

ARTICLE 5

COVENANTS OF SELLERS

SECTION 5.01 *Conduct of the Business*.

(a) Except (x) as consented to by Buyer (which consent shall not be unreasonably withheld, conditioned or delayed) or contemplated by this Agreement, (y) as required or approved by the Bankruptcy Code or any Orders entered by the Bankruptcy Court in the Chapter 11 Cases prior to the date of this Agreement or (z) as otherwise necessary to comply with applicable Law or as set forth on Section 5.01(b) of the Disclosure Schedules, from the date hereof until the Closing Date (or the earlier termination of this Agreement pursuant to Article 10), Sellers shall use commercially reasonable efforts to conduct the Business in the Ordinary Course and maintain in all material respects the goodwill associated with the Purchased Assets and Sellers' business relationships with material employees, material customers, material suppliers, material vendors, material clients, material contractors and other material business relationships in connection with the Purchased Assets.

(b) Except as otherwise contemplated by Section 5.01(a), as required by applicable Law or as set forth on Section 5.01(b) of the Disclosure Schedules or contemplated by this Agreement, without the prior written consent of Buyer (which consent shall not be unreasonably withheld, conditioned or delayed) or express prior written direction of Buyer, from the date hereof until the Closing Date (or the earlier termination of this Agreement pursuant to Article 10), Sellers shall not, and shall cause each of the Purchased Entities not to:

(i) sell, lease or license on an exclusive basis or otherwise create any Encumbrance (other than Permitted Encumbrances) or dispose of any Purchased Assets, other than (x) in the Ordinary Course and (y) sales and dispositions of obsolete or worn-out assets;

(ii) renew, materially amend or modify in any adverse respect, terminate (other than automatically pursuant to its terms), cancel, let lapse or waive any material rights under, or create any Encumbrance (other than a Permitted Encumbrance) on, any of the Purchased Contracts or any Permits, in each case, other than in the Ordinary Course;

(iii) change in any material respect their policies or practices regarding accounts receivable or accounts payable, except as required by Law, a change in GAAP (or authoritative interpretation thereof) or by a Governmental Authority;

(iv) make any capital expenditures outside of the Ordinary Course that are not contemplated by Sellers' budget (subject to permitted variances);

(v) acquire any Person or all or substantially all of the assets of any Person or make any other investment outside the Ordinary Course;

(vi) incur, assume or guarantee any indebtedness for borrowed money (excluding, for the avoidance of doubt, any factoring arrangements) or guarantee the indebtedness obligations of any other Person in connection with the Purchased Assets, other than any Indebtedness or Liability that will be repaid or assumed by Buyer under the terms hereof at or prior to the Closing or constitute an Excluded Liability;

(vii) concede, settle, pay, discharge or satisfy any Proceedings that would constitute a Purchased Asset or Assumed Liability;

(viii) terminate, intentionally let lapse or materially amend or modify any material insurance policy maintained by any Seller or any of its Affiliates with respect to any Purchased Assets or any Assumed Liability;

(ix) (A) sell, transfer, assign, abandon or cancel any Purchased Intellectual Property that is material to the Business, (B) intentionally let lapse or fail to renew, continue to prosecute, protect or defend, or otherwise dispose of, any Purchased Intellectual Property that is material to the Business (other than expiration of registered Purchased Intellectual Property at the end of its statutory period) or (C) enter into any Contract regarding the license, sublicense, agreement or permission to use any Purchased Intellectual Property that is material to the Business, other than non-exclusive license agreements in the Ordinary Course;

(x) (A) fail to exercise any rights of renewal with respect to any Leased Real Property that by its terms would otherwise expire or (B) enter into any Contract for the material sublease of Leased Real Property;

(xi) except as required pursuant to the terms of any Seller Plan in effect as of the date of this Agreement or as approved by the Bankruptcy Court, (A) increase in any manner the base compensation, cash incentive or bonus opportunity, severance or termination pay of any Employee, (B) become a party to, establish, adopt, amend, commence participation in or terminate any Assumed Plan or any arrangement that would have been an Assumed Plan had it been entered into prior to the date of this Agreement (other than in connection with updates to broad-based health and welfare and similar plans or arrangements in connection with annual compensation and benefit review), (C) grant any new awards, or amend or modify the terms of any outstanding awards, under any Assumed Plan, (D) take any action to accelerate the vesting or lapsing of restrictions or payment, or fund or in any other way secure the payment, of material compensation or benefits under any Assumed Plan, (E) forgive any loans or issue any loans (other than routine travel or other business expense or similar advances or loans under a defined contribution plan issued in the Ordinary Course) to any Employee, (F) hire any employee or engage any individual independent contractor with annual base compensation in excess of $250,000 or (G) terminate the employment of any Employee (other than terminations for cause or terminations of Employees with annual base compensation of less than $250,000 for any reason);

(xii) make any changes in any accounting methods, principles or practices in connection with the Purchased Assets or the Assumed Liabilities except as required by Law, by a change in GAAP (or authoritative interpretation thereof) or by a Governmental Authority;

(xiii) (A) make, change, or rescind any material election or method of accounting relating to Taxes in a manner materially inconsistent with past practice, (B) file any Tax Return or amend any Tax Return (in each case, other than in the Ordinary Course and pursuant to applicable Law), (C) enter into any closing agreement, (D) surrender any right or claim to a refund of Taxes or commence, settle or compromise any material Tax claim or assessment, (E) consent to any extension or waiver of the statute of limitations period applicable to any Taxes, Tax Returns or Claims for Taxes, (F) enter into any Tax Sharing Agreement (other than commercial Contracts entered in the Ordinary Course the primary purpose of which does not relate to Taxes), (G) file any ruling or request for a ruling with any Governmental Authority, in each case to the extent relating to the Purchased Assets, the Purchased Entities, the Business or the Assumed Liabilities or (H) grant any power of attorney with respect to Taxes outside the Ordinary Course;

(xiv) enter into or terminate any Collective Bargaining Agreement with any Labor Union (other than renewals thereof entered into in the Ordinary Course) relating to, impacting, or binding on the Business; or

(xv) agree or commit to do any of the foregoing.

Notwithstanding the foregoing, nothing contained in this Agreement is intended to give Buyer, directly or indirectly, the right to control Sellers' operations prior to the Closing Date.

SECTION 5.02 *Access to Information*. From the date hereof until the Closing Date (or the earlier termination of this Agreement pursuant to Article 10), subject to entering a customary confidentiality agreement, Buyer shall be entitled, through its Affiliates and representatives, to have such reasonable access to and make such reasonable investigation and examination of the books and records, properties (subject to the terms of any Lease), assets, operations and personnel of Sellers relating (and solely to the extent relating) to the Purchased Assets and the Assumed Liabilities as Buyer may reasonable request; provided, however, that such investigations shall not include any sampling or analysis of soil, groundwater, building materials or other environmental media of the sort generally referred to as a Phase II environmental investigation. Any such investigation and examination shall be conducted during regular business hours upon reasonable advance notice and in a manner not to unreasonably interfere with the Business. Each Seller shall use commercially reasonable efforts to cause its applicable representatives to reasonably cooperate with Buyer and its Affiliates and representatives in connection with such investigations and examinations. Notwithstanding the foregoing, no Seller shall be required to afford such access to the extent that such Seller reasonably believes that doing so would: (A) result in the loss of attorney-client privilege or (B) violate any applicable Law, provided that in the case of each of subclauses (A) and (B), such Seller shall use its commercially reasonable efforts to allow for such access or disclosure in a manner that does not result in a loss of attorney-client privilege or a violation of applicable Law.

SECTION 5.03 *Bidding Protections*. In connection with the Auction, and as set forth in the Bidding Procedures Order, Sellers agree that any higher bid with respect to some or all of the Purchased Assets shall be no less than the Purchase Price (including if and as may be increased by Buyer at the Auction), *plus* the Make-Whole Amount (as defined in the Prepetition Super-Priority Credit Agreement), *plus* the Expense Reimbursement (if and to the extent approved by prior order of the Bankruptcy Court), *plus* the minimum overbid amount as set forth in the Bidding Procedures.

ARTICLE 6

COVENANTS OF BUYER

SECTION 6.01 *Preservation of and Access to Books and Records*. Until the completion of the Wind-Down of all Sellers, Buyer shall provide to Sellers and their respective Affiliates and representatives (after reasonable advance notice and during regular business hours) commercially reasonable access to, including the right to make copies of, all books and records included in and otherwise related to the Purchased Assets, and, so long as such access does not unreasonably interfere with the conduct of the Business, to Buyer's and its Affiliates personnel, to the extent relating to their respective rights and obligations hereunder, to any Proceeding or to any Pre-

Closing Tax Period (for example, for purposes of any Tax or accounting audit or any claim or litigation matter), to the Wind-Down, or otherwise related to the Excluded Assets or Excluded Liabilities, and shall preserve such books and records until the latest of (a) such retention period as shall be consistent with Buyer's records retention policy in effect from time to time, (b) the retention period required by applicable Law, (c) the completion of the Wind-Down of all Sellers and (d) in the case of books and records relating to Taxes, the expiration of the statute of limitations applicable to such Taxes. Buyer shall use commercially reasonable efforts to cause its applicable representatives (including applicable Transferred Employees) to reasonably cooperate with Sellers and their Affiliates and representatives in connection with the Wind-Down. Such access may include access to any information in electronic form to the extent reasonably available. Notwithstanding the foregoing, Buyer shall not be required to afford such access to the extent that Buyer reasonably believes that doing so would: (A) result in the loss of attorney-client privilege or (B) violate any applicable Law, provided that in the case of each of subclauses (A) and (B), Buyer shall use its commercially reasonable efforts to allow for such access or disclosure in a manner that does not result in a loss of attorney-client privilege or a violation of applicable Law.

SECTION 6.02 *Insurance Matters*. From and after the Closing, the Purchased Assets, the Assumed Liabilities and the operations and assets and Liabilities in respect thereof, shall cease to be insured by any insurance policies or self-insurance programs maintained by Sellers or any of their respective Affiliates (excluding the Purchased Entities), and neither Buyer nor its Affiliates (including the Purchased Entities) shall have any access, right, title or interest to or in any such insurance policies or self-insurance programs (including to all claims and rights to make claims and all rights to proceeds) to cover the Purchased Assets, the Assumed Liabilities or the operations or assets or Liabilities in respect thereof; provided, however, that Buyer shall have the right to make claims and shall have the right to any proceeds (if any) with respect to the Purchased Assets or the Assumed Liabilities under any insurance policy for occurrence-based claims pertaining to, arising out of and inuring to the benefit of any Seller for all periods prior to the Closing, and such Seller shall use commercially reasonable efforts to seek the maximum recovery or allow Buyer to seek recovery (including by executing or delivering any document, agreement, instrument or other information as Buyer may reasonably request to seek such recovery) under such insurance policy, in each case, at Buyer's sole cost and expense (including, if and to the extent unpaid and otherwise payable as a result of such recovery, any deductibles, self-insured retentions or other out-of-pocket expenses required to be paid by Sellers or to the insurer in connection therewith), and such Seller shall cooperate with Buyer's reasonable requests if Buyer seeks recovery, with respect to such matters and shall remit (or, at Buyer's request, direct any such insurer to pay directly to Buyer) any insurance proceeds actually obtained therefrom (net of such Seller's reasonable and documented out-of-pocket costs and expenses of seeking such recovery, to the extent not otherwise paid or reimbursed by Buyer) to Buyer or a Buyer Designee. Notwithstanding the foregoing, Sellers' obligations under this Section 6.02 shall not restrict or limit their ability to complete the Wind-Down or otherwise liquidate their estates, in each case, after the Closing, including by confirming and consummating a Chapter 11 plan of liquidation or limit their ability to close the Chapter 11 Cases after the Closing. Sellers' obligations under this Section 6.02 shall terminate upon the Cut-Off Date; provided that, if elected by Buyer in writing prior to the Cut-Off Date, Sellers shall use their commercially reasonable efforts to ensure that Buyer shall (at Buyer's cost and expense) continue to have the benefit of this Section 6.02 following the Cut-Off Date; provided that the obligations of each Seller under this Section 6.02 shall expire upon the completion of the Wind-Down of such Seller.

ARTICLE 7

COVENANTS OF BUYER AND SELLERS

SECTION 7.01 *Confidentiality*.

(a) Buyer acknowledges that the confidential information provided to Buyer in connection with this Agreement, including under Section 5.02 is subject to Section 9.13 (Confidentiality) of the Prepetition Super-Priority Credit Agreement.

(b) Sellers acknowledge that from and after the Closing, all non-public information relating to the Purchased Assets and the Assumed Liabilities will be valuable and proprietary to Buyer and its Affiliates. Sellers agree that, from and after the Closing, unless disclosure is requested or required under applicable Law, no Seller will, and Sellers will cause their Affiliates not to, disclose to any Person any confidential information regarding Buyer and its Affiliates, the Purchased Assets or the Assumed Liabilities; provided that (x) confidential information shall not include information that becomes generally available to the public other than through any action by any Seller or any of its Affiliates in violation of this Section 7.01(b) and (y) confidential information may be used by Sellers solely to the extent necessary to defend any claims against any Seller; provided that in the case of clause (y), Sellers shall (i) disclose only that portion of such information which such Seller is advised by its counsel is legally required to be disclosed, (ii) other than in connection with any claims involving Buyer or its Affiliates, cooperate with Buyer (at its expense) to obtain a protective order or other confidential treatment with respect to such information and (iii) other than in connection with any claims involving Buyer or its Affiliates, provide Buyer with a reasonable opportunity to review and comment on such disclosure.

SECTION 7.02 *Further Assurances*.

(a) At and after the Closing, and without further consideration therefor, each of Sellers and Buyer shall execute and deliver such further instruments and certificates (including deeds, bills of sale, instruments of conveyance, powers of attorney, assignments, assumptions and assurances) and use commercially reasonable efforts to take, or cause to be taken, all actions, and do or cause to be done all things as may be reasonably necessary, to effectuate the purposes and intent of and consummate the transactions contemplated by this Agreement and the other Transaction Documents.

(b) The Parties agree to (and shall cause each of their respective Subsidiaries to) reasonably cooperate to provide each other with such information and assistance as is reasonably necessary for the preparation of any Tax Returns or for the defense of any Tax claim, whether in connection with an audit or otherwise, relating to the Purchased Assets, the Purchased Entities, the Assumed Liabilities, the Business, the Excluded Assets, the Excluded Liabilities, Sellers, or the transactions contemplated hereby, including the furnishing or making available on a mutually convenient basis of records, personnel (as reasonably required), books of account, or other necessary materials.

(c) Sellers, with the consent of Buyer, shall designate one or more employees, to be mutually agreed between Sellers and Buyer, to communicate with Buyer in connection with, and assist in facilitating, the obligations of Sellers following the Closing Date including the Wind-Down (the "**Transition Employees**"), which employees shall remain employed with Sellers (which cost and expense shall be reflected in the Post-Effective Date Budget) through the period covered in the Post-Effective Date Budget ("**Transition Period**") or, if agreed between Sellers and Buyer, be employed by Buyer and provide such assistance to Sellers. If any Transition Employee terminates his or her employment prior to the expiration of the Transition Period, Sellers shall promptly designate a replacement. For the avoidance of doubt, Sellers shall retain all Liabilities related to the Transition Employees while employed by Sellers in connection with services provided hereunder during the Transition Period (subject to the inclusion of the costs and expenses in the Post-Effective Date Budget); provided, however, that following the expiration of the Transition Period, Buyer may offer employment to such employees pursuant to Section 7.05.

SECTION 7.03 *Certain Filings*.

(a) Sellers and Buyer shall cooperate with one another (i) with respect to their obligations set forth in Section 7.03(b), (ii) in determining whether any other action by or in respect of, or filing with, any Governmental Authority is required, or any actions, consents, approvals or waivers are required to be obtained from parties to any material Contracts, in connection with the consummation of the transactions contemplated by this Agreement and the other Transaction Documents and (iii) in taking such actions or making any such filings, furnishing information required in connection therewith and seeking timely to obtain any such actions, consents, approvals or waivers.

(b) Buyer and Seller Parent shall use their reasonable best efforts to take, or cause to be taken, all actions and to do, or cause to be done, all things necessary under applicable Law to consummate and make effective the transactions contemplated by this Agreement, including filing, or causing to be filed, as promptly as practicable, (i) any required notification and report forms under the HSR Act or any other Antitrust Laws, or any Foreign Direct Investment Laws, with the applicable Governmental Authority and (ii) any applications, notices, reports, disclosures or other filings related to the Permits with the applicable Governmental Authority that are necessary or advisable in connection with the consummation of the transactions contemplated by this Agreement (such applications, notices, reports, disclosures or other filings related to the Permits referenced in this clause (ii), including, but not limited to, those as set forth on Section 7.03(b) of the Disclosure Schedules, the "**Permit Approvals**"); provided, however, that no Party shall be obligated to pay any consideration to any third party from whom consent or approval is requested under any Contract. Buyer and Seller Parent shall consult with each other as to the appropriate time of filing such notifications and shall agree upon the timing of such filings.

(c) Subject to appropriate confidentiality safeguards, each Party shall (i) respond promptly to any request for additional information, documents or other materials made by any Governmental Authority with respect to any filings or any of the transactions contemplated by this Agreement, (ii) promptly notify counsel to the other Party of, any communications from or with any Governmental Authority in connection with any of the transactions contemplated by this Agreement and, to the extent reasonably practicable, enable counsel to the other Party to participate in any such communications, (iii) not participate in any prescheduled telephonic or in-person meeting with any Governmental Authority in connection with any of the transactions contemplated by this Agreement unless such Party consults with counsel to the other Party in advance and, to the extent permitted by such Governmental Authority, gives the other Party a reasonable opportunity to attend, participate and speak thereat, (iv) furnish such information and assistance as may be reasonably requested in connection with the preparation of necessary filings or submission of information to the applicable Governmental Authority and provide counsel to the other Party the opportunity to review in advance any document, opinion or proposal to be made or submitted to any Governmental Authority, (v) defend all Proceedings to which it or any of its affiliates is a party challenging or affecting this Agreement or the consummation of the transactions contemplated hereby, in each case until the issuance of a final, non-appealable Order with respect to each such Proceeding, (vi) seek to have lifted or rescinded any injunction or restraining order which may adversely affect the ability of the Parties to consummate the transactions contemplated by this Agreement, in each case until the issuance of a final, non-appealable Order with respect thereto, and (vii) use reasonable best efforts to resolve any objection or assertion by any Governmental Authority challenging this Agreement or the transactions contemplated hereby. Sellers and Buyer shall use their reasonable best efforts to cause the waiting periods under the HSR Act and any other Antitrust Laws, or Foreign Direct Investment Laws, to terminate or expire at the earliest possible date after the date of filing and to obtain all Permit Approvals as promptly as practicable. All filing fees relating to this Section 7.03 shall be borne and paid fully by Buyer; provided, however, that at Buyer's written request, Sellers shall pay any such fees on Buyer's behalf; provided that the amount of any such fees paid by Sellers shall reduce the Expense Reimbursement Cap on a dollar-for-dollar basis (including any filing fees paid on Buyer's behalf prior to the date hereof).

(d) Notwithstanding anything to the contrary herein or otherwise, (i) Buyer and Seller Parent shall jointly determine strategy and timing and coordinate all activities with respect to seeking Permit Approvals, (ii) Seller Parent shall, and shall cause each Seller to, use its commercially reasonable efforts to take such actions as reasonably requested by Buyer, after consultation with Seller Parent, in connection with obtaining any such Permit Approvals, and (iii) Buyer shall use its commercially reasonable efforts to seek to obtain any Permits that are subject to a Permit Approval that are not transferrable and that are required to conduct the business of Seller Parent and its Subsidiaries in the Ordinary Course; provided, however, that neither Buyer nor Sellers shall be obligated to pay any material consideration to any Person to obtain any such replacement Permits.

(e) If any Permit Approval is not obtained prior to the Closing, then, until the earlier of such time as (i) such Permit Approval is obtained by Sellers, (ii) Buyer separately obtains any such Permit (sufficient to conduct the business of Seller Parent and its Subsidiaries in the Ordinary Course) and (iii) the closing of the Chapter 11 Cases, Sellers shall, and shall cause their respective Subsidiaries to, use reasonable best efforts to obtain, or cause to be obtained, such Permit Approval, and Buyer shall provide reasonable cooperation to Sellers, at Buyer's sole cost and expense, subject to any approval of the Bankruptcy Court that may be required, and Sellers shall and shall cause their Subsidiaries to enter into an arrangement reasonably acceptable to Buyer intended to both (A) provide Buyer, to the fullest extent not prohibited by applicable Law, the claims, rights, remedies and benefits under, and pursuant to, such Permit(s) and (B) cause Buyer, subject to Buyer receiving such claims, rights, remedies and benefits, to assume and bear all Assumed Liabilities with respect to such Permits from and after the Closing (as if such Permit had been transferred to Buyer as of the Closing) in accordance with this Agreement (including by means of any subcontracting, sublicensing or subleasing arrangement). Upon obtaining the relevant Permit Approval, each Seller shall, and shall cause any of its applicable Subsidiaries to, promptly sell, convey, assign, transfer and deliver to Buyer such Permit for no additional consideration.

SECTION 7.04 *Public Announcements*. On and after the date hereof and through the Closing Date, the Parties shall reasonably consult with each other before issuing any press release or otherwise making any public statements with respect to this Agreement or the transactions contemplated hereby, and no Party shall, except as may be required to comply with applicable Law, issue any press release or make any public statement prior to obtaining, with respect to Sellers, Buyer's, and with respect to Buyer, Seller Parent's, prior written consent (which consent, in each case, shall not be unreasonably withheld, conditioned or delayed); provided that notwithstanding the foregoing, Buyer and Sellers shall be entitled to disclose information regarding this Agreement or the transactions contemplated hereby to their respective Affiliates and its and their respective employees, direct or indirect equity owners, partners, prospective partners, investors, prospective investors, professional advisors and lenders who have a reasonable need to know the information or to whom there is an obligation to disclose such information and who agree to keep such information confidential or are otherwise bound to confidentiality obligations.

SECTION 7.05 *Employee Matters*.

(a) Subject to the terms of the RSA, at least ten (10) Business Days prior to the Closing, Buyer shall, or shall cause a Buyer Designee to, make an offer of employment, which offer shall be compliant with applicable Law, to commence as of the Closing, to each Employee who is employed immediately prior to the Closing and who will not be a Transition Employee (each such Employee, an "**Offered Employee**"). Each Offered Employee who receives and accepts such an offer of employment with Buyer or a Buyer Designee and commences employment with Buyer or a Buyer Designee and each employee whose employment transfers by operation of Law (including any individual employed by a Purchased Entity) is referred to herein as a "**Transferred Employee**," and Buyer shall, or shall cause the applicable Buyer Designee to, employ each Transferred Employee in accordance with such accepted offer and applicable Law as of the Closing. Buyer hereby agrees that, without limiting anything required by applicable Law, the offers to the Offered Employees shall include, and for the period immediately following the Closing through and including the twelve (12)-month anniversary of the Closing (or if earlier, a Transferred Employee's termination of employment) shall provide, (i) a level of base salary or hourly wages to each Transferred Employee that is no less favorable than the base salary or hourly wages provided to such Transferred Employee as of the date hereof, and (ii) benefit plans for the benefit or welfare of each Transferred Employee (each, a "**Buyer Benefit Plan**"), that are substantially comparable in the aggregate to the benefits (except with respect to equity-based compensation and retention benefits, defined benefit pensions, change in control and similar transaction-based bonuses and post-employment welfare benefits, unless otherwise required by Law) provided to such Transferred Employee as of the date hereof.

(b) Following the Closing, Buyer shall process the payroll for, and pay (or cause to be paid), the base wages, base salary and ordinary course sales commissions accrued during the payroll period in which the Closing Date falls (the "**Closing Payroll Period**") with respect to each Employee employed at any time during the Closing Payroll Period other than Transition Employees. The Closing Payroll Period shall extend from the final payroll date preceding the

Closing through and including the Closing Date. In connection therewith, Buyer shall withhold and remit, on behalf of Sellers, or the Purchased Entities, as applicable, all applicable Taxes, including payroll taxes, as required by Law.

(c) Buyer shall assume, pay and discharge the Employee Liabilities (including, without limitation, the Liabilities of Sellers for all current and deferred salary, wages, accrued but unused vacation, sick days, personal days and/or leave earned or accrued) for each Transferred Employee arising on or after the Closing Date. In addition, with respect to any Transferred Employee or Offered Employee which Buyer does not offer employment to or whose offer of employment is not consistent with Section 7.05(a), Buyer shall assume, pay and discharge the Liabilities of Sellers for (i) any obligations or Liabilities under any Assumed Plan other than any severance obligations under any Assumed Plan in connection with the termination of any such Offered Employee's employment with Seller and its Affiliates, and (ii) any Liabilities arising under an employee incentive or retention program or similar arrangement approved by the Bankruptcy Court. On or before the Closing Date, Sellers shall provide a list of the names and sites of employment of any and all employees of Sellers who have experienced, or are expected to experience, an employment loss or layoff (as defined by the WARN Act) within ninety (90) days prior to the Closing Date. Sellers shall update this list as reasonably requested up to and including the Closing Date. Except with respect to any Transferred Employee who is terminated by Buyer or an Affiliate of Buyer following the Closing Date, (i) Sellers shall be solely responsible for any and all Liabilities arising under the WARN Act relating to any Employees whose employment is terminated by Sellers prior to, upon, or following the Closing and (ii) each Seller shall be solely responsible for any and all Liabilities arising under the WARN Act and relating to any Employee whose employment is terminated by such Seller following the Closing; provided, Buyer shall be solely responsible for any and all Liabilities arising under the WARN Act at any time to the extent caused by Buyer's failure to comply with the covenants set forth in Section 7.05(a).

(d) Notwithstanding anything in this Agreement to the contrary, Buyer shall assume, pay and discharge the Liabilities of Sellers under COBRA (and any comparable state law) for all individuals who are "M&A qualified beneficiaries" (as such term is defined in U.S. Treasury Regulation Section 54.4980B-9) from and after the Closing. Buyer hereby acknowledges that (A) it will be a "successor employer" for purposes of U.S. Treasury Regulation Section 54.4980B-9 and other applicable purposes under COBRA and (B) that, without limiting the generality of the foregoing clause (A), Transition Employees will be treated as "M&A qualified beneficiaries" for purposes of COBRA as of the earlier of the termination of their employment with Sellers or after Sellers no longer provide any health, dental or vision benefit plans.

(e) Buyer shall, or shall cause one of its Affiliates to, provide to each Transferred Employee full credit for such Transferred Employee's service with Sellers prior to the Closing for all purposes, including for purposes of eligibility, vesting, benefit accrual, and determination of the level of benefits (excluding, unless required by Law, granting service credit with respect to benefit accrual under any defined benefit pension plan, retiree welfare plan or any frozen plan), under any benefit plan sponsored or maintained by Buyer or its Affiliates, as applicable, in which such Transferred Employee participates on or following the Closing to the same extent recognized by Sellers immediately prior to the Closing; provided, that, unless required by applicable Law, such service shall not be recognized to the extent that such recognition would result in a duplication of benefits or coverage. Buyer shall, or shall cause one of its Affiliates to, use commercially reasonable efforts to: (i) waive any limitation on health and welfare coverage of such Transferred Employees due to pre-existing conditions, waiting periods, active employment requirements, and requirements to show evidence of good health under any applicable health and welfare plan of Buyer or its Affiliates to the extent such Transferred Employees were covered under a similar Seller Plan prior to the Closing Date and only to the extent waived under a comparable Seller Plan prior to the Closing Date; and (ii) credit each such Transferred Employee (and such Transferred Employee's beneficiaries) with all eligible payments, co-payments and co-insurance paid by such employee (and such employee's beneficiaries) under any Seller Plan prior to the Closing Date during the year in which the Closing occurs for the purpose of determining the extent to which any such employee has satisfied any applicable deductible and whether such employee has reached the out-of-pocket maximum under any benefit plan of Buyer or any Affiliate of Buyer for such year.

(f) Buyer agrees to honor and assume, or to cause a Buyer Designee to honor and assume, in accordance with their current terms, each Assumed Plan and all trust agreements, insurance contracts, administrative service agreements and investment management agreements related to the funding and administrations of such Assumed Plans. Seller shall take such actions and reasonably cooperate with Buyer with respect to such obligations.

(g) No provision in this Section 7.05 or otherwise in this Agreement, whether express or implied, shall (a) create any third-party beneficiary or other rights in any employee or former employee of Sellers or any of their subsidiaries or Affiliates (including any beneficiary or dependent thereof), any other participant in any Seller Plan or any other Person; (b) create any rights to continued employment with Sellers, Buyer or any of their respective subsidiaries or Affiliates or in any way limit the ability of Sellers, Buyer or any of their respective subsidiaries or Affiliates to terminate the employment of any individual at any time and for any reason; or (c) constitute or be deemed to constitute an amendment to any Seller Plan or any other employee benefit plan, program, policy, agreement or arrangement sponsored or maintained by Sellers, Buyer or any of their subsidiaries or Affiliates.

SECTION 7.06 *Tax Matters*.

(a) With respect to any income Tax Returns of Sellers (or non-income Tax Returns of Sellers that are requested by Buyer or that Sellers determine implicate liabilities that are materially in excess of the liabilities with respect to such Tax Returns that were taken into account in determining the Post-Effective Date Amount) to be filed after the Closing that implicate Tax liabilities for which Buyer is responsible under the terms of this Agreement, including any amounts reflected in the Post-Effective Date Amount ("**Wind-Down Returns**"), any such Tax Returns shall be prepared consistent with the past practice of Sellers with respect to similar factual and legal matters (except as otherwise required by Law or as provided herein) and such Tax Returns that are U.S. federal income tax returns shall be provided to Buyer at least thirty (30) days prior to the due date thereof (and for other Wind-Down Returns, as soon as reasonably practical) for its review, comment and approval (not to be unreasonably withheld, conditioned or delayed). Sellers shall incorporate any reasonable comments proposed by Buyer. Notwithstanding anything herein to the contrary, to the extent that Seller refuses to incorporate any such comments by Buyer (the "**Contested Reporting Position**"), Buyer shall be entitled to commission and seek from a nationally recognized accountant or counsel selected by Buyer a MLTN Opinion with respect to such Contested Reporting Position. In the event that the counsel or accountant delivers to Sellers the MLTN Opinion with respect to the Contested Reporting Position, Sellers shall reflect the tax position consistent with such MLTN Opinion on the applicable Wind-Down Return. The Parties shall cooperate in good faith in preparing and filing Wind-Down Returns and take any actions reasonably necessary to permit the Parties to carry out their obligations under this Section 7.06(a), including using commercially reasonable efforts to sign or file, or cause to be signed or filed, any Tax Return or provide customary Tax representations necessary for the execution of the MLTN Opinion to the extent reasonably possible and provide any records, documents or other information in their possession reasonably necessary for the preparation and filing of Wind-Down Returns or for any analysis reasonably required for purposes of the MLTN Opinion.

(b) For all purposes of this Agreement, in the case of any taxable period beginning on or before and ending after the Closing Date (a "**Straddle Period**"), (i) Property Taxes allocable to the Pre-Closing Tax Period shall be equal to the amount of such Property Taxes for the entire Straddle Period multiplied by a fraction, the numerator of which is the number of calendar days during the Straddle Period that are in the Pre-Closing Tax Period and the denominator of which is the number of calendar days in the entire Straddle Period, and (ii) Taxes (other than Property Taxes) allocable to the Pre-Closing Tax Period (including, for the avoidance of doubt, any Taxes with respect to income included pursuant to Section 951 and Section 951A of the Code) shall be computed as if such taxable period ended as of the end of the day on the Closing Date, and the taxable year of any other partnership, pass-through entity or "controlled foreign corporation" within the meaning of Section 957 of the Code that any Purchased Entity own, directly or indirectly, shall be deemed to end at the end of the Closing Date for such purposes; provided that exemptions, allowances or deductions that are calculated on an annual basis (including depreciation and amortization deductions) shall be allocated between the Pre-Closing Tax Period and the Post-Closing Tax Period in proportion to the number of days in each period. Any existing Tax Sharing Agreement, except for this Agreement and any ancillary agreements entered into in connection with this Agreement, between any Purchased Entity, on the one hand, and any Sellers or any of their Affiliates, on the other hand, shall be terminated as of the Closing Date.

(c) The Parties agree to treat any payment made from one Party to another pursuant to this Agreement that is not reflected as part of the Purchase Price under this Agreement as an adjustment to the Purchase Price for all income Tax purposes to the extent permitted by applicable Law.

(d) Prior to the Closing, each Seller shall cause to be delivered to Buyer a properly completed and validly executed IRS Form W-9 of such Seller (provided that the only remedy available to Buyer for any failure to comply with this Section 7.06(d) shall be to make an appropriate withholding that is required by Law as a result of such failure).

(e) For the avoidance of doubt, notwithstanding anything else in this Agreement, (i) ownership of any Tax refunds, Tax overpayments or Tax attributes of the Purchased Entities shall transfer indirectly to Buyer as a result of the purchase of the Purchased Shares pursuant to this Agreement as provided under applicable Law (but such assets shall not constitute Purchased Assets or be separately purchased by Buyer); (ii) the Purchased Assets shall include any prepaid Property Taxes apportioned to Buyer under Section 7.06(b); and (iii) the Purchased Assets shall exclude all Tax payments made by Sellers and Tax attributes of Sellers (and the Parties intend that such attributes will be available to Sellers to offset Taxes incurred in connection with any transfer of the Purchased Assets that is treated as a taxable asset acquisition for U.S. federal income tax purposes).

(f) All Transfer Taxes imposed on or with respect to the transactions contemplated hereby shall be borne one hundred percent (100%) by Buyer. The Party responsible under applicable Law for filing a Tax Return with respect to such Transfer Taxes shall prepare and timely file such Tax Return and promptly provide a copy of such Tax Return to the other party. Buyer and Sellers shall use commercially reasonable efforts and cooperate in good faith to reduce or eliminate any Transfer Taxes to the extent permitted by applicable Law.

(g) Notwithstanding anything herein to the contrary, the Parties agree that they will effect the transactions contemplated hereby and file their Tax Returns in a manner consistent with the principles set forth on Exhibit A. The Parties acknowledge that the principles set forth on Exhibit A are intended to facilitate determining amounts to be included within the Post-Effective Date Budget. To the extent that Buyer subsequently proposes to utilize a different allocation of value among the assets acquired (or deemed acquired) from the Allocation Methodology and such different allocation is utilized, to the extent that the Purchased Entities with respect to which an election under Section 338(g) of the Code is made differs from the principles set forth on Exhibit A, or to the extent Buyer proposes to effect and report the transactions contemplated hereby in a manner that differs from the principles set forth on Exhibit A, the Parties agree that Buyer will fund an incremental amount of cash that will become a part of the Post-Effective Date Budget in an amount equal to the incremental Taxes incurred by Sellers as a result of such differences (including for this purpose incremental Taxes incurred as a result of any payments under this Section 7.06(g)), if any.

SECTION 7.07 *Misallocated Assets*. If, following the Closing, Buyer or its Affiliates own or hold any Excluded Asset (including by having an Excluded Asset located at any Owned Real Property or any Leased Real Property that is or will be owned or leased by Buyer or any of its Affiliates), Buyer shall transfer, or shall cause its Affiliate to transfer, at no cost to Sellers, such Excluded Asset as soon as practicable to any Sellers designated by Seller Parent. If, following the Closing, Sellers or any of their respective Affiliates own any Purchased Asset, Sellers shall transfer, or shall cause their respective Affiliates to transfer, at no cost to Sellers, such Purchased Asset as soon as practicable to Buyer or an Affiliate designated by Buyer. Notwithstanding the foregoing, Sellers' obligations under this Section 7.07 shall not restrict or limit their ability to complete the Wind-Down or otherwise liquidate their estates, in each case, after the Closing, including by confirming and consummating a Chapter 11 plan of liquidation, or limit their ability to close the Chapter 11 Cases, after the Closing.

SECTION 7.08 *Payments from Third Parties after Closing*. In the event that any Seller receives any payment from a third party (other than Buyer or any of its Affiliates) after the Closing Date pursuant to any of the Purchased Contracts (or with respect to the operation by Buyer of the business of Sellers or any Purchased Asset during the post-Closing period) and to the extent such payment is not made in connection with an Excluded Asset or an Excluded Liability, Sellers shall, at no cost to Sellers, forward such payment, as promptly as practicable but in any event within thirty (30) days after such receipt, to Buyer (or other entity nominated by Buyer in writing to Sellers) and notify such third party to remit all future payments (in each case, to the extent such payment is in respect of any post-Closing period and is not in respect of an Excluded Asset or an Excluded

Liability) pursuant to the Purchased Contracts to Buyer (or such other entity). Notwithstanding anything to the contrary in this Agreement, in the event that Buyer or any of its Affiliates receives any payment from a third party after the Closing on account of, or in connection with, any Excluded Asset, Buyer shall forward such payment, at no cost to Buyer, as promptly as practicable but in any event within thirty (30) days after such receipt, to Seller Parent (or other entity nominated by Seller Parent in writing to Buyer) and notify such third party to remit all future payments on account of or in connection with the Excluded Assets to Seller Parent (or such other entity as Seller Parent may designate). Notwithstanding the foregoing, Sellers' obligations under this Section 7.08 shall not restrict or limit their ability to complete the Wind-Down or otherwise liquidate their estates, in each case, after the Closing, including by confirming and consummating a Chapter 11 plan of liquidation, or limit their ability to close the Chapter 11 Cases, after the Closing.

SECTION 7.09 *Bulk Transfer Laws*. The Parties intend that pursuant to Section 363(f) of the Bankruptcy Code, the transfer of the Purchased Assets shall be free and clear of any security interests in the Purchased Assets, including any liens or claims arising out of the bulk transfer Laws, and the Parties shall take all reasonable steps as may be necessary or appropriate to so provide in the Sale Order.

SECTION 7.10 *Bankruptcy Court Approval*.

(a) Sellers shall serve on all non-Debtor counterparties to all of their Contracts a notice specifically stating that Sellers are or may be seeking the assumption and assignment of such Contracts and shall notify such non-Debtor counterparties of the deadline for objecting to the Cure Costs, if any, which deadline shall not be less than seven (7) days prior to the Sale Hearing.

(b) Sellers and Buyer shall cooperate in good faith to obtain the Bankruptcy Court's entry of the Sale Order and any other Order reasonably necessary in connection with the transactions contemplated by this Agreement as promptly as reasonably practicable, including furnishing affidavits, non-confidential financial information, or other documents or information for filing with the Bankruptcy Court and making such applicable respective Representatives of Buyer and Sellers and their respective Affiliates available to testify before the Bankruptcy Court for the purposes of, among other things, providing adequate assurances of performance by Buyer and/or the Buyer Designee(s) as required under Section 365 of the Bankruptcy Code, demonstrating that Buyer and/or the Buyer Designee(s), as applicable, is a "good faith" purchaser under Section 363(m) of the Bankruptcy Code, and demonstrating that the Credit Bids were validly directed by the "Required Lenders" pursuant to, and as defined in, the DIP Credit Agreement and Prepetition Super-Priority Credit Agreement. Sellers and Buyer acknowledge that in order to obtain such approval Sellers must demonstrate that they have taken reasonable steps to obtain the highest or otherwise best offer possible for the Purchased Assets and that such demonstration shall include serving notice of the transactions contemplated by this Agreement to creditors and interested parties as ordered by the Bankruptcy Court.

(c) Each of Seller Parent and Buyer (or their applicable respective Representatives) shall appear formally or informally in the Bankruptcy Court if reasonably requested by the other Party or required by the Bankruptcy Court in connection with the transactions contemplated by this Agreement and keep the other Party reasonably apprised of the status of material matters related to this Agreement, including, upon reasonable request promptly furnishing the other Party with copies of notices or other communications received by such Party from the Bankruptcy Court or any third party or any Governmental Authority with respect to the transactions contemplated by this Agreement.

(d) Subject to entry of the Sale Order and upon consummation of the Closing, Buyer shall pay, or cause the payment of, the Cure Costs and cure any and all other defaults and breaches under the Purchased Contracts in accordance with the provisions of Section 365 of the Bankruptcy Code and this Agreement.

(e) The Sale Order shall, among other things, (i) approve, pursuant to Sections 105, 363 and 365 of the Bankruptcy Code, (A) the execution, delivery and performance by Sellers of this Agreement, (B) the sale of the Purchased Assets to Buyer and/or the Buyer Designee(s) on the terms set forth herein and free and clear of all Encumbrances (other than Encumbrances included in the Assumed Liabilities and Permitted Encumbrances) and (C) the performance by Sellers of their respective obligations under this Agreement, (ii) authorize and empower Sellers to assume and assign to Buyer and/or the applicable Buyer Designee(s) the Purchased Contracts, (iii) find that Buyer and/or the Buyer Designee(s), as applicable, is a "good faith" buyer within the meaning of Section 363(m) of the Bankruptcy Code, find that neither Buyer nor the Buyer Designee(s) is a successor to any Seller and grant Buyer and/or the Buyer Designee(s) the protections of Section 363(m) of the Bankruptcy Code, (iv) find that Buyer and the Buyer Designee(s) shall have no Liability or responsibility for any Liability or other obligation of any Seller arising under or related to the Purchased Assets other than as expressly set forth in this Agreement or as required under applicable nonbankruptcy Law, including successor or vicarious Liabilities of any kind or character, including any theory of antitrust, successor, or transferee Liability, labor law, de facto merger, or substantial continuity, (v) find that Buyer and/or the Buyer Designee(s), as applicable, has provided adequate assurance (as that term is used in Section 365 of the Bankruptcy Code) of future performance in connection with the assumption and assignment of the Purchased Contracts, (vi) to the extent that an Order of the Bankruptcy Court has not already done so, find that the Credit Bids were validly directed by the "Required Lenders" pursuant to, and as defined in, the DIP Credit Agreement and Prepetition Super-Priority Credit Agreement and (vii) find that neither Buyer nor any Buyer Designee shall have any Liability for any Excluded Liability. Without limiting Sellers' obligation to take all such actions as are reasonably necessary to obtain Bankruptcy Court approval of the Sale Order, Buyer agrees that it will promptly take reasonable actions to assist in obtaining Bankruptcy Court approval of the Sale Order, including furnishing affidavits or other documents or information for filing with the Bankruptcy Court for purposes, among others, of (x) demonstrating that Buyer and/or the Buyer Designee(s), as applicable, is a "good faith" purchaser under Section 363(m) of the Bankruptcy Code and (y) establishing adequate assurance of future performance within the meaning of Section 365 of the Bankruptcy Code. Nothing in this Agreement shall require Buyer, a Buyer Designee, Sellers or their respective Affiliates to give testimony to or submit any pleading, affidavit or information to the Bankruptcy Court or any Person that is untruthful or to violate any duty of candor or other fiduciary duty to the Bankruptcy Court or their respective stakeholders.

(f) Sellers acknowledge and agree, and the Sale Order shall provide that, except as otherwise provided in Section 2.03, on the Closing Date and concurrently with the Closing, all then existing or thereafter arising obligations, Liabilities and Encumbrances of, against or created by Sellers or their bankruptcy estate, to the fullest extent permitted by Section 363 of the

Bankruptcy Code, shall be fully released from and with respect to the Purchased Assets. On the Closing Date, the Purchased Assets shall be transferred to Buyer or to the applicable Buyer Designee, as applicable, free and clear of all obligations, Liabilities and Encumbrances, other than Permitted Encumbrances and the Assumed Liabilities to the fullest extent permitted by Section 363 of the Bankruptcy Code.

(g) In the event the entry of the Bidding Procedures Order, the Sale Order or any other Orders of the Bankruptcy Court relating to this Agreement or the transactions contemplated hereby shall be appealed by any Person (or if any petition for certiorari or motion for reconsideration, amendment, clarification, modification, vacation, stay, rehearing or reargument shall be filed with respect to the Bidding Procedures Order, the Sale Order or other such Order), Buyer and Sellers shall use commercially reasonable efforts to defend such appeal. Sellers shall comply with all notice requirements (i) of the Bankruptcy Code and the Federal Rules of Bankruptcy Procedure or (ii) imposed by the Sale Order, in each case, in connection with any pleading, notice or motion to be filed in connection herewith.

(h) Notwithstanding anything contained herein to the contrary, during the pendency of the Chapter 11 Cases, Sellers shall not intentionally let lapse, reject or transfer any Excluded Contract without first obtaining Buyer's prior written consent. In the event that any of the Parties to this Agreement discovers a Contract related to the business of Seller Parent and its Subsidiaries, the Purchased Assets or the Assumed Liabilities (whether prior to, on or following the Closing) and such Contract (i) was not a Purchased Contract in accordance with Section 2.01(a), (ii) is a Contract which Buyer wishes to assume the rights and obligations of and (iii) has not been rejected by Sellers (with Buyer's prior written consent in compliance with the immediately preceding sentence), Buyer and Sellers shall execute, acknowledge and deliver such other instruments and take such further actions as are reasonably practicable for Buyer or the applicable Buyer Designee to assume the rights and obligations under such Contract as of the Closing (or, if applicable, as soon as reasonably practicable following the Closing), otherwise in accordance with Section 2.05.

SECTION 7.11 *No Successor Liability*. The Parties intend that, to the fullest extent permitted by applicable Law (including under Section 363 of the Bankruptcy Code), upon the Closing, neither Buyer nor Buyer Designee shall be deemed to: (a) be the successor of any Seller, (b) have, de facto or otherwise, merged with or into Sellers, (c) be a mere continuation or substantial continuation of Sellers or the enterprise(s) of Sellers or (d) be liable or have any Liability for any acts or omissions of Sellers in the conduct of their businesses or arising under or related to the Purchased Assets other than as expressly set forth and agreed in this Agreement. Without limiting the generality of the foregoing, and except as otherwise expressly provided in this Agreement, the Parties intend that neither Buyer nor any Buyer Designee shall have any Liability for any Encumbrance (other than the Assumed Liabilities and Permitted Encumbrances on the Purchased Assets) against Sellers or any of Sellers' predecessors or Affiliates, and neither Buyer nor any Buyer Designee shall have any successor or vicarious liability of any kind or character whether known or unknown as of the Closing Date or in connection with the transactions contemplated to occur on the Closing, whether now existing or hereafter arising, or whether fixed or contingent, with respect to the businesses of Sellers, the Purchased Assets or any Liability of Sellers arising prior to, or relating to any period occurring prior to, the Closing Date. The Parties agree that the Sale Order shall contain provisions substantially in the form set forth in this Section 7.11.

SECTION 7.12 *Change of Name*. Promptly (and, in any event, within ninety (90) Business Days or, to the extent approval by a Governmental Authority is required, such later time as is approved by such Governmental Authority) following the Closing, each Seller whose name includes the words "Robertshaw" or the other names listed on Section 7.12 of the Disclosure Schedules shall discontinue the use of their current name (and any other trade names or "d/b/a" names currently utilized by such Seller) and no Seller shall subsequently change any of their names to or otherwise use or employ any name which includes the words "Robertshaw" or the other names listed on Section 7.12 of the Disclosure Schedules without the prior written consent of Buyer, and each Seller shall cause the name of Sellers in the caption of the Chapter 11 Cases to be changed to the new names of each Seller.

SECTION 7.13 *Communications with Customers and Suppliers*. Prior to the Closing, the Parties shall reasonably cooperate with each other in coordinating their communications with any Material Customer, Material Supplier or other material contractual counterparty of Sellers in relation to this Agreement and the transactions contemplated hereby.

SECTION 7.14 *Post-Effective Date Budget*. On the Closing Date, Buyer shall fund, or cause to be funded, the Post-Effective Date Budget by payment of the Post-Effective Date Amount in accordance with Section 2.06 for the purpose of funding (i) the Joint Plan of Liquidation and (ii) the orderly wind down of Sellers in accordance with applicable Law (the "**Wind-Down**"). The Post-Effective Date Budget has been agreed upon by Seller Parent and Buyer; provided that the Post-Effective Date Budget and Post-Effective Date Amount shall be subject to adjustment (prior to the Closing) (a) as set forth in this Agreement, (b) as provided in the Sale Order or (c) as is otherwise mutually agreed to in writing by Seller Parent and Buyer; provided that any adjustments that increase the amount of the Post-Effective Date Budget or Post-Effective Date Amount shall be funded by Buyer or the Buyer Designee(s). Seller Parent and Buyer acknowledge that they shall use good faith efforts to ensure that the Post-Effective Date Budget makes adequate provision for costs, expenses and Taxes incurred or to be incurred in connection with (i) the Joint Plan of Liquidation and (ii) the Wind-Down (including for this purpose, for the avoidance of doubt, Taxes incurred by Sellers prior to the consummation of the Wind-Down).

SECTION 7.15 *Investigation; Purchased Assets*.

(a) Buyer acknowledges for the benefit of Sellers (and their respective financial and other professional advisors) that it has conducted its own independent investigation and analysis of the business, operations, assets, liabilities, results of operations, condition (financial or otherwise) and prospects of the Business, the Purchased Assets, the Assumed Liabilities, the Excluded Assets, the Excluded Liabilities and the Purchased Entities, and that it and its representatives have received sufficient access to certain of the books and records, facilities, equipment, Contracts and other assets of the Business (including the Purchased Assets and the Purchased Entities) for such purpose. Buyer further acknowledges and agrees for the benefit of Sellers (and their respective financial and other professional advisors) that, except for the representations and warranties contained in Article 3 (as modified by the Disclosure Schedules), no Seller nor any of its respective Affiliates or financial or other professional advisors, nor its or their respective Representatives makes or has made any representation or warranty, either express or implied, or other statements or information concerning the Business, the Purchased Assets, the Assumed Liabilities, the Excluded Assets, the Excluded Liabilities or the Purchased Entities in connection with the transactions contemplated by this Agreement and Sellers hereby disclaim any other representations made by any Seller or any other Person concerning the Business, the Purchased Assets, the Assumed Liabilities, the Excluded Assets, the Excluded Liabilities or the Purchased Entities in connection with the transactions contemplated by this Agreement. No Seller makes any representations or warranties regarding the probable success or profitability of the Business. Buyer has not relied on any representation, warranty or other statement by any Person on behalf of Sellers, other than the representations and warranties of Sellers expressly contained in Article 3 (as modified by the Disclosure Schedules). Notwithstanding the foregoing, nothing in this Section 7.15 shall limit or alter the rights of Buyer under any other agreement with Sellers, including the RSA, the DIP Credit Agreement and the DIP Facility.

(b) Buyer agrees, warrants and represents that Buyer is purchasing the Purchased Assets "AS IS" and "WITH ALL FAULTS" based solely on the representations and warranties set forth in Article 3 (as modified by the Disclosure Schedules) and Buyer's own investigation of Sellers, the Purchased Entities, the Purchased Assets, the Assumed Liabilities, the Excluded Assets, the Excluded Liabilities and the Business. Buyer further acknowledges that the consideration for the Purchased Assets specified in this Agreement has been agreed upon by Sellers and Buyer after good-faith arms-length negotiation in light of Buyer's agreement to purchase the Purchased Assets "AS IS" and "WITH ALL FAULTS." Buyer agrees, warrants and represents that, except for the express representations and warranties set forth in Article 3 (as modified by the Disclosure Schedules), Buyer has relied, and shall rely, solely upon its own investigation of all such matters, and that Buyer assumes all risks with respect thereto. EXCEPT AS SET FORTH IN ARTICLE 3 (AS MODIFIED BY THE DISCLOSURE SCHEDULES), NO SELLER MAKES ANY EXPRESS WARRANTY, NO WARRANTY OF MERCHANTABILITY, NO WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE, AND NO IMPLIED OR STATUTORY WARRANTY WHATSOEVER WITH RESPECT TO ANY REAL OR PERSONAL PROPERTY OR ANY FIXTURES OR THE PURCHASED ASSETS, THE PURCHASED ENTITIES, THE ASSUMED LIABILITIES, THE EXCLUDED ASSETS, THE EXCLUDED LIABILITIES OR THE BUSINESS.

SECTION 7.16 *Releases*.

(a) Effective as of the Closing, each Seller, for itself and on behalf of its past, present and future controlled Affiliates and its and such Affiliates' respective current or former directors, officers, members, partners, managers, employees, agents, lenders, investment bankers, attorneys, accountants, advisors and other representatives (collectively, "**Representatives**"), and each of its and their respective successors, assigns, heirs and executors (each, a "**Seller Releasor**"), hereby irrevocably, knowingly, and voluntarily releases, discharges, and forever waives and relinquishes all claims, demands, Liabilities, losses, debts, costs, fees, expenses, penalties, Actions, covenants, suits, judgments, damages, defenses, affirmative defenses, setoffs, counterclaims, actions, obligations, and causes of action of whatever kind, character or nature, whether known or unknown, suspected or unsuspected, in contract, contingent or absolute, matured or unmatured, liquidated or unliquidated, direct or indirect, at Law or in equity, derivative or otherwise, which any Seller Releasor has, may have, or may assert now or in the future against (i) Buyer or any Buyer Designee, (ii) any Affiliates of Buyer or any Buyer Designee, (iii) any Representatives of Buyer or any Buyer Designee or their respective Affiliates, (iv) any current (as of the Closing Date) or former direct or indirect equity holder in Buyer or any Buyer Designee or any of their respective Affiliates, (v) any current or future direct or indirect equityholder of Seller Parent and its Representatives and their respective investment advisors or (vi) any lenders of Buyer, any Buyer Designee or their respective Affiliates (collectively, the "**Buyer Released Parties**"), in each case solely in its capacity as such, arising out of, based upon, or resulting from any Contract, transaction, event, circumstance, action, failure to act, occurrence, or omission of any sort or type, whether known or unknown, and which occurred, existed, was taken, permitted or begun prior to the Closing or otherwise. In addition, notwithstanding the foregoing, nothing in this Section 7.16 shall be deemed to release, waive or otherwise diminish in any respect any rights or remedies of any Seller Releasor under this Agreement.

(b) Effective as of the Closing, Buyer, for itself and on behalf of its past, present and future controlled Affiliates and its and such Affiliates' respective Representatives, and each of its and their respective successors, assigns, heirs, and executors (each, a "**Buyer Releasor**"), hereby irrevocably, knowingly, and voluntarily releases, discharges, and forever waives and relinquishes all claims, demands, Liabilities, losses, debts, costs, fees, expenses, penalties, Actions, covenants, suits, judgments, damages, defenses, affirmative defenses, setoffs, counterclaims, actions, obligations, and causes of action of whatever kind, character or nature, whether known or unknown, suspected or unsuspected, in contract, contingent or absolute, matured or unmatured, liquidated or unliquidated, direct or indirect, at Law or in equity, derivative or otherwise, which any Buyer Releasor has, may have, or may assert now or in the future against (i) each Seller, (ii) any Affiliates of Sellers and (iii) any Representatives of Sellers or their respective Affiliates (collectively, the "**Seller Released Parties**" and, together with the Buyer Released Parties, the "**Released Parties**"), in each case solely in its capacity as such, arising out of, based upon, or resulting from any Contract, transaction, event, circumstance, action, failure to act, occurrence, or omission of any sort or type, whether known or unknown, and which occurred, existed, was taken, permitted or begun prior to the Closing or otherwise. In addition, notwithstanding the foregoing, nothing in this Section 7.16 shall be deemed to (x) release, waive or otherwise diminish in any respect any rights or remedies of any Buyer Releasor under this Agreement or (y) release, waive or otherwise diminish any claims, demands, Liabilities, losses, debts, costs, fees, expenses, penalties, Actions, covenants, suits, judgments, damages, defenses, affirmative defenses, setoffs, counterclaims, actions, obligations, and causes of action of whatever kind, character or nature, whether known or unknown, suspected or unsuspected, in contract, contingent or absolute, matured or unmatured, liquidated or unliquidated, direct or indirect, at Law or in equity, derivative or otherwise, which any Buyer Releasor has, may have, or may assert now or in the future against Invesco.

SECTION 7.17 *D&O Tail Policy*.

(a) At the Closing, Buyer shall, to the extent such policies are Purchased Assets, maintain any "tail" insurance policies procured and fully paid-up prior to Closing for the benefit of the present or former officers, managers or directors (each, a "**D&O Indemnified Person**") of each Seller (the "**D&O Tail Policy**"). To the extent the D&O Tail Policy is a Purchased Asset, none of Buyer nor any of its Affiliates shall, directly or indirectly, cancel or otherwise reduce coverage under, or otherwise amend in any manner adverse to any D&O Indemnified Person of any Seller, the D&O Tail Policy.

(b) The provisions of this Section 7.17 are intended to be for the benefit of, and will be enforceable by, each D&O Indemnified Person referred to in Section 7.17(a), his or her successors and heirs and his or her representatives, and are in addition to, and not in substitution for, any other rights to indemnification or contribution that any such Person may have by Contract or otherwise.

SECTION 7.18 *Reorganization*. Between the date hereof and the earlier of the termination of this Agreement in accordance with its terms and the Closing Date, Sellers shall be entitled to (a) transfer or cause to be transferred any assets owned directly or indirectly by Seller Parent (including all or any portion of the equity interests of any entity owned by Seller Parent) to Robertshaw US Holding Corp.; (b) cause Robertshaw US Holding Corp. to assume any liabilities of Seller Parent (including by effecting such assumption in connection with a transfer of assets of Range Parent described in clause (a)); or (c) convert Robertshaw Controls Company into a Delaware limited liability company and make an election to treat such entity as a disregarded entity for US federal income tax purposes (such transactions described in clauses (a), (b) or (c), collectively, the "**Reorganization**").

ARTICLE 8

CONDITIONS TO CLOSING

SECTION 8.01 *Conditions to Obligations of Buyer and Sellers*. The obligations of each of Buyer and Sellers to consummate the Closing are subject to the satisfaction or valid waiver at or prior to the Closing of the following conditions:

(a) all waiting periods (including any extension thereof) applicable to the purchase and sale of the Purchased Assets under the HSR Act or any other Antitrust Law, or Foreign Direct Investment Law, set forth on Section 8.01(a) of the Disclosure Schedules shall have expired or been terminated;

(b) no provision of any applicable Law and no judgment, injunction or Order shall then be in effect prohibiting or making illegal the consummation of the Closing;

(c) the Bankruptcy Court shall have entered the Sale Order and the Sale Order shall be a Final Order; and

(d) the Post-Effective Date Budget shall be in form and substance satisfactory to Buyer and Sellers.

SECTION 8.02 *Conditions to Obligation of Buyer*. The obligation of Buyer to consummate the Closing is subject to the satisfaction (or valid waiver) at or prior to the Closing of the following further conditions:

(a) the representations and warranties of Sellers in this Agreement shall be true and correct on and as of the Closing, except to the extent expressly made as of an earlier date, in which case such representations and warranties shall be true and correct as of such earlier date, except in each case where the failure of such representations and warranties to be true and correct (without giving effect to any limitation as to "materiality," "material adverse effect," "Material Adverse

Effect" or similar qualifiers contained therein) has not had or would not reasonably be expected to have a Material Adverse Effect;

(b) the covenants and agreements that Sellers are required to perform or to comply with pursuant to this Agreement at or prior to the Closing shall have been performed and complied with in all material respects;

(c) Sellers shall have delivered, or cause to be delivered, to Buyer each item set forth in Section 2.08(a);

(d) Sellers shall be in compliance with all of the milestones under the RSA, Cash Collateral Order, and DIP Order;

(e) the RSA (with no Seller default thereunder), Cash Collateral Order (to the extent not superseded by the DIP Order), the DIP Credit Agreement and the DIP Order shall remain in full force and effect;

(f) the Exit Financing Agreement shall have been fully executed;

(g) the relief requested in the Non-Participating Lender Adversary Proceeding shall have been granted by Final Order; and

(h) the relief requested in the Invesco Adversary Proceeding shall have been granted by Final Order.

SECTION 8.03 *Conditions to Obligation of Sellers*. The obligation of Sellers to consummate the Closing is subject to the satisfaction (or valid waiver) at or prior to the Closing of the following further conditions:

(a) the representations and warranties of Buyer in this Agreement shall be true and correct on and as of the Closing, except to the extent expressly made as of an earlier date, in which case such representations and warranties shall be true and correct (without giving effect to any limitation as to "materiality," "material adverse effect" or similar qualifiers contained therein) in all respects as of such earlier date, except where such failures to be true and correct would not materially impair or prevent Buyer's ability to consummate the transactions contemplated by this Agreement;

(b) the covenants and agreements that Buyer is required to perform or to comply with pursuant to this Agreement at or prior to the Closing shall have been performed and complied with in all material respects; and

(c) Buyer shall have delivered, or cause to be delivered, to Seller Parent each item set forth in Section 2.08(b).

ARTICLE 9

SURVIVAL

SECTION 9.01 *Survival*. The Parties, intending to modify any applicable statute of limitations, agree that (a)(i) the representations and warranties in this Agreement and in any certificate delivered pursuant hereto and (ii) the covenants in this Agreement only requiring performance prior to the Closing shall, in each case, terminate and be of no further force and effect effective as of the Closing and shall not survive the Closing for any purpose, and thereafter there shall be no Liability on the part of, nor shall any claim be made by or on behalf of, any Party or any Party's Affiliates in respect thereof and (b) the covenants in this Agreement that contemplate performance at or after the Closing or expressly by their terms survive the Closing shall survive the Closing in accordance with their respective terms (the "**Surviving Post-Closing Covenants**") until the earliest of (i) full performance of such covenant in accordance with its terms, (ii) three (3) years following the Closing Date and (iii) with respect to each Seller individually, the completion of the Wind-Down of such Seller. Except with respect to the Surviving Post-Closing Covenants, no other remedy shall be asserted or sought by Buyer, and Buyer shall cause its Affiliates not to assert or seek any other remedy, against Sellers or any of their respective Affiliates under any contract, misrepresentation, tort, strict liability, or statutory or regulatory Law or theory or otherwise, all such remedies being hereby knowingly and expressly waived and relinquished to the fullest extent permitted under applicable Law. Buyer and Sellers acknowledge and agree, on their own behalf and on behalf of their Affiliates that the agreements contained in this Section 9.01 are an integral part of the transactions contemplated hereby and that, without the agreements set forth in this Section 9.01, none of the Parties would enter into this Agreement.

ARTICLE 10

TERMINATION

SECTION 10.01 *Grounds for Termination*. This Agreement may be terminated at any time prior to the Closing:

(a) by mutual written agreement of Seller Parent and Buyer;

(b) by either Seller Parent or Buyer, if the Closing shall not have been consummated on or before August 15, 2024, which such date may be extended for 30 days by mutual written agreement of Seller Parent and Buyer (such date, as may be extended, the "**End Date**"); provided, however, if all of the conditions to Closing, other than the conditions set forth in Section 8.01(a), Section 8.01(b), Section 8.02(g) or Section 8.02(h), shall have been satisfied or shall be capable of being satisfied at the End Date, either Seller Parent or Buyer may, by written notice to the other Party, extend the End Date for two (2) additional thirty (30)-day periods (each, a "**Renewal Period**") and such date, as so extended to the end of the first or second Renewal Period, as the case may be, shall be deemed the End Date; provided, further, that if all of the conditions to Closing, other than the conditions set forth in Section 8.02(g) or Section 8.02(h), shall have been satisfied or shall be capable of being satisfied at the End Date (as such date may be extended pursuant to the immediately preceding proviso), either Seller Parent or Buyer may, by written notice to the other Party, extend the End Date for an additional thirty (30)-day Renewal Period and such date, as so extended to the end of the additional Renewal Period, shall be deemed the End Date; provided, further, that the right to terminate this Agreement pursuant to this Section 10.01(b) shall not be available to a Party whose breach of any of its representations, warranties, covenants or agreements contained herein has been the primary cause of the failure of the Closing to occur on or before the End Date;

(c) by either Seller Parent or Buyer, if at the end of the Auction for the Purchased Assets (if any), Buyer is not determined by Seller Parent to be either the "Successful Bidder" or the "Backup Bidder" (each as defined in the Bidding Procedures Order);

(d) by Seller Parent, if Sellers are not then in material breach of their obligations under this Agreement and Buyer breaches or fails to perform any of its representations, warranties, covenants or agreements contained in this Agreement and such breach or failure to perform (i) would prevent the satisfaction of a condition set forth in Section 8.01 or Section 8.03, (ii) cannot be, or has not been, cured within ten (10) days following delivery of written notice to Buyer of such breach or failure to perform and (iii) has not been waived by Seller Parent;

(e) by Buyer, if Buyer is not then in material breach of its obligations under this Agreement and Sellers breach or fail to perform any of their representations, warranties, covenants or agreements contained in this Agreement and such breach or failure to perform (i) would prevent the satisfaction of a condition set forth in Section 8.01 or Section 8.03, (ii) cannot be, or has not been, cured within ten (10) days following delivery of written notice to Seller Parent of such breach or failure to perform and (iii) has not been waived by Buyer;

(f) by either Buyer or Seller Parent, (i) if the Bankruptcy Court enters an Order dismissing, or converting into cases under Chapter 7 of the Bankruptcy Code, any of the cases commenced by Sellers under Chapter 11 of the Bankruptcy Code and comprising part of the Chapter 11 Cases without the prior approval of the Required Consenting Lenders (as defined in the RSA), (ii) if a trustee or examiner with expanded powers to operate or manage the financial affairs or reorganization of Seller Parent is appointed in the Chapter 11 Cases or (iii) an Order or dismissal, conversion or appointment is entered with respect to the Chapter 11 Cases for any reason and not reversed or vacated within fourteen (14) days after entry thereof;

(g) by Buyer or Seller Parent, if any Governmental Authority issues any Order permanently enjoining or otherwise permanently prohibiting the transactions contemplated by this Agreement and such Order shall have become final and non-appealable; provided, however, that the right to terminate this Agreement pursuant to this Section 10.01(g) shall not be available to a Party that failed to use its reasonable best efforts to contest, resolve or lift such Order; provided, further, that the right to terminate this Agreement under this Section 10.01(g) shall not be available to any Party if such Order was primarily caused by (i) such Party's material breach of any provision of this Agreement or (ii) such Party's failure to comply in any material respect with its obligations hereunder;

(h) automatically, and without any requirement of any Party to deliver any notice of such termination to any other Party, if Sellers publicly announce their support for any stand-alone plan of reorganization or liquidation (or publicly support any such plan filed by any other party), other than a wind-down plan of Sellers' estates post-Closing including pursuant to a plan of liquidation consistent with the RSA;

(i) by either Buyer or Seller Parent, if an Order of the Bankruptcy Court is entered denying approval of the Sale Order and such Order shall have become a Final Order;

(j) by Buyer if the DIP Facility is accelerated and the Required DIP Lenders (as defined in the RSA) exercise remedies as set forth in the DIP Credit Agreement and DIP Orders;

(k) by Buyer if, under Section 363(k) of the Bankruptcy Code, Buyer is unable, pursuant to any Final Order to provide a credit bid (or otherwise bidding on such other terms as may be agreed by Buyer, in its sole discretion) as contemplated by this Agreement in connection with the payment of the Purchase Price;

(l) by Buyer if, during the pendency of the Chapter 11 Cases, any court of competent jurisdiction issues a ruling that the Consenting Lenders (as defined in the RSA) do not hold more than 50% of Claims comprising the total Prepetition First Out Super-Priority Claims and Prepetition Second Out Super-Priority Claims (each as defined in the RSA), or no longer constitute "Required Lenders" under the Prepetition Super-Priority Credit Agreement or the DIP Credit Agreement;

(m) by Buyer if any Seller enters into any settlement in connection with or related to the Invesco Adversary Proceeding or the Non-Participating Lender Adversary Proceeding without the consent of the Required Consenting Lenders;

(n) by Buyer if the Bankruptcy Court or a court of competent jurisdiction enters a Final Order denying, dismissing, or that is otherwise adverse to, the relief sought in the Non-Participating Lender Adversary Proceeding or the Invesco Adversary Proceeding;

(o) by Buyer upon the occurrence of any RSA Termination Event (other than as a result of a breach by the Required Consenting Lenders (as defined in the RSA)); or

(p) by Seller Parent upon the occurrence of any RSA Termination Event (other than as a result of a breach by Sellers).

The Party desiring to terminate this Agreement pursuant to this Section 10.01 (other than pursuant to Section 10.01(a) or Section 10.01(h)) shall give written notice of such termination to the other Party in accordance with Section 11.01. For the avoidance of doubt, each condition permitting termination of this Agreement set forth in this Section 10.01 shall be considered separate and distinct from each other such condition and, if more than one termination condition set forth in this Section 10.01 is applicable, the Party exercising any such termination right shall have the right to choose the termination condition pursuant to which this Agreement is to be terminated.

SECTION 10.02 *Effect of Termination*.

(a) If this Agreement is terminated as permitted by Section 10.01, (i) this Agreement shall become null and void and of no further force and effect, except for the provisions of Section 7.01(a), this Section 10.02, Section 10.03 and Article 11, which shall survive such termination of this Agreement and (ii) no Party (nor any stockholder, director, officer, employee, agent, consultant or representative of any such Party) shall thereafter have any Liability hereunder; provided that nothing in this Section 10.02 shall be deemed to release any Party from any Liability (x) for any breach of this Agreement occurring prior to its termination and (y) that may otherwise be provided in, or contemplated by, the provisions of Section 7.01(a) or Section 10.02(b).

(b) Notwithstanding anything contained in this Agreement to the contrary, in the event (i) this Agreement is terminated pursuant to Section 10.01(c), Section 10.01(e), Section 10.01(f), Section 10.01(h), Section 10.01(i), Section 10.01(j), Section 10.01(m) or Section 10.01(o) or (ii) (A) this Agreement is terminated pursuant to Section 10.01(b) or Section 10.01(g) and (B) at the time of such termination, Buyer is entitled to terminate this Agreement pursuant to Section 10.01(e), Sellers agree, on a joint and several basis, to pay Buyer the Expense Reimbursement (without duplication of the payment of such expenses under any other agreement with Sellers) by wire transfer of immediately available funds promptly within five (5) Business Days of such termination of this Agreement.

SECTION 10.03 *Costs and Expenses*. Except as otherwise expressly provided in this Agreement, including as set forth in Section 10.02(b), whether or not the transactions contemplated by this Agreement are consummated, all costs and expenses incurred in connection with this Agreement shall be paid by the Party incurring such cost or expense.

ARTICLE 11

MISCELLANEOUS

SECTION 11.01 *Notices*. All notices, requests and other communications to any Party hereunder shall be in writing and shall be delivered to the addresses set forth below (or pursuant to such other address(es) as may be designated in writing by the Party to receive such notice):

if to Buyer:

Range Red Operating, Inc.
[___________]
[___________]
Attention: [________]
Email: [_______]

with a copy, which shall not constitute notice, to:

Gibson, Dunn & Crutcher LLP
200 Park Avenue
New York, New York 10166
Attention: Scott J. Greenberg, Jason Zachary Goldstein and Robert B. Little
Email: sgreenberg@gibsondunn.com;
jgoldstein@gibsondunn.com;
rlittle@gibsondunn.com

with a copy, which shall not constitute notice, to:

Debevoise & Plimpton LLP
66 Hudson Blvd E
New York, NY 10001
Attention: Sidney Levinson; Erica Weisgerber; Mitch Carlson
Email: slevinson@debevoise.com;
eweisgerber@debevoise.com;
mcarlson@debevoise.com

if to Sellers, to:

Robertshaw US Holding Corp
1222 Hamilton Parkway
Itasca, IL 60143
Attention: Aaron Rachelson, Vice President & General Counsel
Email: aaron.rachelson@robertshaw.com

with a copy, which shall not constitute notice, to:

Latham & Watkins LLP
1271 Avenue of the Americas
New York, NY 10020
Attention: Alexander Johnson, Javier Stark and George Klidonas
Email: alex.johnson@lw.com;
javier.stark@lw.com;
george.klidonas@lw.com

All such notices, requests and other communications shall be deemed received (a) if delivered prior to 5:00 p.m. New York time on a day which is a Business Day, then on such date of delivery if delivered personally, or, if by email, upon written confirmation of delivery by email (which may be electronic), and if personally delivered after 5:00 p.m. New York time, then on the next succeeding Business Day, (b) on the first (1st) Business Day following the date of dispatch if delivered utilizing a next-day service by a recognized next-day courier or (c) on the earlier of confirmed receipt or the fifth (5th) Business Day following the date of mailing if delivered by registered or certified mail, return receipt requested, postage prepaid.

SECTION 11.02 *Amendments and Waivers*.

(a) Any provision of this Agreement may be amended or waived if, but only if, such amendment or waiver is in writing and is signed, in the case of an amendment, by each of Buyer and Seller Parent (on behalf of itself and each Seller) or, in the case of a waiver, by the Party against whom the waiver is to be effective; provided that any waiver asserted against any Seller shall be valid if given by Seller Parent on behalf of such Seller. For clarity, Bankruptcy Court approval shall not be required for any amendment to this Agreement.

(b) No failure or delay by any Party in exercising any right, power or privilege hereunder shall operate as a waiver thereof nor shall any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any other right, power or privilege. The rights and remedies herein provided shall be cumulative and not exclusive of any rights or remedies provided by Law.

SECTION 11.03 *Successors and Assigns*. The provisions of this Agreement shall be binding upon and inure to the benefit of the Parties and their respective successors and assigns; provided that subject to Buyer's right to designate a Buyer Designee as set forth in Section 2.01, Buyer, on the one hand, may not assign, delegate or otherwise transfer any of its rights or obligations under this Agreement without the prior written consent of Seller Parent, and each Seller, on the other hand, may not assign, delegate or otherwise transfer any of their respective rights or obligations under this Agreement without the prior written consent of Buyer. Any attempted assignment in violation of this Section 11.03 shall be null and void, *ab initio*. Notwithstanding anything herein to the contrary, (a) in no event shall the designation of a Buyer Designee result in incremental Taxes that would be borne by or otherwise reduce any amounts available to Sellers and (b) Buyer shall provide Sellers with a reasonable advance notice prior to the designation of a Buyer Designee and shall cooperate in good faith with Sellers in connection therewith.

SECTION 11.04 *Governing Law*. This Agreement, and all disputes, claims and causes of action (whether in contract or tort) arising out of, relating to or in connection with this Agreement, or the negotiation, execution or performance of this Agreement shall be governed by, and construed in accordance with, the Laws of the State of Delaware, including with respect to the application of the State of Delaware's statute of limitations to any such disputes, claims or causes of action, without regard to the conflicts of law rules of such State.

SECTION 11.05 *Jurisdiction*. The Parties agree that, during the period from the date hereof until the date on which the Chapter 11 Cases are closed or dismissed (the "**Bankruptcy Period**"), any suit, action or proceeding seeking to enforce any provision of, or based on any matter arising out of or in connection with, this Agreement or the transactions contemplated hereby shall be brought exclusively in the Bankruptcy Court. The Parties further agree that, following the Bankruptcy Period, any Action with respect to this Agreement or the transactions contemplated hereby shall be brought against any of the Parties exclusively in either the United States District Court for the District of Delaware or any state court of the State of Delaware located in such district, and each of the Parties hereby irrevocably consents to the jurisdiction of such court and the Bankruptcy Court (and of the appropriate appellate courts therefrom) in any such Action (including any Proceeding) and irrevocably waives, to the fullest extent permitted by law, any objection that it may now or hereafter have to the laying of the venue of any such Action (including any Proceeding) in such courts or that any such Action (including any Proceeding) which is brought in such courts has been brought in an inconvenient forum. Process in any such Action (including any Proceeding) may be served on any party anywhere in the world, whether within or without the jurisdiction of the Bankruptcy Court, the United States District Court for the District of Delaware or any state court of the State of Delaware. Without limiting the foregoing, each Party agrees that service of process on such Party in the manner as provided in Section 11.01 for notices shall be deemed effective service of process on such Party.

SECTION 11.06 *WAIVER OF JURY TRIAL*. TO THE EXTENT NOT PROHIBITED BY APPLICABLE LAW THAT CANNOT BE WAIVED, EACH PARTY HEREBY WAIVES, AND COVENANTS THAT IT WILL NOT ASSERT (WHETHER AS PLAINTIFF, DEFENDANT OR OTHERWISE), ANY RIGHT TO TRIAL BY JURY IN ANY FORUM IN RESPECT OF ANY ISSUE, CLAIM, DEMAND, ACTION OR CAUSES OF ACTION ARISING IN WHOLE OR IN PART UNDER, RELATED TO, BASED ON OR IN CONNECTION WITH THIS AGREEMENT OR ANY OTHER TRANSACTION DOCUMENT OR THE SUBJECT MATTER HEREOF OR THEREOF, WHETHER NOW EXISTING OR HEREAFTER ARISING AND WHETHER SOUNDING IN TORT OR CONTRACT OR OTHERWISE. ANY PARTY HERETO MAY FILE AN ORIGINAL COUNTERPART OR A COPY OF THIS SECTION 11.06 WITH ANY COURT AS WRITTEN EVIDENCE OF THE CONSENT OF EACH SUCH PARTY TO THE WAIVER OF ITS RIGHT TO TRIAL BY JURY.

SECTION 11.07 *Counterparts; Third-Party Beneficiaries*. This Agreement may be signed in any number of counterparts, each of which shall be an original, with the same effect as if the signatures thereto and hereto were upon the same instrument. Delivery of a .pdf version (or other electronic means) of one or more signatures to this Agreement shall be deemed adequate delivery for purposes of this Agreement. This Agreement shall become effective when each Party shall have received a counterpart hereof signed by the other Parties. Except as otherwise expressly stated or referred to herein, and except for the Released Parties under Section 7.16, the applicable D&O Indemnified Persons under Section 7.17 and the Non-Recourse Parties under Section 11.13, no other provision of this Agreement is intended to confer upon any Person other than the Parties any rights, benefits, Proceedings or remedies hereunder.

SECTION 11.08 *Specific Performance*. It is understood and agreed by the Parties that money damages (even if available) would not be a sufficient remedy for any breach of this Agreement by Sellers or Buyer and as a consequence thereof, after the Bankruptcy Court's entry of the Sale Order, Sellers and Buyer shall each be entitled to specific performance and injunctive or other equitable relief as a remedy for any such breach or threatened breach in addition to any other remedy to which such Party may be entitled in Law or in equity, including an Order of the Bankruptcy Court or other court of competent jurisdiction requiring Buyer or Sellers, as may be applicable, to comply promptly with any of their obligations hereunder. Each of the Parties agrees that it will not oppose the granting of an injunction, specific performance and other equitable relief on the basis that the other Party has an adequate remedy at Law or that any award of specific performance is not an appropriate remedy for any reason at Law or in equity. Any Party seeking an injunction or injunctions to prevent breaches of this Agreement and to enforce specifically the terms and provisions of this Agreement shall not be required to provide any bond or other security in connection with such Order.

SECTION 11.09 *Entire Agreement*. This Agreement and the other Transaction Documents (together with the Schedules and Exhibits hereto and thereto) constitute the entire agreement among the Parties with respect to the subject matter hereof and thereof and supersede all prior agreements and understandings, both oral and written, between the Parties with respect to such subject matter. No Party to this Agreement shall be liable or bound to any other Party in any manner by any representations, warranties, covenants or agreements relating to such subject matter except as specifically set forth herein and therein. In the event an ambiguity or question of intent or interpretation arises with respect to this Agreement, the terms and provisions of the execution version of this Agreement will control and prior drafts of this Agreement and the documents referenced herein will not be considered or analyzed for any purpose (including in support of parol evidence proffered by any Person in connection with this Agreement), will be deemed not to provide any evidence as to the meaning of the provisions hereof or the intent of the Parties with respect hereto and will be deemed joint work product of the Parties.

SECTION 11.10 *No Strict Construction*. Buyer, on the one hand, and Sellers, on the other hand, participated jointly in the negotiation and drafting of this Agreement, and, in the event an ambiguity or question of intent or interpretation arises, this Agreement shall be construed as jointly drafted by Buyer, on the one hand, and Sellers, on the other hand, and no presumption or burden of proof shall arise favoring or disfavoring any Party by virtue of the authorship of any provision of this Agreement. Without limitation as to the foregoing, no rule of strict construction construing ambiguities against the draftsperson shall be applied against any Person with respect to this Agreement.

SECTION 11.11 *Severability*. If any term, provision, covenant or restriction of this Agreement is held by a court of competent jurisdiction or other authority to be invalid, void or unenforceable, the remainder of the terms, provisions, covenants and restrictions of this Agreement shall remain in full force and effect and shall in no way be affected, impaired or invalidated so long as the economic or legal substance of the transactions contemplated hereby is not affected in any manner materially adverse to any Party. Upon such a determination, the Parties shall negotiate in good faith to modify this Agreement so as to effect the original intent of the Parties as closely as possible in a mutually acceptable manner in order that the transaction contemplated hereby be consummated as originally contemplated to the fullest extent possible.

SECTION 11.12 *Disclosure Schedules*. The representations and warranties of Sellers set forth in this Agreement are made and given subject to the disclosures in the Disclosure Schedules. Inclusion of information in the Disclosure Schedules will not be construed as an admission that such information is material to the business, operations of condition (financial or otherwise) of Sellers or their respective businesses, in whole or in part, or as an admission of Liability or obligation of Sellers to any Person. The sections of the Disclosure Schedules have been organized for purposes of convenience in numbered sections corresponding to the sections in this Agreement; provided, however, that any disclosure in any section of the Disclosure Schedules will apply to and will be deemed to be disclosed with respect to any other representation and warranty, so long as the applicability of such disclosure is reasonably apparent on its face. It is understood and agreed that the specification of any dollar amount in the representations and warranties or covenants contained in this Agreement or the inclusion of any specific item in the Disclosure Schedules is not intended to imply that such amounts or higher or lower amounts, or the items so included or other items, are or are not material, and no Party or other Person shall use the fact of the setting of such amounts or the fact of the inclusion of any such item in the Disclosure Schedules in any dispute or controversy as to whether any obligation, item or matter not described in this Agreement or included in the Disclosure Schedules is or is not material for purposes of this Agreement. Nothing in this Agreement (including the Disclosure Schedules) shall be deemed an admission by either Party or any of its Affiliates, in any Proceedings, that such Party or any such Affiliate, or any third party, is or is not in breach or violation of, or in default in, the performance or observance of any term or provisions of any Contract or Law. The Disclosure Schedules and the information and disclosures contained therein are intended only to modify the representations or warranties of

Sellers contained in this Agreement. Where the terms of a contract or document have been summarized or described in the Disclosure Schedules, such summary or description does not purport to be a complete statement of the material terms of such contract or document, and all such summaries and descriptions are qualified in their entirety by reference to the contract or document being summarized or described to the extent such contract or other document has been made available to Buyer prior to the date hereof.

SECTION 11.13 *No Recourse*. Notwithstanding anything in this Agreement or in any other Transaction Document, the Parties hereby acknowledge and agree that, except to the extent a Person is a named party to this Agreement, no Person, including any current, former or future director, officer, employee, incorporator, member, manager, director, partner, investor, shareholder, agent, Representative, or Affiliate of any (collectively, the "**Non-Recourse Parties**"), shall have any liability to the other Parties, and each Party shall have no recourse against, any Non-Recourse Party or any other Person other than the other Parties in connection with any liability, claim or cause of action arising out of, or in relation to, this Agreement, any other Transaction Document or the transactions contemplated hereby and thereby, whether pursuant to any attempt to pierce the corporate veil, any claims for fraud, negligence or misconduct or any other claims otherwise available or asserted at law or in equity.

[Signature Pages Follow.]

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

SELLER PARENT

RANGE PARENT, INC.

By:______________________________________
Name:
Title:

OTHER SELLERS

ROBERTSHAW US HOLDING CORP.

By:____
Name:
Title:

ROBERTSHAW CONTROLS COMPANY

By:____
Name:
Title:

BURNER SYSTEMS INTERNATIONAL, INC.

By:____
Name:
Title:

ROBERTSHAW MEXICAN HOLDINGS LLC

By:____
Name:
Title:

CONTROLES TEMEX HOLDINGS LLC

By:_______________________________________
Name:
Title:

UNIVERSAL TUBULAR SYSTEMS, LLC

By:_______________________________________
Name: Title:

BUYER

RANGE RED OPERATING, INC.

By: _______________________________________
Name:
Title: