

## TRADEMARK ASSIGNMENT COVER SHEET

Electronic Version v1.1  
Stylesheet Version v1.2

ETAS ID: TM483973

<b>SUBMISSION TYPE:</b>	NEW ASSIGNMENT		
<b>NATURE OF CONVEYANCE:</b>	RELEASE OF SECURITY INTEREST		
<b>CONVEYING PARTY DATA</b>			
<b>Name</b>	<b>Formerly</b>	<b>Execution Date</b>	<b>Entity Type</b>
Comerica Bank		12/10/2015	Corporation:
<b>RECEIVING PARTY DATA</b>			
<b>Name:</b>	Quirky, Inc.		
<b>Street Address:</b>	606 West 28th Street		
<b>Internal Address:</b>	7th Floor		
<b>City:</b>	New York		
<b>State/Country:</b>	NEW YORK		
<b>Postal Code:</b>	10010		
<b>Entity Type:</b>	Corporation: DELAWARE		
<b>PROPERTY NUMBERS Total: 8</b>			
<b>Property Type</b>	<b>Number</b>	<b>Word Mark</b>	
<b>Registration Number:</b>	3960507	QUIRKY	
<b>Registration Number:</b>	4240135	Q QUIRKY	
<b>Registration Number:</b>	4203188	INVENTED TOGETHER	
<b>Registration Number:</b>	4350686	INVENTOGETHER	
<b>Registration Number:</b>	4191404	MAKING INVENTION ACCESSIBLE	
<b>Registration Number:</b>	4206788	WE MAKE INVENTION ACCESSIBLE	
<b>Registration Number:</b>	4242864	UNHAMPERED	
<b>Registration Number:</b>	5073499	REINVENTING INVENTION	
<b>CORRESPONDENCE DATA</b>			
<b>Fax Number:</b>	8668643947		
<i>Correspondence will be sent to the e-mail address first; if that is unsuccessful, it will be sent using a fax number, if provided; if that is unsuccessful, it will be sent via US Mail.</i>			
<b>Phone:</b>	9738281284		
<b>Email:</b>	tm@myerswol.in.com		
<b>Correspondent Name:</b>	Myers Wolin, LLC		
<b>Address Line 1:</b>	100 Headquarters Plaza		
<b>Address Line 2:</b>	West Tower, Floor 7		
<b>Address Line 4:</b>	Morristown, NEW JERSEY 07960		
<b>ATTORNEY DOCKET NUMBER:</b>	QUIRKY BHI		

OP \$215.00 3960507

<b>NAME OF SUBMITTER:</b>	Harris A. Wolin
<b>SIGNATURE:</b>	/Harris A. Wolin/
<b>DATE SIGNED:</b>	07/31/2018

**Total Attachments: 182**

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The appended Sale Order and Asset Purchase Agreement relate to the assets describe herein (the "Quirky Assets"). In accordance with the Sale Order, the Sale Order may recorded and constitutes conclusive evidence of the release of any claim against the Quirky Assets.

The Quirky Assets are:

COPYRIGHT	APP/REG NO.
QUIRKY MADE HERE Logo	Reg No. VA 1-825-099 Eff. Date: 5/23/12
YUP, IT'S ALL MADE UP Book	Reg No. TX 7-656-646 Eff. Date: 1/15/13  Reg No. VA 1-852-328 Eff. Date: 1/16/13
RAKE N' TAMP Photo	Reg No. VA 1-852-366 Eff. Date: 2/8/13
RAKE N' TAMP Photo	Reg No. VA 1-852-369 Eff. Date: 2/8/13
PLUCK Photo	Reg No. VA 1-852-373 Eff. Date: 2/8/13
PLUCK Photo	Reg No. VA 1-852-374 Eff. Date: 2/8/13
BROOM GROOMER Photo	Reg No. VA 1-852-322 Eff. Date: 2/8/13
BROOM GROOMER Photo	Reg No. VA 1-852-371 Eff. Date: 2/8/13
UNHAMPERED Photo	Reg No. VA 1-852-372 Eff. Date: 2/8/13
GET SHIT DONE T-shirt logo	Reg No. VA 1-852-367 Eff. Date: 3/4/13
BRANCH demo video	Req No. PA0001899811 Eff. Date: 6/25/14

MARK	APP/REG NO.	GOODS/SERVICES
QUIRKY	US filed 2/27/10 App 77946558 Reg 3960507 (5/17/11) US filed 5/4/11 App 85312009 Reg 4273533 (1/8/13) App 85977893 (DM) WIPO filed 11.2.11 (EC, China, Japan, S Korea) Ser No A0026982 Reg 1104018 (11/2/11) China Reg 9.17.12 EU Reg 12.4.12 Korea Reg 4.22.13 Japan Reg 11.1.13 Brazil filed 11.4.11 Ser No 931110512852 Ser No 931110512860 Ser No 931110512909 Canada filed 11.3.11 Ser No 1550638 Reg TMA838,333 (12.12.12)	Class 42 Class 8, 9, 11, 20, 21 Class 12, 16, 18, 21 (DM) [ABN cl. 12, 16, 21 - no use] Class 9, 21, 42 Class 9, 21, 42

MARK	APP/REG NO.	GOODS/SERVICES
Q (design)	US filed 5/4/11 App 85312017 Reg 4273534 (1.8.13) App 85977894 (DM) WIPO filed 11.2.11 (EC, China, Japan, S Korea) Ser No A0026988 Reg 1101858 (11/2/11) EU Reg 11.12.12 Korea Reg 5.1.13 Brazil filed 11.4.11 Ser No 931110512887 Ser No 931110512895 Ser No 931110512879 (cl. 42) (Cl. 42 abandoned Jun '12) Canada filed 11.3.11 Ser No 1550641	Class 8, 9, 11, 18, 20, 21 Class 12, 16, 18, 21 (DM) Abandoned 5.27.13 Class 9, 21 (Class 42 cancel filed Jun '12) Class 9, 21 (cl. 42 services removed Jun '12)
Q QUIRKY (design)	US filed 5/4/11 App 85312026 Reg 4240135 (11/13/12) WIPO filed 9/20/12 (EC, China, Japan, S Korea) Ser No A0031892 Reg 1137311 (11/29/12) Brazil filed 6.28.12 Ser No 931204290225 Canada filed 6.28.12 Ser No 1583095	Class 42 Class 42 Class 42 (class 42 services only)
INVENTED TOGETHER	US filed 5/9/11 App 85315930 Reg 4203188 (9.4.12)	Class 9, 21
INVENT TOGETHER	US filed 5/9/11 App 85315921 Reg 4350686 (6.11.13)	Class 42



MARK	APPI/REG NO.	GOODS/SERVICES
MAKING INVENTION ACCESSIBLE	US filed 12/23/10 App 85204858 Reg 4191404 (8.14.12)	Class 42
WE MAKE INVENTION ACCESSIBLE	US filed 12/23/10 App 85204861 Reg 4206788 (9.11.12)	Class 42
PIVOT POWER	US filed 5/13/11 App 85320268 Reg 4226733 (10.16.12)	Class 9
CORDIES	US filed 5/13/11 App 85320244 Reg 4076775 (12/27/11)	Class 9
CONTORT	US filed 5/13/11 App 85320238 Reg 4070744 (12/13/11)	Class 9
UNHAMPERED	US filed 5/13/11 App 85320253 Reg 4242864 (11/13/12)	Class 21
MANTIS	US filed 5/13/11 App 85320258 Reg 4234777 (10.30.12)	Class 9
BROOM GROOMER	US filed 5/19/11 App 85325432 Reg 4087095 (1/17/12)	Class 21
SOLO	US filed 8/17/11 App 85399821 Reg 4265349 (12/25/12)	Class 20
GET QUIRKY	US filed 12/26/12 App 85810326	Class 35, 42

MARK	APP/REG NO.	GOODS/SERVICES
REINVENTING INVENTION	US filed 12/26/12 App 85810330	Class 35, 42
INVENTED BY REAL PEOPLE LIKE YOU	US filed 6/19/14 App 86/314,324 Reg 4681443 (2/3/2015)	Class 35
PRODUCTS INVENTED BY REAL PEOPLE LIKE YOU	US filed 6/19/14 App 86/314,330	Class 42
OHNO	US filed 11.3.14 App 86/442,911	Class 9, 35, 37, 42
POPPY	US filed 3.30.15 App 86580717	Class 7, 11
EMBER	US filed 5/13/11 App 85320248	Class 9 Abandoned 2.4.13
SOCIAL PRODUCT DEVELOPMENT	US filed 3/2/10 App 77947992	Class 42 Abandoned 7.21.11
A SOCIALLY DEVELOPED PRODUCT	US filed 3/2/10 App 77947969	Class 42 Abandoned 11/14/11
INFLUENCE ENGINE	US filed 3/2/10 App 77948018	Class 35 Abandoned 12/6/10
SKETCH TO STORE	US filed 3/2/10 App 77948001	Class 35 Abandoned 12/6/10
LIFE REINVENTED	US filed 12/26/12 App 85810327	Class 35, 42 Abandoned 2/17/14
BETTER FASTER FUNNER	US filed 12/26/12 App 85810325	Class 35, 42 Abandoned 2/17/14

PATENT APPLICATIONS, PATENTS

PRODUCT	US APPS	NON-US APPS	PATENTS
PIVOT POWER	UA 4.27.11 13/095167	PCT 9.14.11 PCT/US11/51522	US 8,262,399 9.11.12
	UA 8.7.12 13/568,833	China Util Model 2.6.12 201220035403.6	US 8,529,289 9.10.13
	UA 8.8.13 13/962,627	DIV 1.22.13 201320033486.X	US D667,795 9.25.12
	Design 6.16.11 29/394,436	EPO	US D677,630 3.12.13
	Design 7.31.12 29/428,468	JPO 10.28.13	US D701,169 3.18.14
	Design 2.13.13 29/445,582	Canada 10.25.13	CN UM 2.13.13 201220035403.6
		Korea	CN UM 5.7.14 201320033486.X
		Russia	CA 2,834,363 11.25.14
		China 12.27.13 201180071981.3	KR 8.20.14 10-1434816
			JP 5639306 RU 2534038

PRODUCT	US APPS	NON-US APPS	PATENTS
PIV PWR MINI	UA 10.20.11 13/277764  Design 7.13.11 29/397,199	PCT 9.6.12 PCT/US12/53871  China Util Model 2.29.12 201220070779.0  China Design 1/13/12 201230008913.X DIV 10.15.12 201230488587.7  Canada Design 1/13/12 144046 DIV 9.10.12 147341	US 8,500,492 8.6.13  US D 701,169 3.18.14  CA D 144046 10.12.12  CA D 147341 10.12.12  CN UM 10.3.12 ZL 201220070779.0  CN D 11.21.12 ZL 201230008913.X  CN D 2.20.13 ZL 201230488587.7
BROOM GROOMER	PA 4.18.11 61/476,663  UA 9.7.11 13/226,745  UA 12.10.12 13/709,391  UA 3.4.14 14/197,852		US 8,555,459 10.15.13  US 8,701,243 4.22.14
BROOM GROOMER EXTENSIONS	UA 2.14.13 13/767,516		
SOLO	PA 9.22.10 61/385547  UA 9.14.11 13/232,390	PCT 9.14.11 PCT/US11/51521	US 8,523,026 9.3.13
VENTU	UA 10.18.11 13/275820  Design 10.18.11 29/404267		
TP ROLLER	UA 1.7.02 10/040,991  RE 12.3.04 11/004,793		US 6,651,922 11.25.03  US RE41,718 11.21.10

PRODUCT	US APPS	NON-US APPS	PATENTS
ROTATE-A-BLADE	PA 10.25.07 60/982,648 UA 3.13.08 12/047,797 CA 8.28.08 2639208		US 8,739,414 6.3.14
NAVI HELMET	UA 1.22.02 10/054,043		US 6,720,870 4.13.04
DRIFT	UA 3.10.06 11/373,231		US 7,488,177 2.10.09
CONTOUR	Design 11.16.09 29/350358		D 621,626 8.17.10
HERB STRIPPER	UA 6.12.09 12/483,554	GCC	US 7,909,687 3.22.11 GCC
WORKBOOST	PA 10.28.10 61/407,569 Design 10.28.10 29/377,982	PCT 10.27.11 PCT/US2011/058045 CN 4.25.11 201130094596.3 CAN 12.4.11 140131 EC Design 11.4.11 001849126	D 638,587 5.24.11 CN ZL201130094596.3 CAN 140131 EC 001849126-0001

PRODUCT	US APPS	NON-US APPS	PATENTS
STEM	PA 5.13.11 61/486,112 PA 11.30.11 61/565,410 UA 5.2.12 13/461,932 UA 12.12.12 13/712,719 UA 2.20.13 13/771,895 UA 1.23.14 14/162,167 UA UA 8.8.14 14/455,319(CO N of DIV)	PCT 5.2.12 PCT/US1236109 SPAIN Util Model 8.23.12 U201290015 EPO (accel) 12.11.12 12785962.7 Germany UM 1.7.13 20 2012 012 428.5 China UM 5.2.12 201290000161.5 HK STP 5.30.13 13106399.9 JPO	DE UM 1.23.13 DE 20 2012 012 428 U1 ES UM 6.18.13 ES 1078920 CN UM 11.27.13 ZL 201290000161.5 HK STP 1.24.14 HK1184627 US 8,813,641 8.26.14 US 8,916,218 12.23.14 US 9,107,532 8.18.15 EP 2568856 JP 5781689
POD POWER PORT POWER	PA 11.8.11 61/556,874 PA 4.11.12 61/622,761 UA 8.8.12 13/569,824 UA 10.31.14 14/529,412	PCT 8.9.12 PCT/US12/50108 EPO	US 8,905,780 12.9.14
THOR	PA 1.11.12 61/585,472 Design 1.11.12 29/410,753 UA 1.9.13 13/737,766	PCT 1.9.13 PCT/US13/20883 CA	US5,263,222 11.23.93 US D705,511 5.20.14
CROSSOVER	Design 12.7.12 29/439,255		US D713,395 9.16.14
IRON STATION	PA 1.31.12 61/592,696 UA 1.31.13 13/755,414		

PRODUCT	US APPS	NON-US APPS	PATENTS
CRATES	PA 4.10.12 61/622,428  Design 4.13Crates .12 29/418,211	Canada Design 10.12.12	
STAKE	PA 5.15.12 61/647,162  UA 2.22.13 13/773,821		
PROP POWER	PA 7.18.12 61/672,859  UA 7.16.13 13/943,409	PCT 7.16.13 PCT/US13/50742  EPO CA CN HK JPO	
SILO	PA 7.31.12 61/677,527  UA 2.26.13 13/777,168	PCT 7.18.13 PCT/US13/51104  EPO CA CN HK	
SOCKETS	PA 7.31.12 61/678,003  UA 7.29.13 13/952,942	PCT 7.29.13 PCT/US13/52471	
NIMBUS	Design 10.4.13 29/468,914		US D727,814 4.28.15
PICKUP POWER	PA 10.24.12 61/717,813  PA 3.8.13 61/774,838  UA 10.24.13 14/062,587	PCT 10.24.13 PCT/US13/66618	

PRODUCT	US APPS	NON-US APPS	PATENTS
RAKE'N TAMP	PA 11.7.12 61/723,347 PA 3.8.13 61/774,720 UA 11.7.13 14/074,345	PCT 11.7.13 PCT/US13/68936	
PLUCK	PA 11.28.12 61/730,605 UA 1.9.13 13/737,740 UA 8.2.13 13/957,797	UK 1.25.13 1301373.5 NZ 1.24.13 606198 NZ 3.11.13 608081 <u>PCT 11.27.13</u> <u>PCT/US13/27179</u>	NZ 1.24.13 606198 US 9,138,104 9.22.15 NZ 608081 UK 12.10.14 2508444
PIV PWR RUGGED	PA 1.7.13 61/749,608 PA 3.20.13 61/803,504 UA 1.7.14 14/149,612 UA 4.15.15 (CON) 14/687,225	PCT 1.7.14 PCT/US14/10541	US 9,028,274 5.12.2015
FLIPSIDE	PA 2.27.13 61/769,873 UA 2.27.14 14/192795	PCT 2.27.14 PCT/US14/19157	
ZEUS	PA 2.27.13 61/769,877 UA 2.27.14 14/192657	PCT 2.27.14 PCT/US14/19154	US 9,027,186 5.12.15
SHEATH	PA 3.8.13 61/774,250 UA 3.5.14 14/197868	PCT 3.5.14 PCT/US14/20720	



PRODUCT	US APPS	NON-US APPS	PATENTS
GIFTEZE/GIFTS WIFT	PA 8.28.13 61/870,823 UA 8.28.14 14/471,965	PCT 8.28.14 PCT/US14/53229	
SPOTTER	PA 9.12.13 61/877,213 UA 9.12.14 14/484,851	PCT 9.12.14 PCT/US14/56370	
BREAKER BOX	PA 6.4.14 62/007,780		
AROS	PA 12.27.13 61/921,343 DES 12.27.13 29/477,881	CA DES MX DES EU DES CN DES HK DES	EU DES 6.26.14 001415947-0001 CN DES 10.31.14 CN DES 157321 HK DES 6.25.14 1401191.0 US D723,675
NORM	PA 3.24.14 61/969,725 UA 3.24.15 14/667,182	PCT 3.24.15 PCT/US15/22255	
BATTERY KIOSK	PA 8.22.14 62/040,854		
GLOW	PA 2.7.14 61/937,261 UA 2.9.15 14/617,641		
POPPY POUR OVER COFFEE MAKER	PA 3.30.15 62/140,113		

PRODUCT	US APPS	NON-US APPS	PATENTS
BABY FORMULA MACHINE	13/378,425	Aus. 2010262945; FI 1008686-5; CN 2,765,802; Chile 3216-2011; CH 201080036335.9; CO 12-004777; CR 2012- 0020; SP-12-11602; EPO 2012-516284; EPC 10790168.6; HK 12110693.5; 10317/DELNF/2011; w-00201200200; JP 2012-516284; SK 10- 2012-7001365; PI 20 11006134; MX/a/20111013983; NZ 597610; PCT/US2010/038929; Per. 2122-2011; PH 1- 2011-502631; SG 201109355-6; SA 201109355-6; TW 99119659; VT 1-2012- 00138	

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

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	:	
In re:	:	Chapter 11
	:	
QUIRKY, INC., et al. <sup>1</sup>	:	Case No. 15-12596 (MG)
	:	
Debtors.	:	(Jointly Administered)
	:	
	:	
-----	X	

**ORDER AUTHORIZING (I) THE SALE OF CERTAIN OF THE DEBTORS’ ASSETS RELATED TO THE QUIRKY BUSINESS FREE AND CLEAR OF ALL CLAIMS, LIENS, LIABILITIES, RIGHTS, INTERESTS AND ENCUMBRANCES, (II) THE DEBTORS TO ENTER INTO AND PERFORM THEIR OBLIGATIONS UNDER THE ASSET PURCHASE AGREEMENT, (III) THE DEBTORS TO ASSUME AND ASSIGN CERTAIN EXECUTORY CONTRACTS AND UNEXPIRED LEASES, AND (IV) GRANTING RELATED RELIEF**

Upon the motion (the “Motion”),<sup>2</sup> of the above-captioned debtors and debtors in possession (the “Debtors”) for entry of an order (this “Order”) , pursuant to sections 105(a), 363, 365, 503 and 507 of title 11 of the United States Code (the “Bankruptcy Code”), rules 2002, 6004 and 6006 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”) and rules 2002-1, 6004-1, and 6006-1 of the Local Bankruptcy Rules for the Southern District of New York (the “Local Rules”), authorizing and approving the following:

- (i) the sale of the Quirky Assets (as defined below);
- (ii) the entry into, performance under and terms and conditions of the Asset Purchase Agreement dated as of November 2, 2015 (collectively with all related agreements, amendments, documents or instruments and all exhibits, schedules and addenda to any of the foregoing, the “Quirky Agreement”), substantially in

<sup>1</sup> The Debtors in these chapter 11 cases and the last four digits of each Debtor’s taxpayer identification number are as follows: Quirky, Inc. (2873); Wink, Inc. (8826); and Undercurrent Acquisition, LLC (9692). The Debtors’ principal offices are located at 606 West 28<sup>th</sup> Street, Seventh Floor, New York, NY 10001.

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

the form attached hereto as **Exhibit 1**, whereby Quirky has agreed to sell, and Q Holdings LLC (the “Buyer”) has agreed to buy, certain of Quirky’s assets (specifically as set forth and defined in the Quirky Agreement, the “Quirky Assets”), free and clear of all Claims (as defined herein), liabilities, rights, interests, setoff rights and encumbrances, and where Quirky has agreed to transfer, subject only to liabilities, if any, that the Buyer expressly agreed to assume under the Quirky Agreement and only to the extent such liabilities are specifically set forth and defined in the Quirky Agreement (collectively, and including all actions taken or required to be taken in connection with the implementation and consummation of the Quirky Agreement, the “Sale of Quirky Assets”); and

- (iii) the assumption by and assignment to the Buyer of certain executory contracts and unexpired leases of Quirky; and
- (iv) other related relief;

and the Court having entered an order approving the bidding procedures and granting certain related relief on October 27, 2015, 2015 [Docket No. 186] (the “Quirky Bidding Procedures Order”); and an auction having been conducted in accordance with the Quirky Bidding Procedures Order (the “Auction”); and the Buyer having submitted the highest or otherwise best offer for the Quirky Assets; and the Court having conducted a hearing on the Motion on December 7, 2015 (the “Sale Hearing”) at which time all interested parties were offered an opportunity to be heard with respect to the Motion; and the Court having reviewed and considered the Motion, the Quirky Agreement, the Quirky Bidding Procedures Order, the record of the hearing before the Court on October 23, 2015 at which the Quirky Bidding Procedures Order was approved; and all objections to the Sale of Quirky Assets and the Quirky Agreement filed in accordance with the Quirky Bidding Procedures Order; and the appearance of all interested parties and all responses and objections to the Motion having been duly noted in the record of the Sale Hearing; and upon the record of the Sale Hearing, and having heard statements of counsel and the evidence presented in support of the relief requested in the Motion at the Sale Hearing; and upon all of the proceedings had before the Court, and all objections and responses

to the relief requested in the Motion having been heard and overruled, continued or resolved on the terms set forth in this Order, and it appearing that due notice of the Motion, the Quirky Agreement, the Quirky Bidding Procedures Order and the Auction having been provided; and it appearing that the relief requested in the Motion is in the best interests of the Debtors, their estates, their creditors and all other parties in interest; and it appearing that the Court has jurisdiction over this matter; and it further appearing that the legal and factual bases set forth in the Motion and at the Sale Hearing establish just cause for the relief granted herein; and after due deliberation thereon,

**THE COURT EXPRESSLY FINDS AS FOLLOWS:<sup>3</sup>**

**I. Jurisdiction, Venue, and Final Order**

A. This Court has jurisdiction to hear and determine the Motion pursuant to 28 U.S.C. § 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2). Venue is proper in this District and in this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

B. This Order constitutes a final and appealable order within the meaning of 28 U.S.C. § 158(a). Notwithstanding Bankruptcy Rules 6004(h) and 6006(d) and 7062, and to the 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 Order and expressly directs entry of this Order as set forth herein.

**II. Notice of the Sale of Quirky Assets, Quirky Agreement, Sale Hearing, Auction and the Cure Amounts**

C. On September 22, 2015 (the "Petition Date"), each of the Debtors commenced a case by filing a voluntary petition for relief under chapter 11 of the Bankruptcy

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<sup>3</sup> All findings of fact and conclusions of law announced by the Court at the Sale Hearing in relation to the Motion are hereby incorporated to the extent not inconsistent herewith.

Code (the “Chapter 11 Cases”). Since the Petition Date, the Debtors have continued in possession and management of their businesses and properties as debtors-in-possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.

D. As evidenced by the affidavits of service previously filed with this Court, and based on the representations of counsel at the Sale Hearing, due, proper, timely, adequate and sufficient notice of the Motion, the Auction, the Sale Hearing, the Quirky Agreement and the sale of Quirky Assets has been provided in accordance with sections 102(1), 363 and 365 of the Bankruptcy Code, Bankruptcy Rules 2002, 6004, 6006 and 9014, and Local Rules 2002-1 and 6004-1. The Debtors have complied with all obligations to provide notice of the Motion, the Auction, the Sale Hearing, the Quirky Agreement and the sale of Quirky Assets as required by the Quirky Bidding Procedures Order. The aforementioned notices are good, sufficient and appropriate under the circumstances, and no other or further notice of the Motion, the Auction, the Sale Hearing, the Quirky Agreement or the sale of Quirky Assets is or shall be required.

E. A reasonable opportunity to object or to be heard regarding the relief requested in the Motion was afforded to all interested persons and entities.

**III. Marketing Process**

F. As demonstrated by the evidence proffered or adduced at the Sale Hearing and the representations of counsel at the Sale Hearing, the Debtors and their professionals have complied in all respects with the Quirky Bidding Procedures Order. The Debtors and their professionals have, under the circumstances, adequately and appropriately marketed the Quirky Assets. The bidding process was duly noticed and conducted in a diligent, non-collusive, fair and good faith manner, and the bidding process set forth in the Quirky Bidding Procedures Order afforded a full, fair and reasonable opportunity for any person or entity to qualify as a bidder, participate in the Auction and to make a higher or otherwise better offer to purchase the Quirky

Assets. The Debtors (i) provided potential purchasers, upon request, sufficient information to enable them to make an informed judgment on whether to bid on the Quirky Assets, and (ii) considered any bids submitted on or before the deadline established by the Court for the submission of bids.

G. The Buyer is the Successful Bidder for the Quirky Assets in accordance with the Quirky Bidding Procedures Order. The Buyer and its representatives have complied in all respects with the Quirky Bidding Procedures Order and all other applicable orders of this Court in negotiating and entering into the Quirky Agreement, and the sale and the Quirky Agreement likewise comply with the Quirky Bidding Procedures Order and all other applicable orders of this Court.

**IV. Highest or Otherwise Best Offer; Business Judgment**

H. The Quirky Agreement, including the form and total consideration to be realized by Quirky under the Quirky Agreement, (i) constitutes the highest or otherwise best offer received by Quirky for the Quirky Assets; (ii) is fair and reasonable; and (iii) is in the best interests of the Debtors, their estates, their creditors and all other parties in interest.

I. Quirky's determination that the consideration provided by the Buyer under the Quirky Agreement constitutes the highest or otherwise best offer for the Quirky Assets constitutes a valid and sound exercise of Quirky's business judgment.

J. Consistent with their fiduciary duties, Quirky has demonstrated good, sufficient and sound business reasons and justifications for entering into the sale of Quirky Assets and the performance of their obligations under the Quirky Agreement, including, but not limited to, the fact that (i) the consideration provided by the Buyer under the Quirky Agreement will provide a greater recovery for the Debtors' estates than would be provided by any other available alternative, including a separate liquidation of the Quirky Assets; and (ii) unless the

sale is concluded expeditiously as provided for in the Motion and pursuant to the Quirky Agreement, recoveries of creditors will be diminished.

**V. Good Faith; Arms' Length Sale**

K. The sale process engaged in by Quirky, including, without limitation, the Quirky Bidding Procedures set forth in the Quirky Bidding Procedures Order and the negotiation of the Quirky Agreement, was at arms' length, non-collusive, in good faith, for fair value and substantively and procedurally fair to all parties.

L. The Debtors, the Buyer and their respective representatives have complied, in good faith, in all respects with the Quirky Bidding Procedures Order.

M. The Buyer is a good faith buyer within the meaning of section 363(m) of the Bankruptcy Code, and is therefore entitled to the full protection of that provision, and otherwise has proceeded in good faith in all respects in connection with these proceedings. None of the Debtors or the Buyer has engaged in any conduct that would prevent the application of section 363(m) of the Bankruptcy Code.

N. The Quirky Agreement and the sale of Quirky Assets contemplated thereunder were proposed, negotiated and entered into by and among Quirky and the Buyer without collusion, and none of the Debtors or the Buyer has engaged in any conduct that would cause or permit the Quirky Agreement or the sale of Quirky Assets to be avoided, or costs or damages to be imposed, under section 363(n) of the Bankruptcy Code.

O. Neither the Buyer nor any of its affiliates, present or contemplated members, officers, directors, shareholders or any of their respective successors and assigns is an "insider" of any of the Debtors, as that term is defined in section 101(31) of the Bankruptcy Code. No common identity of directors or controlling shareholders exists between the Debtors and the Buyer.



P. The Quirky Agreement was not entered into, and neither Quirky nor the Buyer has entered into the Quirky Agreement or proposes to consummate the sale of Quirky Assets, for the purpose of hindering, delaying or defrauding the Debtors' present or future creditors. Neither Quirky nor the Buyer is entering into the Quirky Agreement, or proposing to consummate the sale of Quirky Assets, fraudulently, for the purpose of statutory and common law fraudulent conveyance and fraudulent transfer claims whether under the Bankruptcy Code or under the laws of the United States, any state, territory, possession thereof or the District of Columbia or any other applicable jurisdiction with laws substantially similar to the foregoing.

Q. The form and total consideration to be realized by Quirky under the Quirky Agreement constitutes fair value, fair, full and adequate consideration, reasonably equivalent value and reasonable market value for the Quirky Assets.

**VI. Corporate Authority**

R. Quirky (i) has full corporate or other power to execute, deliver and perform their obligations under the Quirky Agreement and the sale of Quirky Assets contemplated thereby, and entry into the Quirky Agreement has been duly and validly authorized by all necessary corporate or similar action; (ii) has all of the corporate or other power and authority necessary to consummate the sale of Quirky Assets contemplated by the Quirky Agreement; and (iii) has taken all actions necessary to authorize and approve the Quirky Agreement and the sale of Quirky Assets contemplated thereby. No consents or approvals, other than those expressly provided for herein or in the Quirky Agreement, are required for the Debtors to consummate such sale of Quirky Assets.

**VII. Section 363 Is Satisfied**

S. The Debtors have, to the extent necessary, satisfied the requirements of section 363(b)(1) of the Bankruptcy Code. Accordingly, appointment of a consumer privacy

ombudsman pursuant to sections 363(b)(1) or 332 of the Bankruptcy Code is not required with respect to the relief requested in the Motion.

T. The Quirky Assets constitute property of the Debtors' estates and exclusive title thereto is presently vested in the Debtors' estates within the meaning of section 541(a) of the Bankruptcy Code.

U. The sale of all Quirky Assets to the Buyer under the terms of the Quirky Agreement meets the applicable provisions of section 363(f) of the Bankruptcy Code such that the sale of the Quirky Assets will be free and clear of any and all Claims (except as expressly provided in the Quirky Agreement), the transfer of the Quirky Assets to the Buyer will be free and clear of all Claims and will not subject the Buyer or any of the Buyer's assets to any liability for any Claims whatsoever (including, without limitation, under any theory of equitable law, antitrust, setoff, or successor or transferee liability). All holders of Claims who did not object, or withdrew their objections to the sale of Quirky Assets, are deemed to have consented to the sale of Quirky Assets pursuant to section 363(f)(2) of the Bankruptcy Code. All holders of Claims are adequately protected – thus satisfying section 363(e) of the Bankruptcy Code – by having their Claims, if any, attach to the proceeds of the sale of Quirky Assets ultimately attributable to the property against or in which they assert a Claim or other specifically dedicated funds, in the same order of priority and with the same validity, force and effect that such Claim holder had prior to the sale of Quirky Assets, subject to any rights, claims and defenses of the Debtors or their estates, as applicable, or as otherwise provided herein.

V. The Buyer would not have entered into the Quirky Agreement and would not consummate the sale of Quirky Assets, thus adversely affecting the Debtors, their estates, creditors, employees and other parties in interest, if the sale of the Quirky Assets was not free

and clear of all Claims or if the Buyer would, or in the future could, be liable for any Claims, including, without limitation and as applicable, certain liabilities that expressly are not assumed by the Buyer as set forth in the Quirky Agreement or in this Order. The Buyer asserts that it will not consummate the sale of Quirky Assets unless the Quirky Agreement specifically provides, and this Court specifically orders, that none of the Buyer, its assets or the Quirky Assets will have any liability whatsoever with respect to, or be required to satisfy in any manner, whether at law or in equity, whether by payment, setoff or otherwise, directly or indirectly, any (i) Claim, or (ii) any successor or transferee liability for any of the Debtors.

W. The Buyer is not a successor to the Debtors or their respective estates by reason of any theory of law or equity, and neither the Buyer nor any of its affiliates shall assume or in any way be responsible for any liability or obligation of any of the Debtors or their respective estates, except as otherwise expressly provided in the Quirky Agreement or this Order. The Buyer is not a continuation of the Debtors or their respective estates and there is no continuity between the Buyer and the Debtors. The Buyer is not holding itself out to the public as a continuation of the Debtors or their respective estates and the sale of Quirky Assets do not amount to a consolidation, merger or de facto merger of the Buyer and the Debtors.

X. The transfer of the Quirky Assets to the Buyer under the Quirky Agreement will be a legal, valid and effective transfer of all of the legal, equitable and beneficial right, title and interest in and to the Quirky Assets free and clear of all Claims. The transfer of the Quirky Assets to the Buyer will vest the Buyer with good and marketable title to the Quirky Assets.

Y. There is no legal or equitable reason to delay the sale of Quirky Assets. The sale of Quirky Assets must be approved and consummated promptly in order to preserve the

value of the Debtors' assets. All factual predicates to the waiver of any stay of this Order under Bankruptcy Rules 6004(h) and 6006(d) have been satisfied.

Z. The Debtors have demonstrated both (i) good, sufficient and sound business judgment, purposes and justifications; and (ii) compelling circumstances for the Sale of Quirky Assets pursuant to section 363(b) of the Bankruptcy Code prior to, and outside of, a plan of reorganization in that, among other things, absent the immediate consummation of the sale of Quirky Assets, the value of the Debtors' assets will be harmed. To maximize the value of the Quirky Assets, it is essential that the sale of Quirky Assets occur within the timeframe set forth in the Quirky Agreement. Time is of the essence in consummating the sale of Quirky Assets.

AA. Entry into the Quirky Agreement and consummation of the sale of Quirky Assets do not constitute a sub rosa chapter 11 plan.

**THEREFORE, IT IS HEREBY ORDERED THAT:**

**I. General Provisions**

1. The Motion is granted to the extent provided herein.
2. Any objections to the Motion or the relief requested therein that have not been withdrawn, waived or settled, and all reservations of rights included therein, are hereby overruled on the merits and denied with prejudice. All persons and entities given notice of the Motion that failed to timely object thereto are deemed to consent to the relief sought therein.
3. The findings and conclusions set forth herein constitute the Court's findings of fact and conclusions of law pursuant to Bankruptcy Rule 7052, made applicable to this proceeding pursuant to Bankruptcy Rule 9014. To the extent any of the findings of fact constitute conclusions of law, they are adopted as such. To the extent any of the following conclusions of law constitute findings of fact, they are adopted as such.

**II. Approval of the Quirky Agreement**

4. The Quirky Agreement, all of the terms and conditions thereof, and consummation of the sale of Quirky Assets contemplated therein, are authorized and approved in all respects pursuant to section 363(b) of the Bankruptcy Code. The failure specifically to include any particular provision of the Quirky Agreement in this Order shall not diminish or impair the effectiveness of such provision, it being the intent of the Court that the Quirky Agreement be authorized and approved in its entirety.

5. The Debtors and their respective officers, employees and agents are authorized and directed to take any and all actions necessary, appropriate or reasonably requested by the Buyer to perform, consummate, implement and close the Sale of Quirky Assets, including, without limitation, (i) the sale to the Buyer of all Quirky Assets, in accordance with the terms and conditions set forth in the Quirky Agreement and this Order, and (ii) executing, acknowledging and delivering such deeds, assignments, conveyances and other assurance, documents and instruments of transfer and taking any action for purposes of assigning, transferring, granting, conveying and confirming to the Buyer, or reducing to possession, the Quirky Assets, including any further cooperation after the Closing pursuant to the Quirky Agreement. The Debtors are further authorized to pay, without further order of this Court, whether before, at or after the Closing, any expenses or costs that are required to be paid in order to consummate the Sale of Quirky Assets or perform their obligations under the Quirky Agreement.

6. All persons and entities are prohibited and enjoined from taking any action to prevent, adversely affect or interfere with, or which would be inconsistent with, the ability of the Debtors to transfer the Quirky Assets to the Buyer in accordance with the Quirky Agreement and this Order.

**III. Sale and Transfer Free and Clear of Claims**

7. Except as otherwise expressly provided in the Quirky Agreement, pursuant to sections 105(a) and 363(f) of the Bankruptcy Code, the Quirky Assets shall be sold free and clear of all claims, liens (including, without limitation, any statutory lien on real and personal property and any and all “liens” as that term is defined and used in the Bankruptcy Code, including section 101(37) thereof), liabilities, interests, rights and encumbrances, including, without limitation, the following: all mortgages, restrictions (including, without limitation, any restriction on the use, voting rights, transfer rights, claims for receipt of income or other exercise of any attributes of ownership), hypothecations, charges, indentures, loan agreements, instruments, leases, licenses, options, deeds of trust, security interests, equity interests, conditional sale rights or other title retention agreements, pledges, judgments, demands, rights of first refusal, consent rights, offsets, contract rights, rights of setoff, recoupment rights, rights of recovery, reimbursement rights, contribution claims, indemnity rights, exoneration rights, product liability claims, alter-ego claims, environmental rights and claims (including, without limitation, toxic tort claims), labor rights and claims, employment rights and claims, pension rights and claims, tax claims, regulatory violations by any governmental entity, decrees of any court or foreign or domestic governmental entity, charges of any kind or nature, debts arising in any way in connection with any agreements, acts, or failures to act, reclamation claims, obligation claims, demands, guaranties, option rights or claims, rights, contractual or other commitment rights and claims, rights of licensees or sublicensees (if any) under section 365(n) of the Bankruptcy Code or any similar statute, rights of tenants and subtenants (if any) under section 365(h) of the Bankruptcy Code or any similar statute, and all other matters of any kind and nature, whether known or unknown, choate or inchoate, filed or unfiled, scheduled or unscheduled, noticed or unnoticed, recorded or unrecorded, perfected or unperfected, allowed or

disallowed, contingent or non-contingent, liquidated or unliquidated, matured or unmatured, material or non-material, disputed or undisputed, whether arising prior to or subsequent to the commencement of these Chapter 11 Cases (but, for the avoidance of doubt, in each case arising from the ownership of the Quirky Assets or the operation of the business prior to the Closing Date), and whether imposed by agreement, understanding, law, equity or otherwise, including claims otherwise arising under any theory, law or doctrine of successor liability or related theories (all of the foregoing collectively being referred to in this Order as “Claims”, and, as used in this Order, the term “Claims” includes, without limitation, any and all “claims” as that term is defined and used in the Bankruptcy Code, including section 101(5) thereof), with all such Claims to attach to the proceeds of the Sale of Quirky Assets to be received by the Debtors with the same validity, force, priority and effect which they now have as against the Quirky Assets, subject to any claims and defenses the Debtors may possess with respect thereto.

8. At Closing, all of Quirky’s right, title and interest in and to, and possession of, the Quirky Assets shall be immediately vested in the Buyer pursuant to sections 105(a), 363(b), 363(f) and 365 of the Bankruptcy Code free and clear of any and all Claims. Such transfer shall constitute a legal, valid, binding and effective transfer of, and shall vest the Buyer with good and marketable title to, the Quirky Assets. All person or entities, presently or on or after the Closing, in possession of some or all of the Quirky Assets are directed to surrender possession of the Quirky Assets to the Buyer or its designees on the Closing or at such time thereafter as the Buyer may request.

9. This Order is and shall be binding upon and govern the acts of all entities, including, without limitation, all filing agents, filing officers, title agents, title companies, recorders of mortgages, recorders of deeds, registrars of deeds, registrars of patents, trademarks

or other intellectual property, administrative agencies, governmental departments, secretaries of state, federal and local officials and all other persons and entities who may be required by operation of law, the duties of their office or contract, to accept, file, register or otherwise record or release any documents or instruments; and each of the foregoing persons and entities is hereby authorized and directed to accept for filing any and all of the documents and instruments necessary and appropriate to consummate the Sale of Quirky Assets contemplated by the Quirky Agreement. The Quirky Assets are sold free and clear of any reclamation rights.

10. Except as otherwise expressly provided in the Quirky Agreement, all persons and entities (and their respective successors and assigns), including, but not limited to, all debt security holders, equity security holders, affiliates, governmental, tax and regulatory authorities, lenders, customers, vendors, employees, trade creditors, litigation claimants and other creditors holding Claims against Quirky or the Quirky Assets arising under or out of, in connection with, or in any way relating to, Quirky, Quirky's predecessors or affiliates, the Quirky Assets, the ownership, sale or operation of the Quirky Assets and the business prior to Closing or the transfer of the Quirky Assets to the Buyer, are hereby forever barred, estopped and permanently enjoined from asserting such Claims against the Buyer, its successors or assigns, their property or the Quirky Assets. Following the Closing, no holder of any Claim shall interfere with the Buyer's title to or use and enjoyment of the Quirky Assets based on or related to any such Claim, or based on any action the Debtors may take in the Chapter 11 Cases.

11. If any person or entity that has filed financing statements, mortgages, mechanic's Claims, lis pendens or other documents or agreements evidencing Claims against or in the Quirky Assets shall not have delivered to Quirky prior to the Closing of the Sale of Quirky Assets, in proper form for filing and executed by the appropriate parties, termination statements,



instruments of satisfaction, releases of all Claims that the person or entity has with respect to the Quirky Assets, (a) the Debtors are hereby authorized and directed to execute and file such statements, instruments, releases and other documents on behalf of the person or entity with respect to the Quirky Assets; (b) the Buyer is hereby authorized to file, register or otherwise record a certified copy of this Order, which, once filed, registered or otherwise recorded, shall constitute conclusive evidence of the release of all such Claims against the Buyer and the applicable Quirky Assets; and (c) the Buyer may seek in this Court or any other court to compel appropriate parties to execute termination statements, instruments of satisfaction and releases of all such Claims with respect to the Quirky Assets. This Order is deemed to be in recordable form sufficient to be placed in the filing or recording system of each and every federal, state, or local government agency, department or office. Notwithstanding the foregoing, the provisions of this Order authorizing the sale and assignment of the Quirky Assets free and clear of Claims shall be self-executing, and none of the Debtors nor the Buyer shall be required to execute or file releases, termination statements, assignments, consents or other instruments in order to effectuate, consummate and implement the provisions of this Order.

12. To the maximum extent permitted under applicable law, the Buyer shall be authorized, as of the Closing Date, to operate under any license, permit, registration and governmental authorization or approval of the Debtors with respect to the Quirky Assets, and all such licenses, permits, registrations and governmental authorizations and approvals are deemed to have been, and hereby are, directed to be transferred to the Buyer as of the Closing Date.

13. No governmental unit (as defined in section 101(27) of the Bankruptcy Code) or any representative thereof may deny, revoke, suspend or refuse to renew any permit, license or similar grant relating to the operation of the Quirky Assets on account of the filing or

pendency of the Chapter 11 Cases or the consummation of the Sale of Quirky Assets to the extent that any such action by a governmental unit or any representative thereof would violate section 525 of the Bankruptcy Code.

**IV. No Successor or Transferee Liability**

14. The Buyer shall not be deemed, as a result of any action taken in connection with the Quirky Agreement, the consummation of the Sale of Quirky Assets contemplated by the Quirky Agreement, or the transfer or operation of the Quirky Assets to (a) be a legal successor, or otherwise be deemed a successor to the Debtors; (b) have, de facto or otherwise, merged with or into the Debtors; or (c) be an alter ego or a mere continuation or substantial continuation of the Debtors or the enterprise(s) of the Debtors, including, without limitation, within the meaning of any foreign, federal, state or local revenue law, pension law, the Employee Retirement Income Security Act, the Consolidated Omnibus Budget Reconciliation Act (“COBRA”), WARN (defined below), CERCLA (defined below), the Fair Labor Standard Act, Title VII of the Civil Rights Act of 1964 (as amended), the Age Discrimination and Employment Act of 1967 (as amended), the Federal Rehabilitation Act of 1973 (as amended), the National Labor Relations Act, 29 U.S.C. § 151, et seq. (the “NLRA”), environmental liabilities, debts, claims or obligations arising from conditions first existing on or prior to the Closing Date (including, without limitation, the presence of hazardous, toxic, polluting, or contaminating substances or wastes), which may be asserted on any basis, including, without limitation, under CERCLA, any liabilities, debts or obligations of or required to be paid by the Debtors for any taxes of any kind for any period, labor, employment, or other law, rule or regulation (including, without limitation, filing requirements under any such laws, rules or regulations), or under any products liability law or doctrine with respect to the Debtors’ liability under such law, rule or regulation or doctrine.

15. The Buyer shall not have any responsibility for (a) any liability or other obligation of the Debtors or related to the Quirky Assets or (b) any Claims against the Debtors or any of their predecessors or affiliates. The Buyer shall have no liability whatsoever with respect to the Debtors' (or their predecessors' or affiliates') respective businesses or operations or any of the Debtors' (or their predecessors' or affiliates') obligations (as described herein, "Successor or Transferee Liability") based, in whole or part, directly or indirectly, on any theory of successor or vicarious liability of any kind or character, or based upon any theory of antitrust, environmental, successor or transferee liability, de facto merger or substantial continuity, labor and employment or products liability, whether known or unknown as of the Closing Date, now existing or hereafter arising, asserted or unasserted, fixed or contingent, liquidated or unliquidated, including 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 Quirky Assets prior to the Closing. The Buyer shall have no liability or obligation under the WARN Act (29 U.S.C. §§ 2101 et seq.) ("WARN") or the Comprehensive Environmental Response Compensation and Liability Act ("CERCLA"), or any foreign, federal, state or local labor, employment, or environmental law whether of similar import or otherwise by virtue of the Buyer's purchase of the Quirky Assets by the Buyer.

16. Except as otherwise provided in the Quirky Agreement, nothing in this Order or the Quirky Agreement shall require the Buyer to (a) continue or maintain in effect, or assume any liability in respect of any employee, collective bargaining agreement, pension, welfare, fringe benefit or any other benefit plan, trust arrangement or other agreements to which the Debtors are a party or have any responsibility therefor including, without limitation, medical, welfare and pension benefits payable after retirement or other termination of employment; or (b)

assume any responsibility as a fiduciary, plan sponsor or otherwise, for making any contribution to, or in respect of the funding, investment or administration of any employee benefit plan, arrangement or agreement (including but not limited to pension plans) or the termination of any such plan, arrangement or agreement.

17. Effective upon the Closing Date, all persons and entities are forever prohibited and enjoined from commencing or continuing in any matter any action or other proceeding, whether in law or equity, in any judicial, administrative, arbitral or other proceeding against the Buyer, or its assets (including the Quirky Assets), with respect to any (a) Claim or (b) Successor or Transferee Liability including, without limitation, the following actions with respect to clauses (a) and (b): (i) commencing or continuing any action or other proceeding pending or threatened; (ii) enforcing, attaching, collecting or recovering in any manner any judgment, award, decree or order; (iii) creating, perfecting or enforcing any lien, claim, interest or encumbrance; (iv) asserting any setoff, right of subrogation or recoupment of any kind; (v) commencing or continuing any action, in any manner or place, that does not comply with, or is inconsistent with, the provisions of this Order or other orders of this Court, or the agreements or actions contemplated or taken in respect hereof; or (vi) revoking, terminating or failing or refusing to renew any license, permit or authorization to operate any of the Quirky Assets or conduct any of the businesses operated with such assets.

**V. Good Faith; Arms' Length Sale**

18. The Quirky Agreement has been negotiated and executed, and the Sale of Quirky Assets contemplated by the Quirky Agreement are and have been undertaken, by Quirky, the Buyer and their respective representatives at arms' length, without collusion and in "good faith," as that term is defined in section 363(m) of the Bankruptcy Code. Accordingly, the reversal or modification on appeal of the authorization provided herein to consummate the sale

shall not affect the validity of the Sale of Quirky Assets, unless such authorization and consummation of the sale are duly and properly stayed pending such appeal. The Buyer is a good faith purchaser within the meaning of section 363(m) of the Bankruptcy Code and, as such, is entitled to the full protections of section 363(m) of the Bankruptcy Code.

19. Neither Quirky nor the Buyer has engaged in any conduct that would cause or permit the Quirky Agreement or the Sale of Quirky Assets to be avoided or costs, or damages or costs, to be imposed, under section 363(n) of the Bankruptcy Code. The consideration provided by the Buyer for the Quirky Assets under the Quirky Agreement is fair and reasonable, and the Sale of Quirky Assets may not be avoided under section 363(n) of the Bankruptcy Code.

**VI. Other Provisions**

20. Section 2.2(g) (Excluded Assets) of the Quirky Agreement is deleted in its entirety and replaced with the following:

All causes of action that the Seller may hold against any current or former director, officer or employee of Seller for breach of fiduciary duty or claims of a similar nature, provided that any such causes of action, whenever arising, that may be asserted against a director, officer or employee of Seller who becomes a director, officer, or employee of the Purchaser may be asserted against such Person solely to the extent of available insurance proceeds and may not be asserted to recover from the personal assets of such Person.

21. In full resolution of the objections filed by General Electric and related entities (collectively “GE”) [Docket Nos. 182, 225] and the matters raised therein (i) all GE co-branded inventory, including but not limited to that set forth in the exhibit attached to GE’s supplemental objection [Docket No. 225] (the “Co-Branded Inventory”), shall be removed from the Sale of Quirky Assets, and the Buyer agrees that those assets are not being sold to it, and (ii) the purchase price for the consideration of the Sale of Quirky Assets shall be reduced by

\$175,000. Quirky shall retain the right to sell the Co-Branded Inventory to a third party only with the consent of GE or upon motion to and approval by the Court; and provided further that, in connection with such sale of Co-Branded Inventory, the Buyer shall have the right of first refusal as to any approved sale to a third party.

22. In full resolution of the objection filed by Flextronics Sales and Marketing (A-P), Ltd. and other related entities (collectively, “Flex”) [Docket No. 185] and the matters raised therein (i) Quirky will transfer to Flex, free and clear of liens, claims, encumbrances and interests pursuant to Section 363 of the Bankruptcy Code, all of Quirky’s right, title and interest related in any way to Norm and P6-Ohno, including, without limitation, the patent applications, know-how, prototypes, design, engineering and other work, and other intellectual property to the extent embodied in those products and all of Quirky’s Statement of Work 103 (Norm) and Statement of Work 105 (P6-Ohno), and the Buyer agrees that those assets are not being sold to it, (ii) Flex consents to Quirky’s transfer to the Buyer of Spotter, IFM (Infant Formula Mixer) and Poppy and will not assert any cure claim or other right to current or future payment for the same against either the Debtors or the Buyer; and (iii) Flex shall have no obligation to provide further design or other support to Quirky or the Buyer. For additional specificity, the following assets are hereby deleted from the disclosure schedules to the Quirky Agreement and are not being conveyed as part of the sale to Purchaser: (i) the patent application for Norm (Disclosure Schedules, Page A-15) and (ii) the patent application Battery Kiosk (Disclosure Schedules, Page A-15).

23. In consideration for Flex’s withdrawal of its objection to the sale of the Quirky Assets and the transfer of the products to Flex as set forth above, Flex agrees to provide the Debtors with the right to continued use and occupancy, on a rent-free basis, to (i) that portion

of the premises located at 606 West 28<sup>th</sup> Street, New York, NY 10001 currently occupied by Wink, Inc. and the Debtors' remaining furniture, fixtures and equipment (the "FF&E"); or (ii) any space to which Wink, Inc. and the FF&E may move, for a period concluding on the earlier of March 31, 2016 or the effective date of a plan of liquidation (subject to a reasonable extension in the event that the Debtors' plan of liquidation is not confirmed prior to March 31, 2016). In addition, Quirky shall retain the existing units on hand of the Norm inventory.

24. The purchase price for the consideration of the Sale of Quirky Assets shall be reduced by \$60,000 as a result of the resolution of the Flex objection set forth above.

25. Notwithstanding anything in the Quirky Agreement to the contrary, the Quirky Assets acquired by the Buyer, excluding those Quirky Assets that were not submitted by Users shall not include any Product Idea, Inventions, or Intellectual Property Rights that are unrelated to an Accepted Product Idea (collectively, the "Undeveloped Inventions") unless the Undeveloped Inventions are identified by the Buyer on a schedule to be delivered by the Buyer and filed with the Bankruptcy Court no later than one hundred twenty (120) days following the closing of the Sale. All claims, rights, and interests in the Undeveloped Inventions that are not identified on such schedule will revert to the respective User as if such Undeveloped Inventions were never submitted to the Site. No later than one year following the Closing Date, the Buyer shall deliver an amended schedule to be filed with the Bankruptcy Court that will remove any Undeveloped Inventions from the schedule that the Buyer has chosen not to pursue for development and/or commercialization. For purposes of this Paragraph, the terms Product Idea, Inventions, Intellectual Property Rights, Accepted Product Idea, User, and Site shall have the meanings ascribed to them in the Quirky.com Terms of Use and Privacy Policy, effective as of June 10, 2015.

26. Quirky, the Buyer, Comerica Bank (“Comerica”), and the Official Committee of Unsecured Creditors (the “Committee”) agree that \$325,000 of the proceeds of the Sale (the “Community Fund”) shall be reserved and earmarked for distribution to the account holders at Quirky.com (the “Community Members”) in consideration of the transfer of the Quirky Assets to the Buyer free and clear of the interests of the Community Members. The allocation of the Community Fund shall be determined by the Committee (or any estate representative vested with the rights and privileges of the Committee) with reasonable and appropriate notice to all known Community Members of not less than twenty-one (21) days prior to the distribution of the Community Fund. Quirky and the Buyer agree to provide the Committee (or the estate representative charged with distribution of the Community Fund) with access to all reasonable information that may be necessary for determining identification of Community Members, as well as appropriate allocations and distributions of the Community Fund. All administrative fees associated with the Community Fund shall be satisfied from the Community Fund.

27. In consideration for the creation of the Community Fund, the Committee acknowledges and agrees that (i) as of the Petition Date, Comerica has a first priority security interest in and liens on the Quirky Assets that are being transferred to the Buyer pursuant to this Order and the Co-Branded Inventory owned by Quirky (the “Acknowledged Liens”); (ii) the Acknowledged Liens are valid, binding, enforceable, non-avoidable and properly perfected as of the Petition Date; and the Committee shall waive all potential claims and challenge rights with respect to the Acknowledged Liens provided for in the Order (I) Authorizing Debtors to Use Cash Collateral, (II) Granting Adequate Protection, and (III) Granting Certain Related Relief [Docket No. 119] (the “Final Cash Collateral Order”). Notwithstanding the waiver of all



potential claims and challenge rights with respect to the Acknowledged Liens, the Committee retains all other potential claims and challenge rights as provided in the Final Cash Collateral Order, including, without limitation, the right to challenge any liens on the assets of Wink, Inc. and the proceeds thereof. Nothing in this Order shall prejudice the Committee from seeking substantive consolidation of these chapter 11 cases.

28. Upon the closing of the Sale of Quirky Assets, Comerica shall receive prompt payment from the proceeds of the Sale of Quirky Assets in the amount of \$3,025,000 on account of its prepetition secured claim against Quirky. Upon the closing of any sale of Co-Branded Inventory owned by Quirky, Comerica shall receive prompt payment of the proceeds that result from such sale on account of its prepetition secured claim against Quirky.

29. The requirements set forth in Bankruptcy Rules 6003(b), 6004 and 6006 and Local Bankruptcy Rules 6004-1 and 9013-1 have been satisfied or otherwise deemed waived.

30. The Buyer shall not be required to seek or obtain relief from the automatic stay under section 362 of the Bankruptcy Code to give any notice permitted by the Quirky Agreement or to enforce any of its remedies under the Quirky Agreement or any other sale-related document. The automatic stay imposed by section 362 of the Bankruptcy Code is modified solely to the extent necessary to implement the preceding sentence; provided however, that this Court shall retain exclusive jurisdiction over any and all disputes with respect thereto.

31. The provisions of this Order and the Quirky Agreement are non-severable and mutually dependent.

32. The Quirky Agreement and any related agreements, documents or other instruments may be modified, amended or supplemented by the parties thereto and in accordance

with the terms thereof, without further order of the Court; provided that any such modification, amendment or supplement does not have a material adverse effect on the Debtors' estates.

33. The Court shall retain exclusive jurisdiction (for as long as the chapter 11 cases are open) to, among other things, interpret, implement, and enforce the terms and provisions of this Order and the Quirky Agreement, all amendments thereto and any waivers and consents thereunder and each of the agreements executed in connection therewith to which the Debtors are a party, and to adjudicate, if necessary, any and all disputes concerning or relating in any way to the Sale of Quirky Assets. This Court retains jurisdiction to compel delivery of the Quirky Assets, to protect the Buyer and its assets, including the Quirky Assets, against any Claims and Successor and Transferee Liability and to enter orders, as appropriate, pursuant to sections 105(a), 363 or 365 (or other applicable provisions) of the Bankruptcy Code necessary to transfer the Quirky Assets to the Buyer. Buyer may at its election enforce this Order in any other court of competent jurisdiction in defense of any Claims asserted against it by third parties or similar issues.

34. As provided by Bankruptcy Rules 7062 and 9014, the terms and conditions of this Order shall be effective immediately upon entry and shall not be subject to the stay provisions contained in Bankruptcy Rules 6004(h) and 6006(d) or any similar rule that would delay the effectiveness of this Order. Time is of the essence in closing the sale and Quirky and the Buyer intend to close the sale consummate the Sale of Quirky Assets as soon as possible. Therefore, any party objecting to this Order must exercise due diligence in filing an appeal and pursuing a stay or risk their appeal being foreclosed as moot.

35. This Order and the Quirky Agreement shall be binding in all respects upon all creditors of (whether known or unknown), and holders of equity interests in, any Debtor, any

holders of Claims in, against or on all or any portion of the Quirky Assets, all successors and assigns of the Buyer, the Debtors and their affiliates and subsidiaries and any subsequent trustee appointed in the Chapter 11 Cases or upon a conversion to chapter 7 under the Bankruptcy Code, and shall not be subject to rejection. Nothing contained in any chapter 11 plan confirmed in the Chapter 11 Cases, any order confirming any such chapter 11 plan or any order approving wind-down or dismissal of the Chapter 11 Cases or any subsequent chapter 7 cases shall conflict with or derogate from the provisions of the Quirky Agreement or this Order, and to the extent of any conflict or derogation between this Order or the Quirky Agreement and such future plan or order, the terms of this Order and the Quirky Agreement shall control.

36. To the extent any provisions of this Order conflict with, or are otherwise inconsistent with, the terms and conditions of the Quirky Agreement or the Quirky Bidding Procedures Order, this Order shall govern and control.

**IT IS SO ORDERED.**

Dated: December 10, 2015  
New York, New York

/s/Martin Glenn  
MARTIN GLENN  
United States Bankruptcy Judge

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Jeffrey L. Cohen  
Michael A. Klein  
Richelle Kalnit

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

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

-----	X	
	:	
In re:	:	
	:	Chapter 11
QUIRKY, INC., <i>et al.</i> <sup>1</sup>	:	
	:	
Debtors.	:	
	:	Case No. 15-12596 (MG)
	:	
	:	(Jointly Administered)
-----	X	

**NOTICE OF SUCCESSFUL BIDDER**

**PLEASE TAKE NOTICE** that pursuant to the *Order (a) Approving Bidding Procedures and Bid Protections in Connection with the Sale of Certain Assets Related to the Business of Quirky, Inc., (b) Approving Procedures for Assumption and Assignment of Executory Contracts, (c) Approving the Form and Manner of Notice, and (d) Scheduling an Auction and a Sale Hearing* [Docket No. 136] (the "Quirky Bidding Procedures Order"),<sup>2</sup> an auction was held on November 17, 2015 (the "Auction") to sell certain assets related to the business of Quirky, Inc. (the "Quirky Assets").

<sup>1</sup> The Debtors in these chapter 11 cases and the last four digits of each Debtor's taxpayer identification number are as follows: Quirky, Inc. (2873); Wink, Inc. (8826); and Undercurrent Acquisition, LLC (9692). The Debtors' principal offices are located at 606 West 28<sup>th</sup> Street, Seventh Floor, New York, NY 10001.

<sup>2</sup> Capitalized terms used but not otherwise defined herein shall have the meanings set forth in the Quirky Bidding Procedures Order.

**PLEASE TAKE FURTHER NOTICE** that Q Holdings LLC was named Successful Bidder at the Auction. An executed version of the asset purchase agreement between Quirky, Inc. and the Successful Bidder for the sale of the Quirky Assets is attached hereto as **Exhibit A**.

**PLEASE TAKE FURTHER NOTICE** that on December 7, 2015 at 9:00 a.m. (prevailing Eastern Time), or as soon thereafter as counsel may be heard, a hearing will be held before the Honorable Martin Glenn, United States Bankruptcy Judge, in Room 501 of the United States Bankruptcy Court for the Southern District of New York (the "Court"), One Bowling Green, New York, New York 10004, seeking approval of the sale of the Quirky Assets to the Successful Bidder.

Dated: November 25, 2015  
New York, New York

By: /s/ Jeffrey L. Cohen  
Jeffrey L. Cohen

COOLEY LLP  
1114 Avenue of the Americas  
New York, New York 10036  
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Facsimile: (212) 479-6275  
Jeffrey L. Cohen  
Michael A. Klein  
Richelle Kalnit

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

**EXHIBIT A**

**Asset Purchase Agreement**

**ASSET PURCHASE AGREEMENT**

**dated as of**

**November 24, 2015**

**by and among**

**Q HOLDINGS LLC**

**and**

**QUIRKY, INC.**

## ASSET PURCHASE AGREEMENT

This ASSET PURCHASE AGREEMENT (this “**Agreement**”) is entered into as of November 24, 2015 by and among Q Holdings LLC, a Delaware limited liability company (the “**Purchaser**”), and Quirky, Inc., a Delaware corporation having a place of business at 606 West 28th Street, New York, New York 10001 (“**Seller**”).

### RECITALS

WHEREAS, Seller has developed (i) the assets primarily relating to the Quirky.com online community platform (including, the Quirky trademarks and domain name quirky.com for an online community as well as the Quirky trademark registrations in other categories, the software and source code and third party software licenses, to the extent assignable, necessary to operate the community platform and innovation work flow, and the database of community members including the data fields necessary to track idea submission and contributions) and (ii) Seller-owned product inventory, and product-specific patents, trademarks, designs, prototypes and related intangibles (collectively, the “**Acquired Assets**”);

WHEREAS, on September 22, 2015 (the “**Filing Date**”), Seller filed a voluntary petition under chapter 11 of title 11 of the United States Code, Section 101, et seq. (the “**Bankruptcy Code**”), case number 15-12596 (MG) (the “**Bankruptcy Case**”), in the United States Bankruptcy Court for the Southern District of New York (the “**Bankruptcy Court**”);

WHEREAS, the transactions contemplated by this Agreement will be consummated pursuant to a Sale Approval Order (as defined below) to be entered in the Bankruptcy Case under Sections 105, 363, 365 and other applicable provisions of the Bankruptcy Code (as defined below), and this Agreement and the transactions contemplated herein are subject to the approval of the Bankruptcy Court; and

WHEREAS, Seller wishes to sell to Purchaser and Purchaser wishes to acquire from Seller substantially all of the assets primarily related to the Acquired Assets as set forth in this Agreement.

NOW, THEREFORE, in consideration of the mutual promises in this Agreement and for other good and valuable consideration, the parties hereby agree as follows.

### AGREEMENT

#### 1. Definitions

1.1 “Actions” has the meaning set forth in Section 3.3 hereof.

1.2 “Acquired Assets” has the meaning set forth in the recitals.

1.3 “Affiliate” of a Person means any other Person that directly or indirectly through one or more intermediaries controls, is controlled by, or is under common control with such Person.



**1.4** "Agreement" means this Asset Purchase Agreement among the parties set forth on the first page hereof, including, without limitation, all Exhibits and Schedules hereto, as the same may be delivered to Purchaser following the date hereof and amended from time to time.

**1.5** "Ancillary Agreements" means any agreement, instrument or other document to be executed and delivered in connection with the consummation of the transactions contemplated by this Agreement.

**1.6** "Apportioned Obligations" has the meaning set forth in Section 5.5 hereof.

**1.7** "Auction" means the auction of the Purchased Assets.

**1.8** "Auction Date" means November 17, 2015, or such other date as the Bankruptcy Court may order for the Auction.

**1.9** "Bankruptcy Case" has the meaning given to it in the recitals hereto.

**1.10** "Bankruptcy Code" has the meaning given to it in the recitals hereto.

**1.11** "Bankruptcy Court" has the meaning given to it in the recitals hereto.

**1.12** "Bidding Procedures Order" means the order approving the bidding procedures at the Auction for the Purchased Assets.

**1.13** "Business Day" means any day other than a Saturday, Sunday or other day on which commercial banks in New York City are required or authorized by law to be closed.

**1.14** "Closing" means the closing of the transactions contemplated by this Agreement.

**1.15** "Closing Date" means the date on which the conditions set forth in Article 6 are satisfied or waived, or such other date as the parties may mutually agree upon which the Closing takes place.

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

**1.17** "Competing Transaction" means any transaction (or series of related transactions), whether direct or indirect, concerning a sale, financing, recapitalization, liquidation or other disposition of all of the Acquired Assets, the consummation of which would be substantially inconsistent with the transactions contemplated by this Agreement.

**1.18** "Consent" means any consent, approval, authorization, license or order of, registration, declaration or filing with, or notice to, or waiver from, any federal, state, local, foreign or other Governmental Entity or any Person, including, without limitation, any security holder or creditor which is necessary to be obtained, made or given in connection with the execution and delivery of this Agreement or any Ancillary Agreement, the performance by a Person of its obligations hereunder or thereunder and the consummation of the transactions contemplated hereby or thereby.

**1.19** "Copyrights" has the meaning set forth in Section 2.1(a)(i) hereof.

**1.20** "Copyright Rights" has the meaning set forth in Section 2.1(a)(i) hereof.

**1.21** “Deposit” has the meaning set forth in Section 2.5 hereof.

**1.22** “Disclosure Schedule” means each, and collectively all, as the context may require, of the disclosure schedules attached to this Agreement as Exhibit A, and includes but is not limited to each of the disclosure schedules expressly referred to in Article 3 of this Agreement.

**1.23** “Documentation” has the meaning set forth in Section 2.1(a)(v) hereof.

**1.24** “Domain Names” has the meaning set forth in Section 2.1(a)(vii) hereof.

**1.25** “Excluded Assets” has the meaning set forth in section 2.2 hereof.

**1.26** “Expense Reimbursement” means the reimbursement of Purchaser’s reasonable out-of-pocket expenses incurred in connection with the transactions contemplated by this Agreement, in an aggregate amount not to exceed \$50,000.

**1.27** “Filing Date” has the meaning given to it in the recitals hereto.

**1.28** “Final Order” means an order, judgment or other decree, the operation or effect of which has not been reversed, stayed, modified or amended as to which no appeals or motions for reconsideration are pending and any and all appeal periods with respect to such order, judgment or other decree have expired.

**1.29** “GAAP” means United States generally accepted accounting principles, applied on a consistent basis.

**1.30** “Governmental Entity” means any federal, state, local or foreign government, political subdivision, legislature, court, agency, department, bureau, commission or other governmental regulatory authority, body or instrumentality, including any industry or other non-governmental self-regulatory organizations.

**1.31** “Intellectual Property Rights” means all proprietary rights and privileges of any kind or nature, however known or denominated, whether arising by operation of law, contractual obligation, or other means, throughout the world, including the right to distribute, exhibit, broadcast, and market by all means now known or hereafter devised (including over the Internet, World Wide Web, or other computer network), arising from or in respect of (i) the IP Assets and (ii) rights of privacy, publicity and biography, moral rights, and all other similar rights and collateral, ancillary and subsidiary rights of every kind and nature primarily related to the Acquired Assets, together with the goodwill associated therewith, all remedies against infringements thereof and rights to protect any interest therein.

**1.32** “Interests” means (i) mortgages, security interests, conditional sale or other title retention agreements, pledges, liens, judgments, demands, interests and claims (as that term is defined in the Bankruptcy Code), (ii) claims in respect of Taxes, and (iii) easements, restrictions, rights of first refusal or charges of any kind or nature, if any, including, but not limited to, any restriction on the use, voting, transfer, receipt of income or other exercise of any attributes of ownership, regardless whether such are “claims” as that term is defined in the Bankruptcy Code.

**1.33** "IP Assets" means all of the Seller's right, title and interest in and to the following: (i) Copyright Rights; (ii) Software; (iii) Trademark Rights; (iv) Patent Rights; (v) Documentation; (vi) Trade Secrets; (vii) Domain Names; and (viii) Web Sites.

**1.34** "Knowledge of Seller" or any other similar knowledge qualification in this Agreement means all facts actually known by the Chief Executive Officer and Chief Administrative Officer of the Seller; provided that such officer shall be deemed to have actual knowledge of any fact or matter such officer would reasonably be expected to have knowledge of in performing his or her duties and responsibilities, in such capacity, for the Seller.

**1.35** "Material Adverse Effect" means a material adverse effect (financial or otherwise) on (a) the Acquired Assets, the Purchased Assets or on the results of operations or condition of the Acquired Assets or the Purchased Assets, taken as a whole, or the ability of Purchaser to succeed to and exercise rights or interests of Seller that are necessary to operate the Acquired Assets, taken as a whole, or (b) the ability of Seller to consummate the transactions contemplated by this Agreement other than effects directly arising as a result of (i) the performance of this Agreement or (ii) events, changes or developments relating to the financial, banking or capital-markets or the economy in general or industry-wide developments affecting Persons in businesses similar to the Acquired Assets.

**1.36** "Nondisclosure Rights" has the meaning set forth in Section 2.1(b) hereof.

**1.37** "Patents" has the meaning set forth in Section 2.1(a)(iv) hereof.

**1.38** "Patent Rights" has the meaning set forth in Section 2.1(a)(iv) hereof.

**1.39** "Permits" means all licenses, certificates of authority, permits, orders, consents, franchises, approvals, registrations, clearances, variances, exemptions, authorizations, qualifications and filings required to be obtained under applicable law or to be filed with any Governmental Entities.

**1.40** "Person" means an individual, corporation, partnership, limited liability company, firm, joint venture, association, joint stock company, trust, unincorporated organization or other entity, or any Governmental Entity or quasi-governmental body or regulatory authority.

**1.41** "Post-Closing Tax Period" shall mean (i) any Tax period beginning any time after the Closing Date and (ii) with respect to a Tax period that commences before but ends after the Closing Date, the portion of such period beginning the day after the Closing Date.

**1.42** "Pre-Closing Tax Period" shall mean (i) any Tax period ending on or before the Closing Date and (ii) with respect to a Tax period that commences before but ends after the Closing Date, the portion of such period up to and including the Closing Date.

**1.43** "Purchased Assets" has the meaning set forth in Section 2.1 hereof.

**1.44** "Purchase Price" has the meaning set forth in Section 2.5 hereof.

**1.45** "Purchaser" has the meaning given to it in the recitals hereto.

**1.46** "Sale Approval Order" has the meaning set forth in Section 5.4(b) hereof.

**1.47** “Sale Hearing” means the hearing to approve the sale of the Purchased Assets.

**1.48** “Seller” has the meaning given to it in the recitals hereto.

**1.49** “Software” has the meaning set forth in Section 2.1(a)(ii) hereof.

**1.50** “Stalking Horse Order” has the meaning set forth in Section 6.1(g) hereof.

**1.51** “Subsidiary” means, with respect to any Person, any other Person (i) of which the first Person owns directly or indirectly fifty percent (50%) or more of the equity interest in the other Person; (ii) of which the first Person or any other Subsidiary of the first Person is a general partner or (iii) of which securities or other ownership interests having ordinary voting power to elect a majority of the board of directors or other persons performing similar functions with respect to the other Person are at the time owned by the first Person and/or one or more of the first Person’s Subsidiaries.

**1.52** “Tangible Personal Property” has the meaning set forth in Section 2.1(c) hereof.

**1.53** “Taxes” (or “Tax” where the context requires) shall mean all federal, state, county, provincial, local, foreign and other taxes (including, without limitation, income, profits, premium, estimated, excise, sales, use, occupancy, gross receipts, franchise, severance, capital levy, production, transfer, withholding, employment and payroll related and property taxes and other governmental charges and assessments), whether attributable to statutory or nonstatutory rules and whether or not measured in whole or in part by net income, and including, without limitation, interest, additions to tax or interest, charges and penalties with respect thereto.

**1.54** “Third-party Technology” means (a) any “open source software” or under a similar licensing or distribution model and (b) any software and/or technology licensed by Seller from any Person primarily related to the Acquired Assets, as listed on Section 3.5 of the Disclosure Schedule.

**1.55** “Trademarks” has the meaning set forth in Section 2.1(a)(iii) hereof.

**1.56** “Trademark Rights” has the meaning set forth in Section 2.1(a)(iii) hereof.

**1.57** “Trade Secrets” means any information which (i) is used in a business, (ii) is not generally known to the public or to Persons who can obtain economic value from its disclosure, and (iii) is subject to reasonable efforts to maintain its secrecy or confidentiality; the term may include but is not limited to inventions, processes, know-how, formulas, computer software, and mask works which are not patented and are not protected by registration (e.g., under copyright, patent, or mask work laws); lists of customers, suppliers, and employees, and data related thereto; business plans and analyses; and financial data.

**1.58** “Trade Secret Rights” has the meaning set forth in Section 2.1(a)(vi) hereof.

**1.59** “Web Sites” has the meaning set forth in Section 2.1(a)(viii) hereof.

2. Purchase and Sale of Assets

**2.1 Purchase and Sale of Assets.** Subject to the terms and conditions of this Agreement together with any Bankruptcy Court approval that may be required, including the payment by Purchaser of the Purchase Price, at the Closing, (x) Seller shall sell, assign, transfer, convey and deliver to Purchaser, free and clear of any and all Interests, good, valid and marketable title and interest in and to all of the assets, properties and rights of Seller, other than the Excluded Assets, primarily related to the Acquired Assets (such assets, properties and rights are hereinafter collectively referred to as the "Purchased Assets"), including, but not limited to, the following assets, properties and rights:

(a) IP Assets of Seller primarily related to the Acquired Assets, including, without limitation:

(i) all right, title and interest, including all moral rights, in and to published and unpublished works of authorship in any medium, whether copyrightable or not (including databases and other compilations of information), copyrights therein and thereto, and registrations and applications therefor, and all issuances, renewals, extensions, restorations and reversions thereof ("Copyrights") owned or licensed by the Seller primarily related to the Acquired Assets, including but not limited to those set forth on Schedule 2.1(a)(i) (collectively, the "Copyright Rights");

(ii) all right, title and interest in and to any and all proprietary computer software owned or licensed by Seller (including software programs, objects, modules, routines, algorithms and any other software, source or object code) primarily related to the Acquired Assets, including but not limited to those set forth on Schedule 2.1(a)(ii), and all related Intellectual Property Rights (collectively, the "Software");

(iii) all right, title and interest in and to any and all trademarks, service marks, certification marks, collective marks, trade names (including without limitation the trade name "Quirky"), business names, assumed names, d/b/a's, fictitious names, brand names, trade dress, logos, symbols and corporate names, and general intangibles of a like nature and other indicia of origin or quality, whether registered, unregistered or arising by common law, and all applications, registrations, and renewals for any of the foregoing ("Trademarks") primarily related to the Acquired Assets, together with the goodwill associated with and symbolized by each of the foregoing held or used by Seller and all goodwill associated with the foregoing items set forth in this subsection 2.1(a)(iii) (collectively, the "Trademark Rights");

(iv) all right, title and interest in and to any and all patent applications and patents which are owned or licensed by Seller (the "Patents") primarily related to the Acquired Assets, including but not limited to those set forth on Schedule 2.1(a)(iv), all patent applications claiming the benefit of the filing date of any such patent or patent application, all continuations, divisionals, renewals, substitutes, extensions, conversions, continuations-in-part, reissues, provisionals, reexaminations or other equivalents thereof, and all patents issuing in respect of any of the foregoing, and all related patent prosecution files (collectively, the "Patent Rights");

(v) all right, title and interest in and to any and all documentation (whether in tangible or intangible format, and whether or not complete), files, and original documents owned or controlled by Seller and which, in each case, directly or indirectly relate to the other Purchased Assets (collectively, the "Documentation"), including, but not limited to,

(i) business plans developed by Seller and (ii) those relating to Seller's IP Assets, including without limitation all applications and patents included in the Patent Rights and Patents, all applications and trademarks included in the Trademark Rights, and all applications for copyright registration and copyright registrations included in the Copyright Rights;

(vi) all Trade Secrets, confidential and proprietary information, and know-how, including methods, processes, business plans, schematics, concepts, software and databases (including source code, object code and algorithms), formulae, drawings, prototypes, models, designs, devices, technology, research and development and customer information and lists primarily related to the Acquired Assets (collectively, the "Trade Secret Rights")

(vii) all right, title and interest in and to domain name registrations, IP addresses, network addresses and the like held or used by Seller, and the applications therefor primarily related to the Acquired Assets, including but not limited to those domain names set forth listed on Schedule 2.1(a)(vii) (the "Domain Names"), and including further all Intellectual Property Rights in and to such Domain Names;

(viii) all right, title and interest in and to the web sites set forth on Schedule 2.1(a)(viii), including all designs for such web sites, all underlying code for such web sites, and all contents of such web sites and other similar materials (the "Web Sites"), in any and all media now known or hereafter developed, and including further all Intellectual Property Rights in and to such Web Sites and all proprietary aspects of such Web Sites.

(b) Except as specifically excluded under Section 2.2, all claims, causes of action, rights of recovery and rights of set-off owned by Seller and primarily related to the Acquired Assets, including, but not limited to, any and all enforcement rights to pursue damages, injunctive relief and other remedies, whether currently pending, filed, or otherwise, relating to the Intellectual Property Rights of Seller, or with respect to confidentiality, noncompetition and/or nondisclosure obligations of any current or former employee, shareholder, director or officer whether arising under contract or by operation of law ("Nondisclosure Rights"), and all rights to profits and damages due or accrued, arising out of or in connection with, any and all past, present or future infringement, misappropriation or other violation of the Intellectual Property Rights or Nondisclosure Rights of Seller, including all rights to pursue damages, injunctive relief and other remedies for past, current and future infringement of the Intellectual Property Rights or Nondisclosure Rights, in the Purchaser's own name or in the name of the Seller, and all rights of Seller to collect royalties under the Intellectual Property Rights;

(c) All materials, prototypes, tools, supplies and all physical embodiments of the Intellectual Property Rights, and improvements to the foregoing, including, but not limited to, the tangible assets identified on Schedule 2.1(c) (collectively, "Tangible Personal Property") owned by Seller and primarily related to and used solely by the Acquired Assets; provided that Seller, and any successor to Seller, including any trustee appointed in the Bankruptcy Case, shall be provided with reasonable access, subject to Purchaser's policies as to safety, security and confidentiality, to any information on any such computer system relating to the Acquired Assets, Seller's regulatory compliance or any matters as to which Seller is required by law to respond in an administrative or judicial proceeding, in existence as of the Closing Date for a period of six (6) months thereafter, provided further that in connection with any such administrative or judicial proceeding Purchaser shall be given the opportunity to limit disclosure of Purchaser's confidential information and Seller will cooperate with Purchaser in seeking nondisclosure of, or appropriate protective orders regarding, such information;

(d) all tooling primarily related to the Acquired Assets solely to the extent Seller has title to such tooling with the caveat that Seller may not be able to provide access to tooling in the possession of third parties;

(e) all product inventory identified on Schedule 2.1(e) hereto (the "Inventory");

Except as set forth herein, the assets, properties and rights to be conveyed, sold, transferred, assigned and delivered to Purchaser pursuant to this Section 2.1 shall be transferred "as is, where is".

**2.2 Excluded Assets.** Notwithstanding anything to the contrary herein, Seller shall not cause to be sold, assigned, transferred, conveyed or delivered to Purchaser, and Purchaser shall not purchase, and the Purchased Assets shall not include, any right, title or interest of Seller in, any of the following assets (the "Excluded Assets"):

(a) all rights of Seller under this Agreement and the Ancillary Agreements;

(b) all cash on hand or in banks and cash equivalents of Seller;

(c) all interests in and to the capital stock of Seller and all corporate records, including without limitation, the organizational documents of Seller, accounting documents, tax returns, audit materials, legal records, board and member minutes and related correspondence, stock transfer books, blank stock certificates and other documents, qualification to conduct business as a foreign corporation and any Permits held by Seller that are not transferrable as a matter of law; provided that Purchaser shall be granted reasonable access to, and the right to make copies of, any such documents of Seller;

(d) all human resources material including without limitation employment and compensation records and benefits information, provided that Purchaser shall be granted reasonable access to, and the right to make copies of, any such materials of Seller, for a period of twelve (12) months after the Closing Date;

(e) all executory contracts and unexpired leases, provided that no executory contract shall be rejected by the Seller if such rejection would adversely affect the Nondisclosure Rights;

(f) all bankruptcy avoidance claims of Seller, including without limitation, any claims arising under Sections 544, 545, 547, 548 549, 550 and 551 of the Bankruptcy Code;

(g) all claims, causes of action, rights of recovery and rights of set-off that the Seller may hold against any current or former director, officer or employee of Seller for breach of fiduciary duty or claims of a similar nature, provided that any such causes of action, whenever arising, that may be asserted against any Person (and any officer, director, shareholder or member of any Person) who is now or hereafter becomes a member, manager, officer or employee of or independent contractor to the Purchaser is hereby waived and released in its entirety, irrevocably, and shall not be asserted by the Seller or any Person claiming by, through or in the right of the Seller;

(h) all other claims, causes of action, rights of recovery and rights of set-off that Seller may hold, including any and all enforcement rights to pursue damages, whether

currently pending, filed, or otherwise, provided that the relief requested is solely monetary damages and that the pursuit of such claims, causes of action, rights of recovery and rights of set-off would not reasonably be expected to impact the Acquired Assets;

and

(i) all intellectual property of the Company not otherwise specifically identified as Acquired Assets herein.

**2.3** No Liabilities. Seller and Purchaser hereby expressly acknowledge and agree that Purchaser is not assuming any liabilities or obligations of Seller (i) in connection with this Agreement and the transactions contemplated hereby or (ii) in connection with Seller's current or past employees, agents, consultants, service providers or advisors.

**2.4** Closing. Subject to the terms and conditions of this Agreement, the Closing shall take place at the offices of Cooley LLP, 1114 Avenue of the Americas, New York, New York 10036, at 10:00 a.m. on December 11, 2015, or at such other place and time as the parties agree in writing, unless this Agreement is before such other time terminated in accordance with the terms hereof.

**2.5** Consideration. The aggregate consideration to be paid and delivered by Purchaser and accepted by Seller for the Purchased Assets (the "Purchase Price") shall be a cash amount equal to \$4,700,000, payable by Purchaser at Closing by (i) release to Seller of the Deposit and (ii) wire transfer of immediately available funds to such accounts as Seller shall designate in writing in the amount of the Purchase Price less the Deposit.

As of the date hereof, Cooley LLP shall have received a deposit from or on behalf of Purchaser in the amount of \$470,000 (the "Deposit"), which shall be held by Cooley LLP separate from its other funds until released to Seller at the Closing or otherwise disposed of as provided hereunder.

**2.6** Delivery. Subject to entry of the Sale Approval Order and such Sale Approval Order becoming a Final Order, at the Closing:

(a) Purchaser shall release to Seller the Deposit and deliver to Seller the Purchase Price less the Deposit;

(b) Seller shall deliver to Purchaser the Purchased Assets;

(c) Seller and Purchaser shall execute and deliver the Patent Assignment in the form attached as Exhibit B hereto;

(d) Seller and Purchaser shall execute and deliver the Trademark and Copyright Assignment in the form attached as Exhibit C hereto;

(e) Seller shall execute and deliver to Purchaser the Bill of Sale, Assignment and Assumption Agreement in the form attached as Exhibit D hereto;

(f) Seller shall deliver to Purchaser an executed Power of Attorney in the form attached as Exhibit E hereto;



(g) Seller and Purchaser shall execute and deliver the Intellectual Property Assignment in the form attached as Exhibit F hereto;

(h) Seller shall deliver to Purchaser an executed domain name transfer form attached as Exhibit G hereto;

(i) Seller shall deliver to Purchaser such other and further documents as Purchaser shall reasonably request to demonstrate the purchase and sale of the Purchased Assets by the Purchaser as contemplated herein and to vest in Purchaser all right, title and interest in, to and under the Purchased Assets;

(j) Seller shall deliver to Purchaser any and all trademark, patent and copyright prosecution files included in the Purchased Assets (without limitation of Seller's obligations under other provisions of this Agreement to deliver the Purchased Assets to Purchaser);

(k) Seller shall deliver a copy of the Sale Approval Order; and

(l) Seller shall deliver a copy of the Bankruptcy Court's docket sheet for the Bankruptcy Case evidencing that the Sale Approval Order is a Final Order unless the requirement that the Sale Approval Order has become a Final Order has been waived by the Purchaser.

**2.7 Possession.** Subject to entry of the Sale Approval Order, the right to possession of the Purchased Assets shall transfer to Purchaser on the Closing Date. Seller shall transfer and deliver to Purchaser on the Closing Date such usernames, passwords, account numbers, authorization codes, encryption keys, and other similar items with respect to the Purchased Assets as Purchaser shall require to obtain control of the Purchased Assets, and shall also make available to Purchaser at Seller's then existing locations all documents, Documentation, software and hardware that are required to be transferred to Purchaser by this Agreement.

**2.8 Transfer Taxes.** Provided that the Sale Approval Order includes a finding that the sale of the Purchased Assets is in contemplation of a plan to be confirmed under Section 1129 of the Bankruptcy Code, in accordance with section 1146(a) of the Bankruptcy Code, the making or delivery of any instrument of transfer, including the filing of any deed or other document of transfer to evidence, effectuate or perfect the rights, transfers and interest contemplated by this Agreement, shall be free and clear of any and all transfer tax, stamp tax or similar taxes. Such instruments, orders and agreements transferring the Purchased Assets to Purchaser shall contain the following endorsement:

"Because this [instrument] has been authorized pursuant to an order of the United States Bankruptcy Court for the Southern District of New York in contemplation of a chapter 11 plan of the Grantor, it is exempt from transfer taxes, stamp taxes or similar taxes pursuant to 11 U.S.C. § 1146(a)."

If such transfer, stamp or similar taxes are ultimately payable, notwithstanding section 1146(a) of the Bankruptcy Code or for any other reason, Purchaser shall pay any and all such transfer, stamp or similar taxes, which may be payable by reason of the transaction contemplated in this Agreement and any and all claims, charges, interest or penalties assessed, imposed or asserted in relation to any such taxes.

3. Representations and Warranties of Seller

Subject to entry of the Sale Approval Order and except as set forth in the Disclosure Schedule (it being understood and hereby agreed that (i) the disclosures set forth in the Disclosure Schedule shall be organized under separate section and subsection references that correspond to the sections and subsections of this Article 3 to which such disclosure relates and (ii) the disclosure set forth in a particular section or subsection of the Disclosure Schedule shall qualify (A) the representations and warranties set forth in the corresponding section or subsections of this Article 3 and (B) such other representations and warranties set forth in this Article 3 if, and to the extent that, upon a reading of the disclosure, it is reasonably apparent that such disclosure is applicable to such other representations and warranties), Seller hereby represents and warrants to Purchaser as follows:

**3.1** Authority, Etc. Seller is a corporation duly organized and in good standing under the laws of the State of Delaware. Seller has all requisite power and authority to execute and deliver this Agreement and the Ancillary Agreements to which it is or shall, pursuant to this Agreement, be a party, and to perform, carry out and consummate the transactions contemplated hereby and thereby. The execution, delivery and performance of this Agreement and the Ancillary Agreements to which it is or shall, pursuant to this Agreement, be a party have been duly authorized by all necessary action on the part of Seller. This Agreement has been, and upon execution and delivery thereof each of the Ancillary Agreements will be, duly executed and delivered by Seller and constitutes, and such Ancillary Agreements will constitute, the valid and legally binding obligations of Seller enforceable against Seller in accordance with their respective terms and conditions.

**3.2** Title. Seller has good and marketable title to all of the Purchased Assets to be sold by Seller. Upon the Closing, Seller will convey and transfer to Purchaser all of the Purchased Assets, and Purchaser shall receive good and marketable title to all of the Purchased Assets free and clear of any Interests, pursuant to sections 105 and 363 of the Bankruptcy Code and any other applicable sections of the Bankruptcy Code and as set forth in the Sale Approval Order.

**3.3** Brokers. Other than amounts owed to Hilco IP Services, LLC d/b/a Hilco Streambank for services rendered in connection with this Agreement and the transactions contemplated by this Agreement, Seller has no liability or obligation to pay any broker, finder or investment banker, any brokerage, finder's or other fee or commission in connection with the origination, negotiation or execution of this Agreement or the transactions contemplated by this Agreement.

**3.4** Litigation. Except as set forth in Section 3.4 of the Disclosure Schedule, other than the Bankruptcy Case, there is no claim, action, suit, proceeding, opposition, challenge, cancellation proceeding or investigation (collectively, "Actions") pending or, to the Knowledge of Seller, currently threatened against Seller or primarily related to the Acquired Assets, any Nondisclosure Rights or the practice of any of the IP Assets, that questions the validity of this Agreement, any Ancillary Agreement, any of the IP Assets or any Nondisclosure Rights, or the right of Seller to enter into this Agreement or any Ancillary Agreement to which it is a party, or would prohibit Seller from entering into this Agreement or any Ancillary Agreement to which it is a party, or to consummate the transactions contemplated hereby or thereby, or that, to the Knowledge of Seller, could result, either individually or in the aggregate, in any Material Adverse Effect. Other than the Bankruptcy Case, there are no outstanding orders, writs, judgments, decrees, injunctions or settlements that restrict the Acquired Assets, the Purchased Assets, the

Nondisclosure Rights or the practice of the IP Assets. Section 3.4 of the Disclosure Schedule sets forth a description of all Actions to which Seller is a party or the Purchased Assets, the Nondisclosure Rights or the practice of the IP Assets or the Acquired Assets is subject.

**3.5 Intellectual Property.** Except as otherwise disclosed in Section 3.5 of the Disclosure Schedule, Seller owns and possesses all right, title and interest in and to all material IP Assets, there are no licenses or other grants of rights from Seller to any Person with respect to such IP Assets, and all IP Assets shall be conveyed and transferred to Purchaser at the Closing free and clear of all Interests. Without limiting the foregoing:

**(a)** Schedules 2.1(a)(i), 2.1(a)(ii), 2.1(a)(iii) 2.1(a)(iv), 2.1(a)(vi) and 2.1(a)(viii) set forth a true and complete list of (i) all Copyrights, Software, Trademarks, Patents, Domain Names and Web Sites required to operate Acquired Assets, all of which are wholly owned by and registered to Seller; and (ii) other than as set forth on Schedule 3.5 of the Disclosure Schedule, there are no Copyrights, Software, Trademarks, Patents, Domain Names and Web Sites used in connection with the Acquired Assets that Seller has licensed or otherwise permitted to be used by other Persons.

**(b)** Except as set forth on Schedule 3.5 of the Disclosure Schedule:

**(i)** Based on the Knowledge of Seller, Seller owns all IP Assets and has valid rights in and to, including rights to use, publish, and perform, as applicable, all material Intellectual Property Rights included in the Purchased Assets as such IP Assets were used in the Acquired Assets as of the cessation of business by Seller. No Person other than Seller has any ownership interest in, or a right to receive a royalty or similar payment with respect to, any of the IP Assets.

**(ii)** Based on the Knowledge of Seller, the IP Assets are not the subject of any ownership, validity, use, or enforceability challenge or claim received by Seller in writing or, to the Knowledge of Seller, any outstanding Final Order restricting the use by Seller or adversely affecting any of the rights of Seller thereto.

**(iii)** Seller has not entered into any agreement, excluding normal course commercial agreements, to indemnify any other Person against any charge of infringement with respect to any of Seller's Intellectual Property Rights. Seller has not entered into any agreement which granted any third party the right to bring infringement actions or otherwise to enforce rights with respect to IP Assets or pursuant to which Seller has agreed not to sue or otherwise enforce any legal rights with respect to any of Seller's Intellectual Property Rights.

**(iv)** To the Knowledge of Seller, no Person is violating any IP Assets.

**(v)** To the Knowledge of Seller, neither Seller nor the Acquired Assets is violating any intellectual property rights of any other Person and (B) there are no Actions pending or, to the Knowledge of Seller, threatened concerning any claim that Seller or the Acquired Assets has infringed, diluted, misappropriated, or otherwise violated any intellectual property rights of any other Person.

**(c)** Seller has used commercially reasonable efforts to protect the confidentiality of any Trade Secrets and other confidential and proprietary information included in the IP Assets.

**3.6 Tangible Personal Property.** The Tangible Personal Property of Seller or Purchaser included in the Purchased Assets is free from material defects, subject to normal wear and tear and continued repair and replacement in accordance with past practice. All such Tangible Personal Property has been maintained, repaired and replaced in accordance with manufacturer's recommendations and industry best practices, and, to the Knowledge of Seller, any such Tangible Personal Property that is susceptible to the same contains no virus, malware, timebomb or similar defect. Seller has not received notice that any of the Tangible Personal Property included in the Purchased Assets is in violation of any existing law or order of any Governmental Authority. No Permit, approval or Consent of any Person is needed so that the interest of Seller in the Tangible Property transferred to Purchaser hereunder shall continue to be in full force and effect and enforceable by Purchaser following the Closing.

**3.7 Good Faith.** This Agreement and all Ancillary Agreements were negotiated and entered into at arm's length and, to the Seller's Knowledge, in good faith, and neither Seller nor Purchaser engaged in any collusion with respect to setting or fixing the Purchase Price, and to the Knowledge of Seller, there are no facts to support a finding that Purchaser negotiated and entered into this Agreement and all Ancillary Agreements other than in good faith as described in Section 363(m) of the Bankruptcy Code.

4. **Representations and Warranties of Purchaser**

Purchaser hereby represents and warrants to Seller as follows:

**4.1 Authority.** Purchaser is a limited liability company organized and in good standing under the laws of the State of Delaware. Purchaser has the right and authority to enter into, execute, deliver and perform this Agreement and the Ancillary Agreements to which it is to be a party and to carry out the obligations hereunder and thereunder, without the need for any further approval of its officers and directors. All action on Purchaser's part required for the lawful execution and delivery of this Agreement and the Ancillary Agreements to which it is to be a party has been taken. Upon its execution and delivery by Purchaser, this Agreement and each Ancillary Agreement to which it is to be a party will be the valid and legally binding obligations of the Purchaser in accordance with their respective terms.

**4.2 Compliance with Other Instruments.** The execution, delivery and performance of this Agreement and the Ancillary Agreements to which it is to be a party, and the consummation of the transactions contemplated hereby and thereby will not result in any violation or default or be in conflict with or constitute, with or without the passage of time and giving of notice, a default under any provision of any instrument, judgment, order, writ, decree or contract to which it is a party.

**4.3 Brokers.** No broker, finder or investment banker is entitled to any brokerage, finder's or other fee or commission in connection with the origination, negotiation or execution of this Agreement and the Ancillary Agreements to which it is to be a party or the transactions contemplated by this Agreement and such Ancillary Agreements based upon arrangements made by or on behalf of Purchaser. All fees associated with brokers shall otherwise be made through section 327, 330, and 331 of the Bankruptcy Code.

**4.4 Litigation.** There is no action, suit, proceeding or investigation pending or, to Purchaser's knowledge, currently threatened in writing against Purchaser that questions the validity of this Agreement or any Ancillary Agreement to which it is to be a party, or the right of

Purchaser to enter into such agreements, or to consummate the transactions contemplated hereby or thereby.

**4.5** Financial Assurance. The Purchaser has sufficient cash, available lines of credit or other sources of immediately available funds to enable payment of the Purchase Price and any other amounts to be paid by it hereunder.

**4.6** Good Faith. This Agreement and all Ancillary Agreements were negotiated and entered into at arm's length and, to the Purchaser's knowledge, in good faith, and neither Seller nor Purchaser engaged in any collusion with respect to setting or fixing the Purchase Price, and to the knowledge of Purchaser, there are no facts to support a finding that Seller negotiated and entered into this Agreement and all Ancillary Agreements other than in good faith as described in Section 363(m) of the Bankruptcy Code.

## 5. Covenants

**5.1** Seller Records. Prior to the Closing Date, and without limiting the other provisions of this Agreement, Seller shall afford Purchaser, its attorneys, accountants and representatives, free and full access to the Acquired Assets and any assets, contracts, facilities, books, records and employees related thereto, at any time and from time to time upon reasonable notice and request, and shall provide to Purchaser and its representatives such additional financial and operating data as Purchaser shall from time to time reasonably request.

**5.2** Filings and Authorizations. Each of Seller and Purchaser, as promptly as practicable, (i) shall make, or cause to be made, all such filings and submissions under laws, rules and regulations applicable to it, as may be required to consummate the transactions contemplated herein, in accordance with the terms of this Agreement, (ii) shall use all commercially reasonable efforts to obtain, or cause to be obtained, all authorizations, approvals, consents and waivers from all Governmental Entities and non-governmental Persons necessary to be obtained by it, in order to consummate the transactions contemplated herein; provided that any provision hereof to the contrary notwithstanding, Seller shall not have any obligation to pay any fee to any third party (other than any lawful fees assessed by a Governmental Entity) for the purpose of obtaining any Consent or any costs and expenses of any third party resulting from the process of obtaining such Consent, and (iii) shall use commercially reasonable efforts to take, or cause to be taken, all other actions necessary, proper or advisable in order for it to fulfill its obligations hereunder. Seller and Purchaser shall coordinate and cooperate with one another in exchanging such information and supplying such reasonable assistance as may be reasonably requested by each in connection with the foregoing.

### **5.3** Further Assurances; Accounts.

**(a)** At and after the Closing, Seller shall take such reasonable steps as may be necessary to put Purchaser in possession and operating control of the Purchased Assets and the Acquired Assets. At or after the Closing, Seller shall, at the reasonable request of Purchaser, without further consideration, promptly execute and deliver, or cause to be executed and delivered, to Purchaser such assignments, bills of sale, consents and other instruments in addition to those required by this Agreement, in form and substance reasonably satisfactory to Purchaser, and take all such other actions as Purchaser may reasonably request to implement any provision of this Agreement and to more effectively transfer to and vest in Purchaser, ownership in, and to put Purchaser in possession of, all of the Purchased Assets, free and clear of any and all interests.

(b) Following the Closing, at the request of the Purchaser, Purchaser and Seller each shall use its commercially reasonable efforts to transfer, license or assign as promptly as practicable any Third-party Technology designated by Purchaser. Notwithstanding the foregoing, neither Purchaser nor Seller shall be required to expend any material sum or agree to a material concession to obtain any Third-party Technology.

(c) From and after the date of execution of this Agreement, neither Seller nor any Person acting on behalf and within the control of Seller will operate any of the Purchased Assets in any manner that would adversely affect the value, utility or useful life of such asset, or without the prior written consent of the Purchaser, make any change to any component of the Purchased Assets or make or retain any copies in any media of any Software included in the Purchased Assets, provided that Seller may retain one (1) archival copy of such Software solely for reference in fulfilling its obligations under Section 5.3(a) and Section 7.5(a) hereof. Seller shall not transfer, assign, deliver or disclose such copies to any Person not acting on behalf of Seller in fulfilling such obligations.

(d) Effective on the Closing Date, Seller hereby appoints Purchaser as its attorney-in-fact to execute any instruments which Seller or Purchaser is required to execute and deliver hereunder and shall fail for any reason to execute and deliver for a period of five (5) business days following receipt by Seller of written request therefor, it being acknowledged that such appointment is coupled with an interest and is irrevocable. Purchaser will provide Seller with copies of any instruments so executed on Seller's behalf.

#### 5.4 Bankruptcy Covenants.

(a) Motions, Orders, etc. Seller shall promptly provide Purchaser with the proposed final drafts of all documents, motions, orders, or pleadings that Seller proposes to file with the Bankruptcy Court relating to the approval of this Agreement, the Purchased Assets, or the consummation of the transactions contemplated hereby, or any provision therein or herein, and shall provide Purchaser and its counsel with a reasonable opportunity to review and comment on such documents, motions, orders, or pleadings.

(b) Sale Approval Order. Without limiting the generality of the foregoing Section 5.4(a), the sale approval order shall be substantially in the form annexed hereto as Exhibit H (the "Sale Approval Order"), and only such other and further changes as shall be acceptable in form and substance to Purchaser.

(c) Other Bankruptcy Covenants. Seller shall promptly make any filings, take all actions, and use commercially reasonable efforts to obtain any and all approvals and orders necessary or appropriate for consummation of the sale of the Purchased Assets, subject to its obligations to comply with any order of the Bankruptcy Court. In the event an appeal is taken, or a stay pending appeal is requested, from any of the foregoing orders of the Bankruptcy Court, Seller shall immediately notify Purchaser of such appeal or stay request and, upon Purchaser's request, shall provide to Purchaser within one (1) business day after Seller's receipt thereof a copy of the related notice of appeal or order of stay. Seller shall also provide Purchaser with written notice of any motion, application, brief or other pleading filed in connection with any appeal from any of such orders.

5.5 Apportioned Obligations. All personal property Taxes and similar ad valorem obligations levied with respect to the Purchased Assets for a taxable period which includes (but does not end on) the Closing Date (collectively, the "Apportioned Obligations") shall be

apportioned between Seller and Purchaser based on the number of days of such taxable period included in the Pre-Closing Tax Period and the number of days of such taxable period included in the Post-Closing Tax Period. Seller shall be liable for the proportionate amount of such Taxes that is attributable to the Pre-Closing Tax Period, and Purchaser shall be liable for the proportionate amount of such Taxes that is attributable to the Post-Closing Tax Period. Upon receipt of any bill for personal property taxes relating to the Purchased Assets, each of Seller and Purchaser shall present a statement to the other setting forth the amount of reimbursement to which each is entitled under this Section 5.5 together with such supporting evidence as is reasonably necessary to calculate the proration amount. The proration amount shall be paid by the party owing it to the other within fifteen (15) Business Days after delivery of such statement. In the event that any of Seller or Purchaser shall make any payment for which it is entitled to reimbursement under this Section 5.5, the applicable other party shall make such reimbursement promptly but in no event later than fifteen (15) Business Days after the presentation of a statement setting forth the amount of reimbursement to which presenting party is entitled along with such supporting evidence as is reasonably necessary to calculate the amount of reimbursement. Purchaser shall notify Seller of any audit or examination of the Apportioned Obligations. The Seller shall have the right to participate in any such audit or examination and Purchaser shall not settle any such audit or examination without the consent of Seller, which consent shall not be unreasonably withheld.

**5.6 Notification.** From time to time prior to the Closing, Seller shall notify Purchaser in writing with respect to any matter hereafter arising or any information obtained after the date hereof that, if existing, occurring or known at or prior to the date of this Agreement, would have been required to be set forth or described in the Disclosure Schedule or that is necessary to complete or correct any information in such schedule or in any representation and warranty of Seller that has been rendered inaccurate thereby.

**6. Conditions Precedent to Closing.**

**6.1 Conditions Precedent to Obligations of Purchaser.** The obligation of Purchaser under this Agreement to consummate the transactions contemplated by this Agreement on the Closing Date shall be subject to the satisfaction, at or prior to the Closing Date, of all of the following conditions, any one or more of which may be waived by Purchaser:

**(a) Representations and Warranties Accurate.** The representations and warranties of Seller contained in this Agreement which are qualified as to materiality shall be correct and complete in all respects, and those not so qualified shall be correct and complete in all material respects, as of the Closing Date with the same force and effect as though made on and as of the Closing Date (except in any case that representations and warranties that expressly speak as of a specified date or time need only be correct and complete as of such specified date or time). Notwithstanding anything to the contrary herein, in the event that Purchaser has actual knowledge that any of such representations and warranties of Seller contained in this Agreement are not true and correct and complete in all respects as of the Closing Date, Purchaser's sole remedy shall be to terminate this Agreement in accordance with Section 7.1(b) hereof.

**(b) Performance.** Seller shall have performed and complied in all material respects with all covenants and agreements required to be performed or complied with by Seller hereunder on or prior to the Closing Date.

(c) Consents. All Consents required in connection with the consummation of the transactions contemplated by this Agreement and the Closing shall have been duly obtained, made or given and shall be in full force and effect, without the imposition upon Purchaser of any material condition, restriction or required undertaking.

(d) No Legal Prohibition. No suit, action, investigation, inquiry or other proceeding by any Governmental Entity or other Person shall have been instituted and remain in effect or threatened by any Governmental Entity which arises out of or relates to this Agreement, or the transactions contemplated hereby and no injunction, order, decree or judgment shall have been issued and be in effect or threatened to be issued by any Governmental Entity of competent jurisdiction, and no statute, rule or regulation shall have been enacted or promulgated by any Governmental Entity and be in effect, which in each case restrains or prohibits the consummation of the transactions contemplated hereby.

(e) No Material Adverse Effect. No Material Adverse Effect shall have occurred and no other event, loss, damage, condition or state of facts of any kind shall exist which has a Material Adverse Effect or can reasonably be expected to have a Material Adverse Effect.

(f) Additional Documents, etc. There shall have been delivered to Purchaser each of the agreements, documents, certificates and other items set forth on Schedule 6.1(g) of this Agreement.

(g) Entry of Order; Appeal. On or before December 8, 2015, the Bankruptcy Court shall have entered an order (the "Stalking Horse Order"), in the form attached hereto as Exhibit I, with only such changes as shall be acceptable in form and substance to Purchaser. In addition the Bankruptcy Court shall have entered the Sale Approval Order in accordance with Section 5.4(b) and the Sale Approval Order shall have become a Final Order, unless the finality of such orders is waived by Purchaser in Purchaser's sole discretion.

**6.2** Conditions Precedent to Obligations of Seller. The obligations of Seller under this Agreement to consummate the transactions contemplated by this Agreement on the Closing Date shall be subject to the satisfaction, at or prior to the Closing Date, of all of the following conditions, any one or more of which may be waived by Seller:

(a) Representations and Warranties Accurate. The representations and warranties of Purchaser contained in this Agreement which are qualified as to materiality shall be correct and complete in all respects, and those not so qualified shall be correct and complete in all material respects, as of the Closing Date with the same force and effect as though made on and as of the Closing Date (except in any case that representations and warranties that expressly speak as of a specified date or time need only be correct and complete as of such specified date or time).

(b) Performance by Purchaser. Purchaser shall have performed and complied in all material respects with all covenants and agreements required to be performed or complied with by such Person hereunder on or prior to the Closing Date.

(c) Consents. All Consents required to be obtained by Purchaser in connection with the purchase and sale of the Purchased Assets and the Closing shall have been duly obtained, made or given and shall be in full force and effect.



**(d)** No Legal Prohibition. No injunction, order, decree or judgment shall have been issued and be in effect or threatened to be issued by any Governmental Entity of competent jurisdiction, and no statute, rule or regulation shall have been enacted or promulgated by any Governmental Entity and be in effect, which in each case restrains or prohibits the consummation of the transactions contemplated hereby.

**(e)** Additional Documents, etc. There shall have been delivered to Seller each of the agreements, documents and other items set forth on Schedule 6.1(g) of this Agreement to be delivered to Seller.

**6.3** Sale Approval Order as Final Order. If Purchaser elects in its sole discretion to waive the condition to Closing that the Sale Approval Order shall be a Final Order, then Seller shall be obligated to proceed with the Closing except during any period during which the Sale Approval Order is stayed.

## 7. Miscellaneous

**7.1** Termination. This Agreement may be terminated, and the transactions contemplated herein may be abandoned:

**(a)** any time before the Closing, by mutual written agreement of Seller and Purchaser;

**(b)** any time before the Closing, by Seller, on the one hand, or Purchaser, on the other hand, (i) in the event of a material breach hereof by Seller, on the one hand, or Purchaser, on the other hand, if such non-terminating party fails to cure such breach within five (5) Business Days following notification thereof by the terminating party, or (ii) upon written notification to the non-terminating party by the terminating party that the satisfaction of any condition to the terminating party's obligations under this Agreement becomes impossible or impracticable with the use of commercially reasonable efforts if the failure of such condition to be satisfied is not caused by a breach hereof by the terminating party;

**(c)** at the election of Purchaser as notified in writing to Seller, if the Schedules and Exhibits to this Agreement are not delivered, in form and substance reasonably acceptable to Purchaser, by November 13, 2015;

**(d)** if not earlier terminated, at the election of Purchaser as notified in writing to Seller, if the Closing has not occurred by December 11, 2015 and such failure is not the result of a breach by Purchaser; or

**(e)** at the election of the Purchaser as notified in writing to the Seller, if the Auction occurs and Purchaser is not the successful bidder at the Auction or the Back-Up Bidder (as defined in the Bidding Procedures Order) or if the Seller enters into an agreement or transaction, including any Competing Transaction with a third party that is materially inconsistent with this Agreement and the transactions contemplated hereby in a material respect.

### **7.2** Effect of Termination.

**(a)** If this Agreement is validly terminated pursuant to Section 7.1, this Agreement will forthwith become null and void, and there will be no liability or obligation on the

part of any party (or any of their respective officers, directors, employees, partners, agents or other representatives or Affiliates), except that the provisions with respect to expenses and fees in Section 7.3 will continue to apply following any such termination.

(b) Notwithstanding the provisions of Section 7.2(a), above:

(i) if Purchaser, Seller terminates this Agreement pursuant to Section 7.1(a) or Purchaser terminates this Agreement pursuant to Section 7.1(c) or 7.1(d), Purchaser shall receive the prompt return of the Deposit which, in the case of Purchaser terminating this Agreement pursuant to Section 7.1(c) or 7.1(d), shall constitute Purchaser's sole and exclusive remedy available under any law, including the Bankruptcy Code;

(ii) if Purchaser terminates this Agreement pursuant to Section 7.1(b)(i) or Seller or Purchaser terminates this Agreement pursuant to Section 7.1(b)(ii), Purchaser shall receive the prompt return of the Deposit which, in the case of a termination of this Agreement pursuant to this Section 7.2(b)(ii), shall constitute Purchaser's sole and exclusive remedy available under any law, including the Bankruptcy Code;

(iii) if Seller terminates this Agreement pursuant to Section 7.1(b)(i), Seller shall receive the Deposit, which shall constitute Seller's sole and exclusive remedy available under any law, including the Bankruptcy Code; and

(iv) if Purchaser terminates this Agreement pursuant to Section 7.1(e), then Seller shall promptly following the closing of the corresponding transaction pay Purchaser in immediately available funds, and Purchaser shall be deemed to have earned both (i) the Expense Reimbursement and (ii) an amount equal to \$69,000 (the "Break-Up Fee"). If this Agreement is terminated by Purchaser for any reason in accordance with Section 7.1 (other than Section 7.1(e)) and the Seller subsequently consummates a sale of all of the Purchased Assets with a Person other than Purchaser, including in connection with any Competing Transaction, Seller shall promptly pay Purchaser, and Purchaser shall be deemed to have earned, the Expense Reimbursement. The Break-Up Fee and the Expense Reimbursement shall constitute an administrative expense of Seller with priority over any and all administrative expenses of the kind specified in Section 503(b) of the Bankruptcy Code until paid and shall be payable from the proceeds of a sale to a third party within two (2) Business Days, notwithstanding Section 507(a) of the Bankruptcy Code. Purchaser and Seller hereby acknowledge that amounts payable pursuant to this Section 7.2(b)(iv) are commercially reasonable and necessary to induce Purchaser to enter into this Agreement and consummate the transactions contemplated hereby. For the avoidance of doubt, the covenants set forth in this Section 7.2(b)(iv) are continuing obligations, separate and independent from the other obligations of Seller and Purchaser, and survive the termination of this Agreement.

**7.3** Expenses. Except as otherwise set forth in Section 7.2, each party hereto shall pay its own expenses incurred in connection with this Agreement and the transactions contemplated hereby.

**7.4** Compliance with Laws. Notwithstanding anything contained in this Agreement to the contrary, the obligations of the parties shall be subject to all laws, present and future, of any government having jurisdiction over the parties and this transaction, and to orders, regulations, directions or requests of any such government.

**7.5 Further Cooperation.** Without limiting Seller's obligations under Section 5.3, at the request of Purchaser, at any time following the Closing Date, Seller shall execute and deliver such other instruments and documents and do and perform such other acts as may be reasonably necessary for the operation of the Acquired Assets by Purchaser and effecting completely the consummation of the transactions contemplated hereby, including execution, acknowledgment and recordation of other such papers (which shall include as necessary the execution by Seller of a Power of Attorney in substantially the form attached hereto as Exhibit E), using reasonable efforts to obtain the same from the respective inventors or authors as necessary for perfecting and conveying unto Purchaser the benefit of the transactions contemplated hereby; provided that Seller shall not be obligated to pay any material consideration or incur any material costs to provide such cooperation.

**7.6 Governing Law; Jurisdiction.** All disputes arising out of or related to this Agreement, including, without limitation, any dispute relating to the interpretation, meaning or effect of any provision hereof, will be resolved in the Bankruptcy Court and the parties hereto will each submit to the exclusive jurisdiction of the Bankruptcy Court for the purposes of adjudicating any such dispute, to the extent the jurisdiction of the Bankruptcy Court is applicable. If the jurisdiction of the Bankruptcy Court is not applicable, any legal action, suit or proceeding arising out of or relating to this Agreement, each and every agreement and instrument contemplated hereby or the transactions contemplated hereby and thereby shall be instituted in any Federal court of the Southern District of New York. This Agreement shall be governed by and construed in accordance with the internal laws of the State of New York (i.e., without regard to its conflicts of law rules).

**7.7 Entire Agreement; Interpretation.** The terms and conditions of this Agreement, including its exhibits and the Ancillary Agreements, constitute the entire agreement between the parties with respect to the subject matter hereof, and supersede all prior and contemporaneous agreements, understandings, negotiations and discussions. None of the parties shall be bound by any conditions, definitions, warranties, understandings, or representations with respect to the subject matter hereof other than as expressly provided herein. The section headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement. No oral explanation or oral information by either party hereto shall alter the meaning or interpretation of this Agreement. The terms "includes" and "including" are not limiting. These terms and conditions will prevail notwithstanding any different, conflicting or additional terms and conditions which may appear on any purchase order, acknowledgment or other writing not expressly incorporated into this Agreement. Unless a contrary intention appears, (i) the words "herein", "hereof" and "hereunder" and other words of similar import refer to this Agreement as a whole and not to any particular Article, Section or other subdivision, and (ii) reference to any Article or Section means such Article or Section hereof. Any accounting terms used in this Agreement shall, unless otherwise defined in this Agreement, have the meaning ascribed thereto by GAAP.

**7.8 Notices:** All notices required or permitted to be given hereunder shall be in writing, shall make reference to this Agreement, and shall be delivered by hand, or dispatched by prepaid air courier or by registered or certified airmail, postage prepaid, addressed as follows:

If to Purchaser

Q Holdings LLC  
C/O HSA Partners II LLC  
110 Wall Street  
4th Floor  
New York, New York 10005  
Attn: Ronald Adjmi

with a copy to:

ASK LLP  
151 West 46<sup>th</sup> Street, 4<sup>th</sup> Floor  
New York, New York 10036  
Attn: Edward E. Neiger  
Phone: (212) 267-7342  
Fax: (212) 918-3427

If to Seller

Quirky, Inc.  
606 West 28<sup>th</sup> Street  
New York, New York 10001  
Attn: Charles Kwalwasser,  
CAO  
Email: charlie@quirkyinc.com

with a copy to:

Cooley LLP  
1114 Avenue of the Americas  
New York, New York 10036  
Attn: Jeffrey Cohen  
Phone: (212) 479-6218  
Fax: (212) 479-6275

Such notices shall be deemed served when received by addressee or, if delivery is not accomplished by reason of some fault of the addressee, when tendered for delivery. Either party may give written notice of a change of address and, after notice of such change has been received, any notice or request shall thereafter be given to such party at such changed address.

**7.9** Counterparts; Facsimile and Email Transmission. This Agreement may be executed in one or more counterparts, each of which when executed shall be deemed to be an original but all of which taken together shall constitute one and the same agreement, and any such executed counterpart may be delivered by transmission of the manually signed document by facsimile transmission or in "pdf" form delivered by electronic mail, and such facsimile or "pdf" representation of such manual signature shall constitute execution thereof.

**7.10** No Ongoing Obligations. Purchaser shall not have any obligations solely by virtue of the provisions of this Agreement to support, maintain or otherwise continue the business operations of Seller or to otherwise market, promote or develop the Purchased Assets after the Closing Date.

**7.11** Survival of Representations and Warranties. All of the representations and warranties of Purchaser contained in this Agreement shall survive the Closing Date and the consummation of the transactions contemplated hereby. All of the representations and warranties of Seller contained in this Agreement shall survive until the Closing Date and terminate upon the closing of the transactions contemplated hereby.

**7.12** Amendment. This Agreement may not be amended or modified except by an instrument in writing signed by, or on behalf of, Seller and Purchaser.

**7.13** Indemnification Obligations. After the Closing, Purchaser shall indemnify Seller against and shall hold it harmless from any and all liabilities, losses, damages, costs and expenses (including, without limitation, reasonable attorneys' fees and expenses) that Seller may suffer or incur by reason of Seller's defense of any claim, suit or proceeding made or commenced against it arising out of obligations that were expressly assumed by Purchaser hereunder and only expressly for liabilities, claims or amounts arising or accruing after the

Closing Date. Seller shall provide written notice to Purchaser of any claim or dispute as to which indemnification is requested under this Section within 10 days of receipt of written notice by Seller of the commencement, or threatened commencement, of any such action; provided that the failure to provide such notice will not affect any rights hereunder except to the extent Purchaser is materially prejudiced thereby. Seller, on not less than thirty (30) days' notice to Purchaser, may make settlement of such claim, litigation or other proceeding with Purchaser's consent, such consent not to be unreasonably withheld, and such settlement shall be binding on Seller and Purchaser for the purposes of this Section; provided that, if within said thirty-day period Purchaser shall, in writing, have requested Seller to contest such claim, or to defend against such litigation or other proceeding, then Purchaser shall have the right and obligation to contest such claim or to defend against such litigation or other proceeding on its own behalf and on behalf of Seller, with counsel of its own choosing, but Seller may also, in its discretion, participate in such contest or defense on its own behalf and with counsel of its own choosing. If Purchaser shall have failed, neglected or refused to contest such claim or to defend against such litigation or other proceeding, Purchaser shall reimburse Seller for the expenses incurred by Seller in such contest or defense. Any payment or settlement resulting from such contest or defense, together with Seller's costs thereof, shall be binding on Seller and on Purchaser for the purposes of this Section.

**7.14 No Agency.** The parties hereto are independent contractors. Except as may be provided in this Agreement, no party has any express or implied right or authority to assume or create any obligations on behalf of any other party or to bind any other party to any contract, agreement or undertaking with any third party. Nothing in this Agreement shall be construed to create a partnership, joint venture, employment or agency relationship between Seller and Purchaser.

**7.15 Specific Performance.** Notwithstanding anything to the contrary contained herein (other than Section 7.2(b) hereof), each party hereto acknowledges that money damages would be incalculable and an insufficient remedy for any breach of this Agreement by such party and that any such breach would cause the other party hereto irreparable harm. Accordingly, each party hereto also agrees that, in the event of any breach or threatened breach of the provisions of this Agreement by such party, the other parties hereto shall (except to the extent Section 7.2(b) is applicable) be entitled to equitable relief without the requirement of posting a bond or other security, including in the form of injunctions and orders for specific performance.

**7.16 Severability.** Any provision of this Agreement which is prohibited or unenforceable in any jurisdiction shall not invalidate the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction, and any such provision, to the extent invalid or unenforceable, shall be replaced by a valid and enforceable provision which comes closest to the intention of the parties underlying such invalid or unenforceable provision.

**7.17 Waivers.** Waiver by any party of any breach of or failure to comply with any provision of this Agreement by the other party shall not be construed as, or constitute, a continuing waiver of such provision, or a waiver of any other breach of, or failure to comply with, any other provision of this Agreement. No waiver of any such breach or failure or of any term or condition of this Agreement shall be effective unless in a written notice signed by the waiving party and delivered, in the manner required for notices generally, to each affected party.

**7.18 Binding Effect; Third Party Beneficiaries; Assignment.** This Agreement shall be binding upon, inure to the benefit of, and be enforceable by, the parties hereto and their

respective successors and permitted assigns. Except as expressly set forth herein, nothing expressed or referred to in this Agreement is intended or shall be construed to give any Person other than the parties to this Agreement, or their respective legal representatives, successors and permitted assigns, any legal or equitable right, remedy or claim under or in respect of this Agreement or any provision contained herein. No party may assign this Agreement nor any of its rights hereunder, other than any right to payment of a liquidated sum, nor delegate any of its obligations hereunder, without the prior written consent of the other parties, except that Purchaser may assign its rights under this Agreement in whole or in part to any Affiliate or to any Person providing financing for the transaction, and to any purchaser of all or substantially all of the Purchased Assets from Purchaser.

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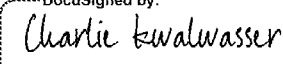
IN WITNESS WHEREOF, the parties have executed this Asset Purchase Agreement as of the date first written above:

SELLER:

PURCHASER:

QUIRKY, INC.

Q HOLDINGS LLC

DocuSigned by:  
  
By: \_\_\_\_\_  
Name: Charlie Kwalwasser  
Title: Secretary

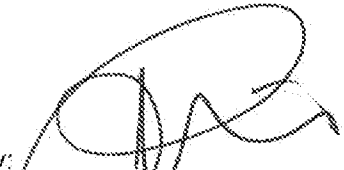
By: \_\_\_\_\_  
Name:  
Title:

IN WITNESS WHEREOF, the parties have executed this Asset Purchase Agreement as  
of the date first written above:

SELLER:  
QUIRKY, INC.

PURCHASER:  
Q HOLDINGS LLC

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

By:   
Name: RONALD ADJMI  
Title: MEMBER

*[Signature Page to Quirky, Inc. Asset Purchase Agreement]*



EXHIBIT A

Disclosure Schedule

Schedule 2.1(a)(i): Copyright Registrations and Applications for Registration

COPYRIGHT	APP/REG NO.
QUIRKY MADE HERE Logo	Reg No. VA 1-825-099 Eff. Date: 5/23/12
YUP, IT'S ALL MADE UP Book	Reg No. TX 7-656-646 Eff. Date: 1/15/13  Reg No. VA 1-852-328 Eff. Date: 1/16/13
RAKE N' TAMP Photo	Reg No. VA 1-852-366 Eff. Date: 2/8/13
RAKE N' TAMP Photo	Reg No. VA 1-852-369 Eff. Date: 2/8/13
PLUCK Photo	Reg No. VA 1-852-373 Eff. Date: 2/8/13
PLUCK Photo	Reg No. VA 1-852-374 Eff. Date: 2/8/13
BROOM GROOMER Photo	Reg No. VA 1-852-322 Eff. Date: 2/8/13
BROOM GROOMER Photo	Reg No. VA 1-852-371 Eff. Date: 2/8/13
UNHAMPERED Photo	Reg No. VA 1-852-372 Eff. Date: 2/8/13
GET SHIT DONE T-shirt logo	Reg No. VA 1-852-367 Eff. Date: 3/4/13
BRANCH demo video	Reg No. PA0001899811 Eff. Date: 6/25/14



Schedule 2.1(a)(ii): Software

- Source code to Quirky Platform.

Schedule 2.1(a)(iii): Trademark Rights

Trademark Applications and Registered Trademarks

MARK	APP/REG NO.	GOODS/SERVICES
QUIRKY	US filed 2/27/10 App 77946558 Reg 3960507 (5/17/11)  US filed 5/4/11 App 85312009 Reg 4273533 (1/8/13) App 85977893 (DIV)  WIPO filed 11.2.11 (EC, China, Japan, S Korea) Ser No A0026982 Reg 1104018 (11/2/11) China Reg 9.17.12 EU Reg 12.4.12 Korea Reg 4.22.13 Japan Reg 11.1.13  Brazil filed 11.4.11 Ser No 931110512852 Ser No 931110512860 Ser No 931110512909  Canada filed 11.3.11 Ser No 1550638 Reg TMA838,333 (12.12.12)	Class 42  Class 8, 9, 11, 20, 21 Class 12, 16, 18, 21 (DIV) [ABN cl. 12, 16, 21 – no use]  Class 9, 21, 42  Class 9, 21, 42

MARK	APP/REG NO.	GOODS/SERVICES
Q (design)	US filed 5/4/11 App 85312017 Reg 4273534 (1.8.13) App 85977894 (DIV) WIPO filed 11.2.11 (EC, China, Japan, S Korea) Ser No A0026988 Reg 1101858 (11/2/11) EU Reg 11.12.12 Korea Reg 5.1.13 Brazil filed 11.4.11 Ser No 931110512887 Ser No 931110512895 Ser No 931110512879 (cl. 42) (Cl. 42 abandoned Jun '12) Canada filed 11.3.11 Ser No 1550641	Class 8, 9, 11, 18, 20, 21 Class 12, 16, 18, 21 (DIV) Abandoned 5.27.13 Class 9, 21 (Class 42 cancel filed Jun '12) Class 9, 21 (cl. 42 services removed Jun '12)
Q QUIRKY (design)	US filed 5/4/11 App 85312026 Reg 4240135 (11/13/12) WIPO filed 9/20/12 (EC, China, Japan, S Korea) Ser No A0031892 Reg 1137311 (11/29/12) Brazil filed 6.28.12 Ser No 931204290225 Canada filed 6.28.12 Ser No 1583095	Class 42 Class 42 Class 42 (class 42 services only)
INVENTED TOGETHER	US filed 5/9/11 App 85315930 Reg 4203188 (9.4.12)	Class 9, 21
INVENT TOGETHER	US filed 5/9/11 App 85315921 Reg 4350686 (6.11.13)	Class 42

MARK	APP/REG NO.	GOODS/SERVICES
MAKING INVENTION ACCESSIBLE	US filed 12/23/10 App 85204858 Reg 4191404 (8.14.12)	Class 42
WE MAKE INVENTION ACCESSIBLE	US filed 12/23/10 App 85204861 Reg 4206788 (9.11.12)	Class 42
PIVOT POWER	US filed 5/13/11 App 85320268 Reg 4226733 (10.16.12)	Class 9
CORDIES	US filed 5/13/11 App 85320244 Reg 4076775 (12/27/11)	Class 9
CONTORT	US filed 5/13/11 App 85320238 Reg 4070744 (12/13/11)	Class 9
UNHAMPERED	US filed 5/13/11 App 85320253 Reg 4242864 (11/13/12)	Class 21
MANTIS	US filed 5/13/11 App 85320258 Reg 4234777 (10.30.12)	Class 9
BROOM GROOMER	US filed 5/19/11 App 85325432 Reg 4087095 (1/17/12)	Class 21
SOLO	US filed 8/17/11 App 85399821 Reg 4265349 (12/25/12)	Class 20
GET QUIRKY	US filed 12/26/12 App 85810326	Class 35, 42

MARK	APP/REG NO.	GOODS/SERVICES
REINVENTING INVENTION	US filed 12/26/12 App 85810330	Class 35, 42
INVENTED BY REAL PEOPLE LIKE YOU	US filed 6/19/14 App 86/314,324 Reg 4681443 (2/3/2015)	Class 35
PRODUCTS INVENTED BY REAL PEOPLE LIKE YOU	US filed 6/19/14 App 86/314,330	Class 42
OHNO	US filed 11.3.14 App 86/442,911	Class 9, 35, 37, 42
POPPY	US filed 3.30.15 App 86580717	Class 7, 11
EMBER	US filed 5/13/11 App 85320248	Class 9 Abandoned 2.4.13
SOCIAL PRODUCT DEVELOPMENT	US filed 3/2/10 App 77947992	Class 42 Abandoned 7.21.11
A SOCIALLY DEVELOPED PRODUCT	US filed 3/2/10 App 77947969	Class 42 Abandoned 11/14/11
INFLUENCE ENGINE	US filed 3/2/10 App 77948018	Class 35 Abandoned 12/6/10
SKETCH TO STORE	US filed 3/2/10 App 77948001	Class 35 Abandoned 12/6/10
LIFE REINVENTED	US filed 12/26/12 App 85810327	Class 35, 42 Abandoned 2/17/14
BETTER FASTER FUNNER	US filed 12/26/12 App 85810325	Class 35, 42 Abandoned 2/17/14



Schedule 2.1(a)(iv): Patents

PATENT APPLICATIONS, PATENTS

PRODUCT	US APPS	NON-US APPS	PATENTS
PIVOT POWER	UA 4.27.11 13/095167	PCT 9.14.11 PCT/US11/51522	US 8,262,399 9.11.12
	UA 8.7.12 13/568,833	China Util Model 2.6.12	US 8,529,289 9.10.13
	UA 8.8.13 13/962,627	201220035403.6 DIV 1.22.13	US D667,795 9.25.12
	Design 6.16.11 29/394,436	201320033486.X EPO	US D677,630 3.12.13
	Design 7.31.12 29/428,468	JPO 10.28.13	US D701,169 3.18.14
	Design 2.13.13 29/445,582	Canada 10.25.13	CN UM 2.13.13 201220035403.6
		Korea	CN UM 5.7.14 201320033486.X
		Russia	CA 2,834,363 11.25.14
		China 12.27.13 201180071981.3	KR 8.20.14 10-1434816
			JP 5639306
			RU 2534038

PRODUCT	US APPS	NON-US APPS	PATENTS
PIV PWR MINI	UA 10.20.11 13/277764  Design 7.13.11 29/397,199	PCT 9.6.12 PCT/US12/53871  China Util Model 2.29.12 201220070779.0  China Design 1/13/12 201230008913.X DIV 10.15.12 201230488587.7  Canada Design 1/13/12 144046 DIV 9.10.12 147341	US 8,500,492 8.6.13  US D 701,169 3.18.14  CA D 144046 10.12.12  CA D 147341 10.12.12  CN UM 10.3.12 ZL 201220070779.0  CN D 11.21.12 ZL 201230008913.X  CN D 2.20.13 ZL 201230488587.7
BROOM GROOMER	PA 4.18.11 61/476,663  UA 9.7.11 13/226,745  UA 12.10.12 13/709,391  UA 3.4.14 14/197,852		US 8,555,459 10.15.13  US 8,701,243 4.22.14
BROOM GROOMER EXTENSIONS	UA 2.14.13 13/767,516		
SOLO	PA 9.22.10 61/385547  UA 9.14.11 13/232,390	PCT 9.14.11 PCT/US11/51521	US 8,523,026 9.3.13
VENTU	UA 10.18.11 13/275820  Design 10.18.11 29/404267		
TP ROLLER	UA 1.7.02 10/040,991  RE 12.3.04 11/004,793		US 6,651,922 11.25.03  US RE41,718 11.21.10

PRODUCT	US APPS	NON-US APPS	PATENTS
ROTATE-A-BLADE	PA 10.25.07 60/982,648 UA 3.13.08 12/047,797 CA 8.28.08 2639208		US 8,739,414 6.3.14
NAVI HELMET	UA 1.22.02 10/054,043		US6,720,870 4.13.04
DRIFT	UA 3.10.06 11/373,231		US7,488,177 2.10.09
CONTOUR	Design 11.16.09 29/350358		D621,626 8.17.10
HERB STRIPPER	UA 6.12.09 12/483,554	GCC	US7,909,687 3.22.11 GCC
WORKBOOST	PA 10.28.10 61/407,569 Design 10.28.10 29/377,982	PCT 10.27.11 PCT/US2011/058045 CN 4.25.11 201130094596.3 CAN 12.4.11 140131 EC Design 11.4.11 001849126	D638,587 5.24.11 CN ZL201130094596.3 CAN 140131 EC 001849126- 0001

PRODUCT	US APPS	NON-US APPS	PATENTS
STEM	PA 5.13.11 61/486,112  PA 11.30.11 61/565,410  UA 5.2.12 13/461,932  UA 12.12.12 13/712,719  UA 2.20.13 13/771,895  UA 1.23.14 14/162,167  UA UA 8.8.14 14/455,319(CO N of DIV)	PCT 5.2.12 PCTUS1236109  SPAIN Util Model 8.23.12 U201290015  EPO (accel) 12.11.12 12785962.7  Germany UM 1.7.13 20 2012 012 428.5  China UM 5.2.12 201290000161.5  HK STP 5.30.13 13106399.9  JPO	DE UM 1.23.13 DE 20 2012 012 428 U1  ES UM 6.18.13 ES 1078920  CN UM 11.27.13 ZL 201290000161.5  HK STP 1.24.14 HK1184627  US 8,813,641 8.26.14  US 8,916,218 12.23.14  US 9,107,532 8.18.15  EP 2568856  JP 5781689
POD POWER PORT POWER	PA 11.8.11 61/556,874  PA 4.11.12 61/622,761  UA 8.8.12 13/569,824  UA 10.31.14 14/529,412	PCT 8.9.12 PCT/US12/50108  EPO	US 8,905,780 12.9.14
THOR	PA 1.11.12 61/585,472  Design 1.11.12 29/410,753  UA 1.9.13 13/737,766	PCT 1.9.13 PCT/US13/20883  CA	US5,263,222 11.23.93  US D705,511 5.20.14
CROSSOVER	Design 12.7.12 29/439,255		US D713,395 9.16.14
IRON STATION	PA 1.31.12 61/592,696  UA 1.31.13 13/755,414		

PRODUCT	US APPS	NON-US APPS	PATENTS
CRATES	PA 4.10.12 61/622,428  Design 4.13Crates .12 29/418,211	Canada Design 10.12.12	
STAKE	PA 5.15.12 61/647,162  UA 2.22.13 13/773,821		
PROP POWER	PA 7.18.12 61/672,859  UA 7.16.13 13/943,409	PCT 7.16.13 PCT/US13/50742  EPO CA CN HK JPO	
SILO	PA 7.31.12 61/677,527  UA 2.26.13 13/777,168	PCT 7.18.13 PCT/US13/51104  EPO CA CN HK	
SOCKETS	PA 7.31.12 61/678,003  UA 7.29.13 13/952,942	PCT 7.29.13 PCT/US13/52471	
NIMBUS	Design 10.4.13 29/468,914		US D727,814 4.28.15
PICKUP POWER	PA 10.24.12 61/717,813  PA 3.8.13 61/774,838  UA 10.24.13 14/062,587	PCT 10.24.13 PCT/US13/66618	

PRODUCT	US APPS	NON-US APPS	PATENTS
RAKE'N TAMP	PA 11.7.12 61/723,347  PA 3.8.13 61/774,720  UA 11.7.13 14/074,345	PCT 11.7.13 PCT/US13/68936	
PLUCK	PA 11.28.12 61/730,605  UA 1.9.13 13/737,740  UA 8.2.13 13/957,797	UK 1.25.13 1301373.5  NZ 1.24.13 606198  NZ 3.11.13 608081  <b><u>PCT 11.27.13</u></b>  <b><u>PCT/US13/27179</u></b>	NZ 1.24.13 606198  US 9,138,104 9.22.15  NZ 608081  UK 12.10.14 2508444
PIV PWR RUGGED	PA 1.7.13 61/749,608  PA 3.20.13 61/803,504  UA 1.7.14 14/149,612  UA 4.15.15 (CON) 14/687,225	PCT 1.7.14 PCT/US14/10541	US 9,028,274 5.12.2015
FLIPSIDE	PA 2.27.13 61/769,873  UA 2.27.14 14/192795	PCT 2.27.14 PCT/US14/19157	
ZEUS	PA 2.27.13 61/769,877  UA 2.27.14 14/192657	PCT 2.27.14 PCT/US14/19154	US 9,027,186 5.12.15
SHEATH	PA 3.8.13 61/774,250  UA 3.5.14 14/197868	PCT 3.5.14 PCT/US14/20720	

PRODUCT	US APPS	NON-US APPS	PATENTS
GIFTEZE/GIFTS WIFT	PA 8.28.13 61/870,823  UA 8.28.14 14/471,965	PCT 8.28.14 PCT/US14/53229	
SPOTTER	PA 9.12.13 61/877,213  UA 9.12.14 14/484,851	PCT 9.12.14 PCT/US14/55370	
BREAKER BOX	PA 6.4.14 62/007,780		
AROS	PA 12.27.13 61/921,343  DES 12.27.13 29/477,881	CA DES MX DES EU DES CN DES HK DES	EU DES 6.26.14 001415947-0001  CN DES 10.31.14 CN DES 157321  HK DES 6.25.14 1401191.0  US D723,675
NORM	PA 3.24.14 61/969,725  UA 3.24.15 14/667,182	PCT 3.24.15 PCT/US15/22255	
BATTERY KIOSK	PA 8.22.14 62/040,854		
GLOW	PA 2.7.14 61/937,261  UA 2.9.15 14/617,641		
POPPY POUR OVER COFFEE MAKER	PA 3.30.15 62/140,113		

PRODUCT	US APPS	NON-US APPS	PATENTS
BABY FORMULA MACHINE	13/378,425	Aus. 2010262945; PI 1008686-5; CN 2,765,802; Chile 3216-2011; CH 201080036335.9; CO 12-004777; CR 2012- 0020; SP-12-11602; EPO 2012-516284; EPC 10790168.8; HK 12110693.5; 10317/DELNP/2011; w-00201200200; JP 2012-516284; SK 10- 2012-7001365; PI 20 11006134; MX/a/20111013983; NZ 597610; PCT/US2010/038929; Per. 2122-2011; PH 1- 2011-502631; SG 201109355-6; SA 201109355-6; TW 99119659; VT 1-2012- 00138	



Schedule 2.1(a)(vii): Domain Names

4kluster.com  
agencykluster.com  
aquirkyblog.com  
beefquirky.com  
besthangerever.com  
betterhanger.com  
claypoweredbyquirky.com  
clayproduct.com  
collapsiblehanger.com  
cordlets.com  
foundpoweredbyquirky.com  
gauiky.com  
getkluster.com  
gokluster.com  
guaiky.com  
hangsolo.com  
iinfluencedthat.com  
influencerrooms.com  
inventedtogether.com  
inventionaccessible.com  
klusta.com  
kluster.com  
klusteragency.com  
klusterall.com  
klusterblank.com  
klusterclips.com  
klustercrew.com  
klustereq.com  
klusterfck.com  
klusterfk.com  
klusterhouse.com  
klusterish.com  
klusterit.com  
klusterlabs.com  
klustermail.com  
klusternow.com  
klusterproject.com  
klusterterms.com  
klusterthat.com  
klusterthis.com  
klusterus.com

klustore.com  
kluter.com  
knamethis.com  
kworky.com  
mykluster.com  
notcrowdsourcing.com  
onehandedhanger.com  
paraphernaliapoweredbyquirky.com  
paraphernaliaproduct.com  
paraphernaliaproducts.com  
plucksunnysideout.com  
poppyhome.com  
poweredbyquirky.com  
productpoweredbyquirky.com  
productspoweredbyquirky.com  
projectkluster.com  
pushpoweredbyquirky.com  
pushproducts.com  
qds.tv  
qrky.co  
quirky.com  
quirky.sucks  
quirkyassets.com  
quirkyclay.com  
quirkycloak.com  
quirkyfound.com  
quirkyinc.com  
quirkyinvention.com  
quirkyinventions.com  
quirkylocal.com  
quirkynormal.com  
quirkyparaphernalia.com  
quirkypluck.com  
quirkypoweredproduct.com  
quirkypoweredproducts.com  
quirkypr.com  
quirkyproduct.com  
quirkypush.com  
quirkysale.com  
quirkysales.com  
quirkysearch.com  
quirkysocialsale.com  
quirkysocialsales.com

quirkyu.com  
quirkyuniversity.com  
sketch2store.com  
sketchtostore.com  
solohanger.com  
teamkluster.com  
trashyourhanger.com  
wearenotcrowdsourcing.com  
wearequirky.com  
wekluster.com  
wemakeinventionaccessible.com  
yourhangersucks.com  
yupitsallmadeup.com  
quirky.asia  
quirky.at  
quirky.be  
quirky.bs  
quirky.cl  
quirky.co.at  
quirky.com.br  
quirky.cz  
quirky.es  
quirky.gr  
quirky.mx  
quirky.my  
quirky.ph  
quirky.pl  
quirky.sg  
quirky.tw  
sonicuseresting.com

Schedule 2.1(a)(viii): Web Sites

The Web sites located at the following URLs constitute all Web sites owned or controlled by Seller:

1. <http://www.quirky.com>
2. <http://www.poppyhome.com>

Schedule 2.1(c): Tangible Personal Property

- All prototypes and engineering files on hand at Quirky, Inc. New York City, New York office.

Schedule 2.1(e): Inventory

Product: Item Name	Name	Units On Hand
Align	PALGN-BL01	620
Align EU	PALGN-BLEU	1556
Aros	PAROS-WH01	775
Aros Canada	PAROS-WHCA	1
Ascend	PACND-BK02	1805
Bake Shapes	PBKS1-MLT1	8
Bake Shapes EU	PBKS1-MTEU	29
Bandits	BND-1-CW1	604
	KBND1-EU24	1
	PBND1-60PK	84
	PBND1-CL5P	2688
	PBND1-MLCA	164
	PBND1-MLEU	10632
	PBND1-X10P	2317
	PBND1-XCDE	290
	PBND1-XMEU	1534
Beat Booster	PBEAT-BK01	18
Bobble Brush	BBB-1-PNK	3
Bobble Brush w/Timer	PBBT1-BL01	3
	PBBT1-GY01	485
	PBBT1-PK01	485
	PBBT1-XBEU	968
	PBBT1-XGEU	3824
	PBBT1-XPEU	824
Branch	PBNCH-CL01	7
	PBNCH-CLEU	10800
	PBNCH-WH01	1
Brim	PBRI1-WH01	1
Broom Groomer	BRG-1-CHR	96
	BRG-1-FRN	55
	PBRG1-CHEU	108
	PBRG1-XCEU	5788
Broom Groomer Mini	PBGM1-GY01	24
Broom Groomer Pro	PBGP1-WH01	36
Broom Groomer Pro v2	PBGP2-BL01	57
Broom Groomer Pro v2 Canada	PBGP2-BLCA	14
Broom Groomer w/broom	PBGWB-WH01	4
Broom Groomer w/broom EU	PBGWB-WHEU	1362
Broom Stopper	PBRS1-TQ01	4
Bundles	PBNDL-BOX1	6
	PBNDL-BSPL	44
	PBNDL-CSEU	3590
	PBNDL-CTSM	46
	PBNDL-SHAL	1976
	PBNDL-THZE	1573
	PBNDL-VLEU	3446
	PBNDL-VMLR	85
	PBNDL-WMRT	17
Carabandits	PCBN1-ML01	9
	PCBN1-MTGT	6783

Product: Item Name	Name	Units On Hand
	PCBN1-XMEU	2504
	PCBN1-XML1	370
Cargo	PCAR1-TQ01	432
	PCAR1-XGEU	4272
	PCAR1-XGRY	193
	PCAR1-XTRQ	163
Charge	PCHRG-4BLK	73
	PCHRG-4WHT	73
	PCHRG-6BLK	64
	PCHRG-6WHT	76
CitriTwist	PCTWT-MTL1	5469
Click n Cook	CNC-1-CW1	231
	PCNC1-XEU1	12
Cloak	CLK-1-BLK	170
	CLK-2-BLK	477
	CLK-2-BLU	874
	CLK-2-GRN	103
	CLK-2-PNK	424
Contort	CON-1-CHR	2
	CON-1-GRN	1000
	PCON1-XCEU	2034
	PCON1-XGEU	837
	PCON1-XGRY	3
Contort Power	PCON2-WH01	3784
Contort Power Canada	PCON2-WHCA	593
Contour	CTR-1-WHT	2
	PCTR1-2PEU	24
Converge	CVG-1-CW1	165
	PCVG2-WH01	214
	PCVG2-WHCA	6
	PCVG2-WHJP	330
	PCVG2-XWHT	7
Converge Aluminum	PCVG4-BK01	7
	PCVG4-WH01	8
Converge Pop	PCVG3-BK01	520
	PCVG3-GN01	3060
	PCVG3-PK01	3451
	PCVG3-TL01	2818
	PCVG3-WH01	7355
Cordies	COR-2-BLU	4
	COR-2-BTGT	116
	COR-2-CTD	66
	COR-2-PNK	4
	COR-2-WHT	937
	PCOR2-BNDL	114
	PCOR2-GYEU	24
	PCOR2-WHCA	1
	PCOR2-WHEU	4116
	PCOR2-XBLU	2
	PCOR2-XCHR	525
	PCOR2-XPEU	1885
	PCOR2-XPNK	1397

Product: Item Name	Name	Units On Hand	
Cordies Executive	PCOR2-XWHT	11467	
	PCOR1-BKEX	140	
	PCOR1-BTGT	10	
	PCOR1-EXEU	195	
	PCOR1-XBEU	36	
	PCOR1-XBEX	42	
Cordies Pop	PCORP-BK01	58	
	PCORP-GR01	201	
	PCORP-GY01	45	
	PCORP-PK01	6371	
	PCORP-TL01	5928	
	PCORP-WH01	29	
Core	PCRE1-BK01	41	
Crates	KCRT1-BND2	763	
	KCRT1-BNDL	71	
	KCRT1-CHMT	2	
	KCRT1-SHMT	3	
	PCRT1-CHSC	7	
	PCRT1-CORK	600	
	PCRT1-GYDD	917	
	PCRT1-GYLK	848	
	PCRT1-MDFS	1	
	PCRT1-MTLC	438	
	PCRT1-WDLG	312	
	Crossover	PCRS1-BNDL	1
		PCRS1-OR01	5335
PCRS1-OREU		2848	
PCRS1-PKGY		2701	
PCRS1-WH01		3970	
PCRS1-WHEU		3380	
PCRS1-XOJG		2064	
PCRS1-XPKG		1651	
PCRS1-XWHG		4018	
Crossover (directsales)	MCRS1-PKGN	1584	
	PCRS1-CHLT	936	
	PCRS1-CHRT	872	
	PCRS1-DGLT	92	
	PCRS1-DGRT	119	
	PCRS1-GYLT	700	
	PCRS1-GYRT	795	
	PCRS1-JGLT	61	
	PCRS1-JGRT	40	
	PCRS1-KCLT	168	
	PCRS1-KCRT	210	
	PCRS1-NBLT	300	
	PCRS1-NBRT	377	
	PCRS1-OJLT	129	
	PCRS1-OJRT	6	
	PCRS1-PKLT	321	
	PCRS1-PKRT	346	
	PCRS1-PRLT	200	
	PCRS1-PRRT	131	



Product: Item Name	Name	Units On Hand
	PCRS1-TBLT	324
	PCRS1-TBRT	165
	PCRS1-WHLT	982
	PCRS1-WHRT	1041
	PCRS1-WPLT	216
	PCRS1-WPRT	139
	PCRS1-YWLT	270
	PCRS1-YWRT	221
Crossover iPad Mini	PCRD1-OREU	1517
	PCRD1-WH01	1087
	PCRD1-WHEU	272
	PCRD1-XORG	5682
	PCRD1-XWHT	4784
Crossover iPhone 6	PCRS2-CHLT	110
	PCRS2-CHRT	207
	PCRS2-OJLT	443
	PCRS2-OJRT	324
	PCRS2-PKLT	413
	PCRS2-PKRT	413
	PCRS2-TQLT	383
	PCRS2-TQRT	298
	PCRS2-WHLT	244
	PCRS2-WHRT	363
Crossover iPhone 6 plus	PCRS3-CHLT	342
	PCRS3-CHRT	388
	PCRS3-OJLT	486
	PCRS3-OJRT	415
	PCRS3-PKLT	480
	PCRS3-PKRT	469
	PCRS3-TQLT	450
	PCRS3-TQRT	444
	PCRS3-WHLT	410
	PCRS3-WHRT	456
Cubo	PCUBO-WD01	9
Cyclone	PCYC1-XRY1	1
Digits	DGT-1-2PK	484
	DGT-2-1PK	9371
	PDGT2-1PCA	1800
Drift	PDRF1-BH01	22
Egg Minder	PEGGM-WH01	728
Fender	PFND2-BL01	1802
	PFND2-DG01	2831
	PFND2-DGEU	574
	PFND3-SC01	2411
Flipside	PFLP1-REFL	54
Flipside EU	PFLP1-WHEU	864
Flipside v2	PFLP2-BL01	50
	PFLP2-REFL	5005
Flipside v2 Canada	PFLP2-BLCA	12
Folio	PFOL1-BK01	4
	PFOL1-BKEU	4008
	PFOL1-WH01	319

Product: Item Name	Name	Units On Hand
Gift Card Accessories	PGCRD-G100	198
	PGCRD-G250	69
	PGCRD-GC10	82
	PGCRD-GC25	324
	PGCRD-GC50	327
	PGCRD-GC75	315
Glide	PGLD1-2P01	2
	PGLDE-X2PE	198
Grill Wrangler	PGRL1-RD01	3
	PGRL1-XRED	11645
Grill Wrangler EU	PGRL1-XBEU	44
	PGRL1-XREU	4159
Grip Grater	GRP-1-CW1	8
Groove	KGRV1-BND3	1
	KGRV1-QVC1	43
	PGRV1-BRSH	33
	PGRV1-FLSP	79
	PGRV1-RDSP	89
Groove v2	PGRV2-BL01	1
	PGRV2-RFL1	2897
	PGRV2-RFL2	2925
	PGRV2-RFL3	2931
Icecap	PICAP-BK01	23
Inventor Swag	PSWAG-INLG	3
	PSWAG-INMD	13
	PSWAG-INSM	16
	PSWAG-INXL	6
Iso	PISO1-WH01	2761
Keeper	PKEP1-BR01	6509
	PKEP1-BREU	672
Kosoku	KSK-1-BLK	204
Loop	PLOO1-BLRF	4746
	PLOO1-WH01	124
Loopits	PLPT1-ML01	113
	PLPT1-XMEU	2037
Luminum	PLUM1-BK01	9546
	PLUM1-BKEU	3980
	PLUM1-CP01	2682
	PLUM1-CPEU	3840
	PLUM1-SL01	3513
	PLUM1-SLEU	2868
	PLUM1-XBLK	8156
	PLUM1-XCPR	2446
	PLUM1-XSLV	4395
Mantis	MAN-1-CW1	1361
	PMAN1-CHEU	168
	PMAN1-XBLK	6125
	PMAN1-XCEU	2074
Mercado	PMER1-GN01	4
Metal Cordies	COR-2-MTL	106
	PCOR2-XMTL	32
Mocubo	PMOC1-WD01	5

Product: Item Name	Name	Units On Hand
	PMOC1-WDEU	2387
	PMOC1-XWD1	127
	PMOC1-XWEU	2148
Nibble	PNIB1-BK01	6
	PNIB1-XBLK	14
Nibble EU	PNIB1-BKEU	24
	PNIB1-XBEU	4992
Nimbus	PNMB1-BK01	24426
	PNMB1-WH01	11866
Norm	PNORM-WH02	894
Ohm	POHMM-BK01	42
	POHMM-WH01	40
Outlink	POTLK-WH02	7612
Overflow	POFLW-WH02	2
Pegit	PPEG1-BL01	3
	PPEG1-GY01	2881
	PPEG1-NT01	513
	PPEG1-RD01	13
Pen Zen	PPZN1-BL01	3964
	PPZN1-GTGT	1008
	PPZN1-GY01	727
	PPZN1-XBEU	501
	PPZN1-XBLU	13
	PPZN1-XBLX	3749
	PPZN1-XGEU	669
	PPZN1-XGRX	4252
	PPZN1-XGRY	28
Pickup Power	PPUP1-40BK	654
	PPUP1-40WH	5
	PPUP1-60BK	5
	PPUP1-60WH	6
Pivot Power	PPPMJ-QVC1	7
	PPVP1-FRBK	272
	PPVP1-FRWH	834
	PPVP1-GR01	35
	PPVP1-PK01	49
	PPVP1-PL01	84
	PPVP1-RD01	13
	PPVP1-WBEU	648
	PPVP1-WTGT	1
	PPVP1-XPNK	7
	PPVP1-XWHT	18
	PPVP2-WHGY	22
	PVP-1-BLK	323
	PVP-1-WGY	103
	PVP-1-WHT	287

Product: Item Name	Name	Units On Hand
Pivot Power 2.0	PPVP2-BK01	94
	PPVP2-BK2P	119
	PPVP2-BL01	128
	PPVP2-BL2P	44
	PPVP2-SL01	49
	PPVP2-WH01	181
	PPVP2-WH2P	149
Pivot Power 2.0 (commercial)	PPVP2-CMWH	90
Pivot Power 2x3	PPPR1-YW01	112
Pivot Power Canada/Mexico	PPVP1-BKCM	26
	PPVP1-WBCM	12
Pivot Power Desktop	PPVPD-BK01	4
	PPVPD-WH01	428
Pivot Power EU	PPVP1-WE2P	4260
	PPVP1-WHEU	6
	PPVP1-XWEU	7076
Pivot Power Genius	PPVPG-WH01	1640
Pivot Power Junior	PPVJ1-BKBK	19
	PPVJ1-SLWH	67
	PPVJ1-WHCA	1
	PPVJ1-WHGY	28
	PPVJ1-WHPL	27
	PPVJ1-WHRD	52
	PPVJ1-XBLU	32
	PPVJ1-XGRY	25
Pivot Power Junior 2.0	PPVJ2-BK01	3
	PPVJ2-WH01	2
Pivot Power Media	PPVPM-BK01	2
Pivot Power Mini	PPVM1-WHCA	26
Pivot Power Pop	PPVPP-BK01	261
	PPVPP-GR01	1017
	PPVPP-GR02	24
	PPVPP-PK01	1018
	PPVPP-TL01	1037
	PPVPP-WH01	87
Pivot Power Pop EU	PPVPP-BKEU	3657
	PPVPP-GREU	1860
	PPVPP-PKEU	2100
	PPVPP-TLEU	2700
	PPVPP-WHEU	3849
Pivot Power Pop France	PPVPP-WHFR	2952
Pivot Power Pop Junior	PPVJP-BK01	2186
	PPVJP-GR01	-8
	PPVJP-PK01	366
	PPVJP-TL01	448
	PPVJP-WH01	1334
Pivot Power Pop Korea	PPVPP-WHKR	2976
Plastic Sliders	PSLD1-BK01	4
Pli	PPLI1-BKEU	1200
	PPLI1-BKWN	1748
	PPLI1-WTWN	254
Pluck	KPLK1-12WH	54

Product: Item Name	Name	Units On Hand	
	PPLK1-WH01	7633	
	PPLK1-XBLU	1	
	PPLK1-XCDE	3480	
	PPLK1-XWEU	2776	
	PPLK1-XWH1	20445	
Plug Hub	PLG-1-CW1	171	
	PPLG1-XGRY	1376	
Plug Hub EU	PPLG1-XCEU	54	
Plug Power	PPLGP-BK01	13469	
	PPLGP-WH01	89	
Pod Power	PPOD1-BK01	1	
	PPOD1-BK2P	1	
	PPOD1-WH01	20	
	PPOD1-WH2P	3	
Poppit	PPOP1-BD01	5	
	PPOP1-XBD1	88	
Porkfolio	PPORK-BK01	388	
	PPORK-PK01	13	
	PPORK-WH01	353	
Porkfolio France	PPORK-BKFR	504	
	PPORK-PKFR	500	
	PPORK-WHFR	500	
Port Power	PPRTP-BK01	2	
	PPRTP-WH01	9	
Porter	PPRT1-GY01	15	
	PPRT1-XCEU	681	
	PPRT1-XGRY	86	
Portion	PPOR2-BK01	6	
	PPOR2-XBEU	36	
	PPOR2-XBLK	46	
PowerCurl	PPRC2-B8EU	1104	
	PPRC2-BL45	2569	
	PPRC2-BL60	55	
	PPRC2-BL85	504	
	PPRC2-G8EU	480	
	PPRC2-GY45	201	
	PPRC2-GY60	13	
	PRC-4-5OR	77	
	PRC-6-0BL	357	
	PRC-6-0GY	21	
	PRC-6-0OR	45	
	PRC-8-5BL	276	
	PRC-8-5GY	11	
	PRC-8-5LO	2	
	PRC-8-5OR	69	
	Powercurl Mini	PPCM1-GR01	47
		PPCM1-GRYX	347
		PPCM1-RD01	2
		PPCM1-REDX	2666
PPCM1-TELX		1661	

Product: Item Name	Name	Units On Hand
	PPCM1-TL01	29
Powercurl Mini Pop	PPCMP-BK01	40402
	PPCMP-GN01	21012
	PPCMP-GY01	18110
	PPCMP-PK01	21282
	PPCMP-TL01	27783
Powercurl Mini Universal	PPCMU-BK01	6764
	PPCMU-GR01	3557
	PPCMU-GY01	22663
	PPCMU-PK01	3610
	PPCMU-TL01	2821
Powercurl Mini Universal EU	PPCMU-BKEU	9888
	PPCMU-GREU	4824
	PPCMU-GYEU	19728
	PPCMU-PKEU	4824
	PPCMU-TLEU	4872
Powercurl Mini Universal UK	PPCMU-GYUK	5016
Powercurl v2	PPRC3-45GX	14239
	PPRC3-45TX	3569
	PPRC3-45WG	27
	PPRC3-45WT	1
	PPRC3-60GX	12658
	PPRC3-60TX	3066
	PPRC3-60WG	26
	PPRC3-60WT	3
	PPRC3-85GX	8826
	PPRC3-85TX	3404
Powercurl v2 EU	PPRC3-6GEX	7289
Powercurl v2 Pop	PPRCP-45BK	6038
	PPRCP-45GN	9392
	PPRCP-45GY	6169
	PPRCP-45PK	13997
	PPRCP-45TL	6312
	PPRCP-60BK	7393
	PPRCP-60GN	8341
	PPRCP-60GY	2829
	PPRCP-60PK	8985
	PPRCP-60TL	3099
	PPRCP-85BK	7236
	PPRCP-85GN	3503
	PPRCP-85GY	2130
	PPRCP-85PK	9094
PPRCP-85TL	2495	
Powershell	PPSHL-BKYW	2964
Prop Power	PPRP1-WH01	1029
Prop Power EU	PPRP1-WHEU	2061
Prop Power France	PPRP1-WHFR	3000
	PPRP1-YBFR	3000
Prop Power Korea	PPRP1-WHKR	1007
Prop Power Pro	PPPRO-YW01	2
Props	KPRP1-ML24	1
	KPRP1-MLEU	541

Product: Item Name	Name	Units On Hand
	PPRP1-BK01	95
	PPRP1-BL01	35
	PPRP1-GY01	65
	PPRP1-PK01	53
	PPRP1-XMEU	140
Quirky Pro Kit	KPRO1-LG01	158
	KPRO1-MD01	155
	KPRO1-SM01	96
	KPRO1-XL01	110
Rake N Tamp	PRNT1-HANG	33
Rake N Tamp EU	PRNT1-HGEU	6522
Refuel	PFUEL-BK01	7507
Rempote	PRMPT-G301	4964
	PRMPT-GY01	4911
	PRMPT-GYEU	7812
Scoop	PSCP1-GR01	785
	PSCP1-WH01	1189
	PSCP1-WHEU	168
Scribe	SCB-1-BLK	374
Shake	PSHK1-NP01	3
	PSHK1-NP02	11
	PSHK1-NP03	5
	PSHK1-ST02	5
	PSHK1-ST04	69
Shake v2	PSHK2-WNT1	1219
Shake v2 EU	PSHK2-WNTE	2
Sheath	PSHTH-GN01	179
	PSHTH-GNEU	1028
Shower Station	SSN-1-ALM	573
Silo	PBNDL-SILO	20
	PSIL1-CLLG	383
	PSIL1-CLMD	341
	PSIL1-CLSM	319
	PSIL1-LGEU	14
	PSIL1-MDEU	48
	PSIL1-X3P1	0
	PSIL1-XL01	4
	PSIL1-XLBL	0
	PSIL1-XM01	0
	PSIL1-XMBL	0
	PSIL1-XS01	6
	PSIL1-XSBL	280
Slice	PSLC1-BK01	36
	PSLC1-BKEU	4092
	PSLC1-XBEU	1180
Sliders	PSLD2-MTEU	3
	PSLD2-MTUS	15
	PSLD2-XMEU	1147
	PSLD2-XMTL	26926
Slimline	PSLM1-XWHT	8
Solo	KSOL1-CH16	37
	KSOL1-WH16	29

Product: Item Name	Name	Units On Hand
	PSOL2-WH01	3000
	PSOLO-XCEU	92
	PSOLO-XWEU	1821
	SOL-1-CHR	1087
	SOL-1-WHT	40
Space Bar	PSPB3-ALUS	15
	PSPB3-XALM	1
	SPB-1-PUS	1
	SPB-2-AUS	95
Space Bar Aluminum	PSPB4-AL01	48
Space Bar Pop	PSPBP-BK01	18
	PSPBP-WH01	8
Split Stick	SSK-2-BHM	1
Spotter	PSPT1-WH01	3140
Squeak	KSQK1-QVC1	75
	PSQK1-REFL	177
Squeak v2	PSQK2-BL01	3
	PSQK2-REFL	2998
Stake	PSTK1-BK01	145
Stem	PSTM1-WHEU	2464
	PSTM1-XCDE	290
	PSTM1-XGRN	3363
	PSTM1-XWEU	8436
	PSTM1-XWHT	230
	PSTM1-XYLW	2809
	STM-1-WHT	4007
Stem Metal	PSTM2-MT01	4494
Switch v2	PSWT2-BK01	2635
Switch v2 EU	PSWT2-BKEU	2246
Tapt	PTAPT-WH01	17
	PTAPT-WH02	4585
Tether	KTHR1-EU12	36
	PTHR1-PEU	36
	PTHR1-XCDE	290
	PTHR1-XCW1	16065
	PTHR1-XPEU	2268
	THR-1-CW1	588
Thor	PTHO3-XRD1	30
	THO-1-CW1	55
Totem	KTTM1-CL4P	36
	TTM-1-CLR	149
Travelstacks	TST-1-GRY	11
Trek Support	PTSB1-GYBP	-10
	PTSB1-GYMG	1867
	PTSB1-GYTO	-10
Tripper	PTRPP-WH02	14
	PTRPR-WH01	22
Twig	PTWG1-3PEU	2736
	PTWG1-ML01	24
	PTWG1-X3PE	1244
Upwrite	PUPW1-UN01	2672
	PUPW1-UNEU	3600



Product: Item Name	Name	Units On Hand
	PUPW1-XUEU	3297
	PUPW1-XUN1	2282
Ventu	PVTU1-WHBM	8
	PVTU1-XBEU	6882
	PVTU1-XWHT	6663
Verseur	PVSR2-BKEU	468
	PVSR2-RD01	1
	PVSR2-RDEU	564
	PVSR2-XBEU	3824
	PVSR2-XBLK	262
	PVSR2-XRED	4
	PVSR2-XREU	264
	VSR-2-CW1	274
Verseur Metal	PVSR2-MTL1	10168
Vessel	PVES1-XGRY	4598
Vine	KVIN1-EU24	2
	PVIN1-GY2P	12
	PVIN1-GY2P-2PK	52
	PVIN1-GYEU	352
	PVIN1-SS02	3528
	PVIN1-XG2P	12680
	PVIN1-XGEU	2820
Vine Stop	PVSTP-MTL1	6
Vine Stop EU	PVSTP-MTEU	7032
Web	PWEB1-BK01	1161
	PWEB1-XBLK	2043
Wrapster	PWRP1-XBEU	7422
	PWRP1-XGEU	10782
	PWRP1-XPEU	3042
	PWRP1-XWEU	8382
	PWRP3-BL01	1090
	PWRP3-BLEU	4800
	PWRP3-GY01	12848
	PWRP3-GYEU	4200
	PWRP3-PU01	4890
	PWRP3-PUEU	3060
	PWRP3-WH01	7368
	PWRP3-WHEU	7620
	PWRP3-XBLU	352
	PWRP3-XGRY	70740
	PWRP3-XPRP	711
	PWRP3-XWHT	76628
	WRP-1-BLU	2900
	WRP-1-PPL	801
	WRP-1-WHT	3
Wrapster Pop	PWRPP-BK01	3160
	PWRPP-GN01	39885
	PWRPP-GY01	32698
	PWRPP-PK01	48
	PWRPP-TL01	37372
	PWRPP-WH01	25859
Zen Cosmetics	PPZN2-CH01	9

Product: Item Name	Name	Units On Hand
	PPZN2-GN01	60
	PPZN2-GY01	14
	PPZN2-OJ01	53
	PPZN2-PK01	66
Zeus	PZEU1-BK01	8
Zeus EU	PZEU1-BKEU	1142

Schedule 3.4: Actions

Title of Action	Court	Nature of Action	Status
Antonio Acebo v. Quirky, Inc.	Arbitration	Alleged royalty payments owing	Pending
Fusco Personnel v. Quirky, Inc.	Supreme Court, State of New York, Albany Division	Collection of unpaid invoices	Pending
Busy Bee Cleaning Service Corp. v. Quirky, Inc. and Susan Lovaglio	Supreme Court, State of New York, County of New York	Collection of unpaid invoices	Pending
H.K. Glory Colourboxes & Paper Limited v. Quirky, Inc.	Supreme Court, State of New York, County of New York	Collection of unpaid invoices	Pending
The Stable Group LLC v. Quirky, Inc.	Supreme Court, State of New York, County of New York	Collection of unpaid invoices	Pending
Planetary Corporation v. Quirky, Inc.	Supreme Court, State of New York, County of New York	Collection of unpaid invoices	Pending

Schedule 3.5: IP Assets - Licenses and Other Interests

Quirky.com Terms & Conditions at <https://www.quirky.com/terms-of-service>

Product Development Services and Co-Branding Agreement, dated October 31, 2013, by and between Quirky, Inc. and GE Trademark Licensing, Inc., as amended

Heroku

Amazon CloudFront

Optimizely

CircleCI

NewRelic

Mixpanel

Rollbar

Skylight

Pingdom

Amazon SES and SRS

Sailthru

Pusher

Embedly

Agecheq

TRUSTe

Electric imp

wolfSSL

2015 copyright licensing emails from wolfSSL

October 7, 2014 copyright assertion letter from Audiosocket

August 7, 2014 patent licensing letter from Nokia

July 7, 2014 patent licensing letter from SIPCO

May 1, 2015 patent assertion email from Chamberlain

Acebo arbitration on Schedule 3.4

Schedule 6.1(g): Additional Documents

None.

EXHIBIT B

Patent Assignment

None.

EXHIBIT C

Trademark and Copyright Assignment

None.

C-1

EXHIBIT D

Form of Bill of Sale, Assignment and Assumption



## BILL OF SALE, ASSIGNMENT AND ASSUMPTION AGREEMENT

This **BILL OF SALE, ASSIGNMENT AND ASSUMPTION AGREEMENT** (this "**Agreement**") is entered into as of [●], 2015, by and between **Q HOLDINGS LLC**, a Delaware limited liability company ("**Buyer**") and **QUIRKY, INC.**, a Delaware corporation ("**Seller**"). Buyer and Seller are sometimes individually referred to in this Agreement as a "**Party**" and collectively as the "**Parties**." All capitalized terms used but not defined herein have the meanings assigned to them in the Purchase Agreement as defined below.

### **WITNESSETH:**

**WHEREAS**, pursuant to the terms of the Asset Purchase Agreement, dated as of November 2, 2015 agreed to sell to Buyer, and Buyer has agreed to purchase from Seller, the Purchased Assets; and

**WHEREAS**, the Parties wish formally to acknowledge such sale, assignment and assumption.

**NOW, THEREFORE**, for good and valuable consideration paid by Buyer to Seller, the receipt and sufficiency of which are hereby acknowledged, pursuant to the terms of the Purchase Agreement, Seller and Buyer hereby agree as follows:

1. **Purchase and Sale of Assets.** Subject to the terms and conditions set forth in the Purchase Agreement, Seller does hereby sell, convey, assign, transfer and deliver to Buyer all right, title and interest of Seller in and to all of the Purchased Assets, free and clear of all interests thereon. Notwithstanding anything to the contrary contained herein, the Excluded Assets are specifically excluded from the Purchased Assets sold, conveyed, assigned, transferred or delivered to Buyer hereby and are retained by Seller.
2. **Conflicts with Purchase Agreement.** Each party acknowledges and agrees that neither the representations and warranties nor the rights, remedies or obligations of any party under the Purchase Agreement shall be deemed to be enlarged, modified or altered in any way by this Agreement. In the event of any conflict or inconsistency between the terms of this Agreement and the Purchase Agreement, the terms of the Purchase Agreement shall govern and control.
3. **Entire Agreement.** This Agreement and the Purchase Agreement contain the entire agreement and understanding between the Parties hereto with respect to the subject matter hereof and supersede all prior agreements and understandings, whether written or oral, relating to such subject matter in any way.
4. **Counterparts.** This Agreement may be executed in one or more counterparts, each of which when executed shall be deemed to be an original but all of which taken together shall constitute one and the same agreement, and any such executed counterpart may be delivered by transmission of the manually signed document by facsimile transmission or in "pdf" form delivered by electronic mail, and such facsimile or "pdf" representation of such manual signature shall constitute execution thereof.
5. **Governing Law; Jurisdiction.** This Agreement shall be governed by and construed in accordance with the internal laws of the State of New York (i.e., without regard to its conflicts of law rules). All disputes arising out of or related to this Agreement, including, without limitation, any dispute relating to the interpretation, meaning or effect of any provision hereof, will be resolved in the Bankruptcy Court and the parties hereto will each submit to the exclusive

jurisdiction of the Bankruptcy Court for the purposes of adjudicating any such dispute, to the extent the jurisdiction of the Bankruptcy Court is applicable. If the jurisdiction of the Bankruptcy Court is not applicable, any legal action, suit or proceeding arising out of or relating to this Agreement, each and every agreement and instrument contemplated hereby or the transactions contemplated hereby and thereby shall be instituted in any Federal court of the Southern District of New York.

6. No Modifications. No modification of this Agreement shall be binding unless in writing and signed by the Party or Parties against which it is sought to be enforced.

***[Remainder of Page Intentionally Left Blank]***

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the day and year first above written.

**QUIRKY, INC.**

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

**Q HOLDINGS LLC**

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

EXHIBIT E

Power of Attorney

The undersigned (referred to herein as “**Seller**”), hereby irrevocably designates, makes, constitutes and appoints **Q HOLDINGS LLC**, a Delaware limited liability company (together with its successors and assigns, the “**Purchaser**”), acting by and through its authorized representatives, as Seller’s lawful agent and attorney-in-fact, with full power of substitution, to act in the name of Seller, to implement any provision of that certain Asset Purchase Agreement dated as of November 2, 2015, by and between the Seller and the Purchaser (the “**Asset Purchase Agreement**”) and to more effectively transfer to and vest in Purchaser, ownership in, and to put Purchaser in possession of, all of the Purchased Assets (as defined in the Asset Purchase Agreement), including without limitation to execute and deliver, or cause to be executed and delivered, such assignments, bills of sale, consents and other instruments and take all such other actions as Purchaser may reasonably deem necessary or desirable to more effectively transfer to and vest in Purchaser, ownership in, and to put Purchaser in possession of, all of the Purchased Assets, in each case to the extent that Seller has failed for any reason to execute and deliver such documentation for a period of five (5) business days following Seller’s receipt of written request therefor.

Any person or entity shall have the absolute right and authority to rely on this Power of Attorney, and any acts taken or omitted to be taken by Purchaser pursuant to this Power of Attorney, and shall have no duty to inquire as to the underlying circumstances entitling Purchaser to act hereunder.

This power of attorney shall be effective upon execution by the Seller. Any photocopy of this Power of Attorney, certified to be true and correct by the Purchaser, shall have the same legal force and effect as an original.

This Power of Attorney and the rights and authority granted hereunder are durable, irrevocable and coupled with an interest, and shall survive and not be affected in any way by the dissolution of Seller.

Purchaser shall have the right by written instrument to delegate any or all of the foregoing powers to any person or entity whom Purchaser may select.

*[Remainder of page intentionally left blank.]*

IN WITNESS WHEREOF, each of the undersigned has executed this Power of  
Attorney as of \_\_\_\_\_, 2015.

**QUIRKY, INC.**

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

STATE OF \_\_\_\_\_  
COUNTY OF \_\_\_\_\_

On this \_\_\_ day of \_\_\_\_\_ 2015, before me, a Notary Public in and for the State and County  
foresaid, personally appeared \_\_\_\_\_, known by me to be the person  
above named and an officer of Quirky, Inc., who is duly authorized to execute this Assignment  
on behalf of Quirky, Inc. and who signed and executed the foregoing instrument on behalf of  
Quirky, Inc.

Notary Public: \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_

*Signature Page to Power of Attorney*

EXHIBIT F

Intellectual Property Assignment



## INTELLECTUAL PROPERTY ASSIGNMENT

This **INTELLECTUAL PROPERTY ASSIGNMENT** (the "**IP Assignment**"), dated as of [●], 2015, is entered into by and among **QUIRKY, INC.**, a Delaware corporation (the "**Assignor**") and **Q HOLDINGS LLC**, a Delaware limited liability company (the "**Assignee**").

### RECITALS:

**WHEREAS**, pursuant to the terms and conditions of an Asset Purchase Agreement, dated as of November 2, 2015 (the "**Asset Purchase Agreement**"), by and between the Assignor, Assignee and the other parties thereto, the Assignor wishes to sell, transfer, convey, assign and deliver to the Assignee, and the Assignee has agreed to acquire and accept, all of the Assignor's right, title and interest in and to the IP Assets of the Assignor and all of the related Intellectual Property Rights, all on the terms and subject to the conditions set forth in the Asset Purchase Agreement (capitalized terms used herein but not otherwise defined herein shall have the meanings set forth in the Asset Purchase Agreement);

**WHEREAS**, the IP Assets include all Copyright Rights, Software, Trademark Rights, Patent Rights, Documentation, Trade Secrets, Domain Names and Web Sites;

**WHEREAS**, the Assignee wishes to acquire, and the Assignor wishes to transfer all right, title and interest in and to the IP Assets of the Assignor and the related Intellectual Property Rights;

**WHEREAS**, in connection with the Closing, Assignee and Assignor have entered into that certain Bill of Sale, Assignment and Assumption Agreement, dated as of even date herewith, (the "**Bill of Sale**") pursuant to which, among other things, the parties consummated the sale, conveyance, assignment, transfer and delivery to Assignee of the Purchased Assets including the IP Assets of the Assignor and all of the related Intellectual Property Rights; and

**WHEREAS**, Assignor and Assignee now desire to enter into this IP Assignment for the purpose of recording the sale, conveyance, assignment, transfer and delivery to Assignee of the IP Assets of the Assignor and all of the related Intellectual Property Rights with any applicable Governmental Entity worldwide.

**NOW, THEREFORE**, for good and valuable consideration, including the consideration set forth in the Asset Purchase Agreement and the Bill of Sale, the receipt and sufficiency of which are hereby acknowledged, Assignor and Assignee hereby agree as follows:

1. Assignment. Assignor hereby irrevocably sells, assigns, transfers, conveys and delivers to Assignee without any restrictions, limitations or reservations, and Assignee hereby accepts the sale, assignment, transfer, conveyance and delivery of, all of Assignor's right, title and interest in and to the IP Assets and related Intellectual Property Rights, including, without limitation:

(a) the Trademarks listed on **Exhibit A** and all Trademark Rights associated therewith;

(b) the Patents listed on **Exhibit B** and all Patent Rights associated therewith; and

(c) the Domain Names and Web Sites (including all sub-domains and related URLs) listed on **Exhibit C** and all Intellectual Property Rights in and to such Domain Names and Web Sites;

(d) all rights of any kind whatsoever of Assignor accruing under any of the foregoing provided by applicable law of any jurisdiction, by international treaties and conventions and otherwise throughout the world; and

(e) any and all rights to the IP Assets included in the Purchased Assets , including without limitation those set forth in Sections 2.1(a) and 2.1(b) of the Asset Purchase Agreement.

2. Authorization. Assignor hereby authorizes and requests the Commissioner of Patents of the United States, the Commissioner of Trademarks of the United States, the Librarian of Congress of the United States and any other official of any applicable Governmental Entity worldwide and each registrar of a Domain Name or Web Site, to record all registrations and applications for registration included in such IP Assets and Intellectual Property Rights in the name of Assignee and issue any and all registrations from any and all applications for registration included in such IP Assets and Intellectual Property Rights to and in the name of Assignee.

3. Further Assurances. The Assignor agrees to execute all documents necessary to perfect, register, and/or record this IP Assignment and the rights of the Assignee to the IP Assets and the related Intellectual Property Rights as the Assignee reasonably deem appropriate provided, however, that the Assignee shall not be obligated to pay any material consideration or incur any material costs in connection therewith. If the Assignor does not, within five (5) business days of presentment by the Assignee of documents necessary to register the transfer to the Assignee of the rights of the Assignor in and to the IP Assets and the related Intellectual Property Rights, execute and return such documents to the Assignee, then the Assignee is hereby granted a limited power of attorney to execute such documents on behalf of the Assignor. This power of attorney is coupled with an interest and is irrevocable.

4. Interpretation. This IP Assignment has been executed and delivered by the Assignor for the purpose of recording the sale, conveyance, assignment, transfer and delivery to Assignee of the IP Assets and the related Intellectual Property Rights with any applicable Governmental Entity worldwide. This IP Assignment is intended to implement the provisions of the Asset Purchase Agreement and the Bill of Sale, is expressly subject to the terms and conditions thereof, and shall not be construed to enhance, extend or limit the representations and warranties, rights, obligations or remedies of any party thereunder. In the event of any conflict or inconsistency between the terms of this IP Assignment and the terms and conditions of the Asset Purchase Agreement or the Bill of Sale, the terms and conditions of the Asset Purchase Agreement or the Bill of Sale, as the case may be, shall govern.

5. Successors and Assigns. This IP Assignment shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns.

6. Counterparts. This IP Assignment may be executed in one or more counterparts, each of which when executed shall be deemed to be an original but all of which taken together

shall constitute one and the same agreement, and any such executed counterpart may be delivered by transmission of the manually signed document by facsimile transmission or in "pdf" form delivered by electronic mail, and such facsimile or "pdf" representation of such manual signature shall constitute execution thereof.

7. Governing Law; Jurisdiction. This IP Assignment shall be governed by and construed in accordance with the internal laws of the State of New York (i.e., without regard to its conflicts of law rules). All disputes arising out of or related to this IP Assignment, including, without limitation, any dispute relating to the interpretation, meaning or effect of any provision hereof, will be resolved in the Bankruptcy Court and the parties hereto will each submit to the exclusive jurisdiction of the Bankruptcy Court for the purposes of adjudicating any such dispute, to the extent the jurisdiction of the Bankruptcy Court is applicable. If the jurisdiction of the Bankruptcy Court is not applicable, any legal action, suit or proceeding arising out of or relating to this IP Assignment, each and every agreement and instrument contemplated hereby or the transactions contemplated hereby and thereby shall be instituted in any Federal court of the Southern District of New York.

***[Remainder of Page Intentionally Left Blank]***

**IN WITNESS WHEREOF**, the parties hereto have caused this IP Assignment to be duly executed as of the day and year first above written.

**QUIRKY, INC.**

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

STATE OF \_\_\_\_\_  
COUNTY OF \_\_\_\_\_

On this \_\_\_ day of \_\_\_\_\_ 2015, before me, a Notary Public in and for the State and County  
foresaid, personally appeared \_\_\_\_\_, known by me to be the person  
above named and an officer of Quirky, Inc., who is duly authorized to execute this Assignment  
on behalf of Quirky, Inc. and who signed and executed the foregoing instrument on behalf of  
Quirky, Inc.

Notary Public: \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_

**Q HOLDINGS LLC**

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

STATE OF \_\_\_\_\_  
COUNTY OF \_\_\_\_\_

On this \_\_\_ day of \_\_\_\_\_ 2015, before me, a Notary Public in and for the State and County  
foresaid, personally appeared \_\_\_\_\_, known by me to be the person  
above named and an officer of Flextronics International USA Inc., who is duly authorized to  
execute this Assignment on behalf of Flextronics International USA Inc. and who signed and  
executed the foregoing instrument on behalf of Flextronics International USA Inc.

Notary Public: \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_

**Exhibit A to IP Assignment**

Trademarks

**Exhibit B to IP Assignment**

Patents

**Exhibit C to IP Assignment**

Domain Names and Web Sites  
(including all sub-domains and related URLs)

EXHIBIT G

Domain Name Transfer Form

None.



EXHIBIT H

Sale Approval Order

H-1

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

-----	X	
	:	
In re:	:	Chapter 11
	:	
QUIRKY, INC., <i>et al.</i> <sup>1</sup>	:	Case No. 15-12596 (MG)
	:	
Debtors.	:	(Jointly Administered)
	:	
	:	
-----	X	

**ORDER AUTHORIZING (I) THE SALE OF CERTAIN OF THE DEBTORS' ASSETS RELATED TO THE QUIRKY BUSINESS FREE AND CLEAR OF ALL CLAIMS, LIENS, LIABILITIES, RIGHTS, INTERESTS AND ENCUMBRANCES, (II) THE DEBTORS TO ENTER INTO AND PERFORM THEIR OBLIGATIONS UNDER THE ASSET PURCHASE AGREEMENT, (III) THE DEBTORS TO ASSUME AND ASSIGN CERTAIN EXECUTORY CONTRACTS AND UNEXPIRED LEASES, AND (IV) GRANTING RELATED RELIEF**

Upon the motion (the "Motion"),<sup>2</sup> of the above-captioned debtors and debtors in possession (the "Debtors") for entry of an order (this "Order") , pursuant to sections 105(a), 363, 365, 503 and 507 of title 11 of the United States Code (the "Bankruptcy Code"), rules 2002, 6004 and 6006 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules") and rules 2002-1, 6004-1, and 6006-1 of the Local Bankruptcy Rules for the Southern District of New York (the "Local Rules"), authorizing and approving the following:

- (i) the sale of the Quirky Assets (as defined below);
- (ii) the entry into, performance under and terms and conditions of the Asset Purchase Agreement dated as of November 2, 2015 (collectively with all related agreements, amendments, documents or instruments and all exhibits, schedules and addenda to any of the foregoing, the "Quirky Agreement"), substantially in the form attached hereto as **Exhibit 1**, whereby the Debtors have agreed to sell, and Q Holdings LLC (the "Buyer") has agreed to buy, certain of the Debtors' assets (specifically as set forth and defined in the Quirky Agreement, the "Quirky

<sup>1</sup> The Debtors in these chapter 11 cases and the last four digits of each Debtor's taxpayer identification number are as follows: Quirky, Inc. (2873); Wink, Inc. (8826); and Undercurrent Acquisition, LLC (9692). The Debtors' principal offices are located at 606 West 28<sup>th</sup> Street, Seventh Floor, New York, NY 10001.

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

Assets”), free and clear of all Claims (as defined herein), liabilities, rights, interests, setoff rights and encumbrances, and where the Debtors have agreed to transfer, subject only to liabilities, if any, that the Buyer expressly agreed to assume under the Quirky Agreement and only to the extent such liabilities are specifically set forth and defined in the Quirky Agreement, the “Assumed Liabilities”) (collectively, and including all actions taken or required to be taken in connection with the implementation and consummation of the Quirky Agreement, the “Sale of Quirky Assets”);

- (iii) the assumption by and assignment to the Buyer of certain executory contracts and unexpired leases of the Debtors solely to the extent expressly designated for assumption and assignment as Assumed Contracts in accordance with this Order, the Quirky Bidding Procedures Order (defined below) and the Quirky Agreement (collectively, the “Assumed Contracts”); and
- (iv) other related relief;

and the Court having entered an order approving the bidding procedures and granting certain related relief on [\_\_\_\_], 2015 [Docket No. \_\_\_\_] (the “Quirky Bidding Procedures Order”); and an auction having been conducted in accordance with the Quirky Bidding Procedures Order (the “Auction”); and the Buyer having submitted the highest or otherwise best offer for the Quirky Assets; and the Court having conducted a hearing on the Motion on [\_\_\_\_], 2015 (the “Sale Hearing”) at which time all interested parties were offered an opportunity to be heard with respect to the Motion; and the Court having reviewed and considered the Motion, the Quirky Agreement, the Quirky Bidding Procedures Order, the record of the hearing before the Court on [\_\_\_\_], 2015 at which the Quirky Bidding Procedures Order was approved; and all objections to the Sale of Quirky Assets and the Quirky Agreement filed in accordance with the Quirky Bidding Procedures Order; and the appearance of all interested parties and all responses and objections to the Motion having been duly noted in the record of the Sale Hearing; and upon the record of the Sale Hearing, and having heard statements of counsel and the evidence presented in support of the relief requested in the Motion at the Sale Hearing; and upon all of the proceedings had before the Court, and all objections and responses to the relief requested in the Motion having been heard and overruled, continued or resolved on the terms set forth in this Order, and it appearing that due notice of the Motion, the Quirky Agreement, the Quirky

Bidding Procedures Order and the Auction having been provided; and it appearing that the relief requested in the Motion is in the best interests of the Debtors, their estates, their creditors and all other parties in interest; and it appearing that the Court has jurisdiction over this matter; and it further appearing that the legal and factual bases set forth in the Motion and at the Sale Hearing establish just cause for the relief granted herein; and after due deliberation thereon,

**THE COURT EXPRESSLY FINDS AS FOLLOWS:<sup>3</sup>**

**I. Jurisdiction, Venue, and Final Order**

A. This Court has jurisdiction to hear and determine the Motion pursuant to 28 U.S.C. § 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2). Venue is proper in this District and in this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

B. This Order constitutes a final and appealable order within the meaning of 28 U.S.C. § 158(a). Notwithstanding Bankruptcy Rules 6004(h) and 6006(d) and 7062, and to the 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 Order and expressly directs entry of this Order as set forth herein.

**II. Notice of the Sale of Quirky Assets, Quirky Agreement, Sale Hearing, Auction and the Cure Amounts**

C. On September 22, 2015 (the "Petition Date"), each of the Debtors commenced a case by filing a voluntary petition for relief under chapter 11 of the Bankruptcy Code (the "Chapter 11 Cases"). Since the Petition Date, the Debtors have continued in possession and management of their businesses and properties as debtors-in-possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.

D. As evidenced by the affidavits of service previously filed with this Court, and based on the representations of counsel at the Sale Hearing, due, proper, timely, adequate

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<sup>3</sup> All findings of fact and conclusions of law announced by the Court at the Sale Hearing in relation to the Motion are hereby incorporated to the extent not inconsistent herewith.

and sufficient notice of the Motion, the Auction, the Sale Hearing, the Quirky Agreement and the sale of Quirky Assets has been provided in accordance with sections 102(1), 363 and 365 of the Bankruptcy Code, Bankruptcy Rules 2002, 6004, 6006 and 9014, and Local Rules 2002-1 and 6004-1. The Debtors have complied with all obligations to provide notice of the Motion, the Auction, the Sale Hearing, the Quirky Agreement and the sale of Quirky Assets as required by the Quirky Bidding Procedures Order. The aforementioned notices are good, sufficient and appropriate under the circumstances, and no other or further notice of the Motion, the Auction, the Sale Hearing, the Quirky Agreement or the sale of Quirky Assets is or shall be required.

E. A reasonable opportunity to object or to be heard regarding the relief requested in the Motion was afforded to all interested persons and entities.

F. In accordance with the Quirky Bidding Procedures Order, the Debtors have served a notice (as amended, modified or otherwise supplemented from time to time, the "Assumption and Assignment Notice") of the potential assumption and assignment of the Assumed Contracts and of the proposed amounts necessary to cure monetary defaults under the Assumed Contracts (the "Cure Amounts") upon each non-Debtor counterparty to an Assumed Contract. As evidenced by the affidavits of service previously filed with this Court, and based on the representations of Debtors' counsel at the Sale Hearing, the service and provision of the Assumption and Assignment Notice was good, sufficient and appropriate under the circumstances and no further notice is or shall be required in respect of assumption and assignment of the Assumed Contracts or establishing a Cure Amount for the respective Assumed Contracts.

G. Non-Debtor counterparties to the Assumed Contracts have had an adequate opportunity to object to or to be heard regarding assumption and assignment of the applicable Assumed Contracts and the Cure Amount set forth in the Assumption and Assignment 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 Buyer for purposes of section 365(c)(1) of the Bankruptcy Code). The deadline to file an objection to the assumption and assignment to the Buyer of any Assumed Contract (a "Contract Objection") has expired, and to the extent any such party timely filed a Contract Objection, all such Contract Objections have been resolved, withdrawn, overruled, or continued to a later hearing by agreement of the parties. To the extent that any such party did not timely file a Contract Objection by the Contract Objection deadline, such party is deemed to have consented to (i) the assumption and assignment of the Assumed Contracts pursuant to the terms of this Order; and (ii) the proposed Cure Amount set forth on the Assumption and Assignment Notice.

**III. Marketing Process**

H. As demonstrated by the evidence proffered or adduced at the Sale Hearing and the representations of counsel at the Sale Hearing, the Debtors and their professionals have complied in all respects with the Quirky Bidding Procedures Order. The Debtors and their professionals have, under the circumstances, adequately and appropriately marketed the Quirky Assets. The bidding process was duly noticed and conducted in a diligent, non-collusive, fair and good faith manner, and the bidding process set forth in the Quirky Bidding Procedures Order afforded a full, fair and reasonable opportunity for any person or entity to qualify as a bidder, participate in the Auction and to make a higher or otherwise better offer to purchase the Quirky Assets. The Debtors (i) provided potential purchasers, upon request, sufficient information to enable them to make an informed judgment on whether to bid on the Quirky Assets, and (ii) considered any bids submitted on or before the deadline established by the Court for the submission of bids.

I. The Buyer is the Successful Bidder for the Quirky Assets in accordance with the Quirky Bidding Procedures Order. The Buyer and its representatives have complied in all respects with the Quirky Bidding Procedures Order and all other applicable orders of this Court in negotiating and entering into the Quirky Agreement, and the sale and the Quirky

Agreement likewise comply with the Quirky Bidding Procedures Order and all other applicable orders of this Court.

**IV. Highest or Otherwise Best Offer; Business Judgment**

J. The Quirky Agreement, including the form and total consideration to be realized by the Debtors under the Quirky Agreement, (i) constitutes the highest or otherwise best offer received by the Debtors for the Quirky Assets; (ii) is fair and reasonable; and (iii) is in the best interests of the Debtors, their estates, their creditors and all other parties in interest.

K. The Debtors' determination that the consideration provided by the Buyer under the Quirky Agreement constitutes the highest or otherwise best offer for the Quirky Assets constitutes a valid and sound exercise of the Debtors' business judgment.

L. Consistent with their fiduciary duties, the Debtors have demonstrated good, sufficient and sound business reasons and justifications for entering into the sale of Quirky Assets and the performance of their obligations under the Quirky Agreement, including, but not limited to, the fact that (i) the consideration provided by the Buyer under the Quirky Agreement will provide a greater recovery for the Debtors' estates than would be provided by any other available alternative, including a separate liquidation of the Quirky Assets; and (ii) unless the sale is concluded expeditiously as provided for in the Motion and pursuant to the Quirky Agreement, recoveries of creditors will be diminished.

**V. Good Faith; Arms' Length Sale**

M. The sale process engaged in by the Debtors, including, without limitation, the Quirky Bidding Procedures set forth in the Quirky Bidding Procedures Order and the negotiation of the Quirky Agreement, was at arms' length, non-collusive, in good faith, for fair value and substantively and procedurally fair to all parties.

N. The Debtors, the Buyer and their respective representatives have complied, in good faith, in all respects with the Quirky Bidding Procedures Order.

O. The Buyer is a good faith buyer within the meaning of section 363(m) of the Bankruptcy Code, and is therefore entitled to the full protection of that provision, and otherwise has proceeded in good faith in all respects in connection with these proceedings. None of the Debtors or the Buyer has engaged in any conduct that would prevent the application of section 363(m) of the Bankruptcy Code.

P. The Quirky Agreement and the sale of Quirky Assets contemplated thereunder were proposed, negotiated and entered into by and among the Debtors and the Buyer without collusion, and none of the Debtors or the Buyer has engaged in any conduct that would cause or permit the Quirky Agreement or the sale of Quirky Assets to be avoided, or costs or damages to be imposed, under section 363(n) of the Bankruptcy Code.

Q. Neither the Buyer nor any of its affiliates, present or contemplated members, officers, directors, shareholders or any of their respective successors and assigns is an "insider" of any of the Debtors, as that term is defined in section 101(31) of the Bankruptcy Code. No common identity of directors or controlling shareholders exists between the Debtors and the Buyer.

R. The Quirky Agreement was not entered into, and none of the Debtors or the Buyer has entered into the Quirky Agreement or proposes to consummate the sale of Quirky Assets, for the purpose of hindering, delaying or defrauding the Debtors' present or future creditors. None of the Debtors or the Buyer is entering into the Quirky Agreement, or proposing to consummate the sale of Quirky Assets, fraudulently, for the purpose of statutory and common law fraudulent conveyance and fraudulent transfer claims whether under the Bankruptcy Code or under the laws of the United States, any state, territory, possession thereof or the District of Columbia or any other applicable jurisdiction with laws substantially similar to the foregoing.

S. The form and total consideration to be realized by the Debtors under the Quirky Agreement constitutes fair value, fair, full and adequate consideration, reasonably equivalent value and reasonable market value for the Quirky Assets.



**VI. Corporate Authority**

T. The Debtors (i) have full corporate or other power to execute, deliver and perform their obligations under the Quirky Agreement and the sale of Quirky Assets contemplated thereby, and entry into the Quirky Agreement has been duly and validly authorized by all necessary corporate or similar action; (ii) have all of the corporate or other power and authority necessary to consummate the sale of Quirky Assets contemplated by the Quirky Agreement; and (iii) have taken all actions necessary to authorize and approve the Quirky Agreement and the sale of Quirky Assets contemplated thereby. No consents or approvals, other than those expressly provided for herein or in the Quirky Agreement, are required for the Debtors to consummate such sale of Quirky Assets.

**VII. Section 363 Is Satisfied**

U. The Debtors have, to the extent necessary, satisfied the requirements of section 363(b)(1) of the Bankruptcy Code. Accordingly, appointment of a consumer privacy ombudsman pursuant to sections 363(b)(1) or 332 of the Bankruptcy Code is not required with respect to the relief requested in the Motion.

V. The Quirky Assets constitute property of the Debtors' estates and exclusive title thereto is presently vested in the Debtors' estates within the meaning of section 541(a) of the Bankruptcy Code.

W. The sale of all Quirky Assets to the Buyer under the terms of the Quirky Agreement meets the applicable provisions of section 363(f) of the Bankruptcy Code such that the sale of the Quirky Assets will be free and clear of any and all Claims, and except as expressly provided in the Quirky Agreement with respect to Assumed Liabilities, the (i) transfer of the Quirky Assets to the Buyer and (ii) assumption by and/or assignment to the Buyer of the Assumed Contracts will be free and clear of all Claims and will not subject the Buyer or any of the Buyer's assets to any liability for any Claims whatsoever (including, without limitation, under any theory of equitable law, antitrust, setoff, or successor or transferee liability). All holders of

Claims who did not object, or withdrew their objections to the sale of Quirky Assets, are deemed to have consented to the sale of Quirky Assets pursuant to section 363(f)(2) of the Bankruptcy Code. All holders of Claims are adequately protected – thus satisfying section 363(e) of the Bankruptcy Code – by having their Claims, if any, attach to the proceeds of the sale of Quirky Assets ultimately attributable to the property against or in which they assert a Claim or other specifically dedicated funds, in the same order of priority and with the same validity, force and effect that such Claim holder had prior to the sale of Quirky Assets, subject to any rights, claims and defenses of the Debtors or their estates, as applicable, or as otherwise provided herein; provided, however, that setoff rights will be extinguished to the extent there is no longer mutuality after the consummation of the sale of Quirky Assets.

X. The Buyer would not have entered into the Quirky Agreement and would not consummate the sale of Quirky Assets, thus adversely affecting the Debtors, their estates, creditors, employees and other parties in interest, if the sale of the Quirky Assets was not free and clear of all Claims or if the Buyer would, or in the future could, be liable for any Claims, including, without limitation and as applicable, certain liabilities that expressly are not assumed by the Buyer as set forth in the Quirky Agreement or in this Order. The Buyer asserts that it will not consummate the sale of Quirky Assets unless the Quirky Agreement specifically provides, and this Court specifically orders, that none of the Buyer, its assets or the Quirky Assets will have any liability whatsoever with respect to, or be required to satisfy in any manner, whether at law or in equity, whether by payment, setoff or otherwise, directly or indirectly, any (i) Claim, or (ii) any successor or transferee liability for any of the Debtors other than the Assumed Liabilities.

Y. The Buyer is not a successor to the Debtors or their respective estates by reason of any theory of law or equity, and neither the Buyer nor any of its affiliates shall assume or in any way be responsible for any liability or obligation of any of the Debtors or their respective estates, except as otherwise expressly provided in the Quirky Agreement or this Order. The Buyer is not a continuation of the Debtors or their respective estates and there is no

continuity between the Buyer and the Debtors. The Buyer is not holding itself out to the public as a continuation of the Debtors or their respective estates and the sale of Quirky Assets do not amount to a consolidation, merger or de facto merger of the Buyer and the Debtors.

Z. The transfer of the Quirky Assets to the Buyer under the Quirky Agreement will be a legal, valid and effective transfer of all of the legal, equitable and beneficial right, title and interest in and to the Quirky Assets free and clear of all Claims (other than Assumed Liabilities). The transfer of the Quirky Assets to the Buyer will vest the Buyer with good and marketable title to the Quirky Assets.

AA. There is no legal or equitable reason to delay the sale of Quirky Assets. The sale of Quirky Assets must be approved and consummated promptly in order to preserve the value of the Debtors' assets. All factual predicates to the waiver of any stay of this Order under Bankruptcy Rules 6004(h) and 6006(d) have been satisfied.

BB. The Debtors have demonstrated both (i) good, sufficient and sound business judgment, purposes and justifications; and (ii) compelling circumstances for the Sale of Quirky Assets pursuant to section 363(b) of the Bankruptcy Code prior to, and outside of, a plan of reorganization in that, among other things, absent the immediate consummation of the sale of Quirky Assets, the value of the Debtors' assets will be harmed. To maximize the value of the Quirky Assets, it is essential that the sale of Quirky Assets occur within the timeframe set forth in the Quirky Agreement. Time is of the essence in consummating the sale of Quirky Assets.

CC. Entry into the Quirky Agreement and consummation of the sale of Quirky Assets do not constitute a sub rosa chapter 11 plan.

**VIII. Assumption and Assignment of the Assumed Contracts**

DD. The assumption and assignment of the Assumed Contracts (as such Assumed Contracts may be amended, supplemented or otherwise modified prior to assumption and assignment without further order of the Court with the consent of the Debtors, the contract counterparty and the Buyer) that are designated for assumption and assignment pursuant to the

terms of this Order and the Quirky Agreement is integral to the Quirky Agreement, does not constitute unfair discrimination, is in the best interests of the Debtors, their estates, their creditors and all other parties in interest, and represents the reasonable exercise of sound and prudent business judgment by the Debtors.

EE. No section of any Assumed Contract which purports to prohibit, restrict, or condition the use, consideration or assignment of any such Assumed Contract in connection with the Sale of Quirky Assets shall have any force or effect.

FF. The Debtors have met all requirements of section 365(b) of the Bankruptcy Code for each of the Assumed Contracts. The Debtors have (a) cured and/or provided adequate assurance of cure of any default existing prior to the Closing under all of the Assumed Contracts, within the meaning of section 365(b)(1)(A) of the Bankruptcy Code; and (b) provided compensation or adequate assurance of compensation to any counterparty for actual pecuniary loss to such party resulting from a default prior to the Closing under any of the Assumed Contracts, within the meaning of section 365(b)(1)(B) of the Bankruptcy Code. Each of the Assumed Contracts is free and clear of all Claims against the Buyer.

GG. The Buyer has demonstrated adequate assurance of its future performance under the relevant Assumed Contracts within the meaning of sections 365(b)(1)(C) and 365(f)(2)(B) of the Bankruptcy Code. Pursuant to section 365(f) of the Bankruptcy Code, the Assumed Contracts to be assumed and assigned under the Quirky Agreement shall be assigned and transferred to, and remain in full force and effect for the benefit of, the Buyer notwithstanding any provision in the contracts or other restrictions prohibiting their assignment or transfer.

HH. No monetary or non-monetary defaults exist in the Debtors' performance under the Assumed Contracts as of the date of this Order other than the failure to pay amounts equal to the Cure Amount or defaults that are not required to be cured as contemplated in section 365(b)(1)(A) of the Bankruptcy Code. To the extent applicable, the Cure Amount for

each of the Assumed Contracts shall be paid in accordance with the terms set forth in the Quirky Agreement.

**THEREFORE, IT IS HEREBY ORDERED THAT:**

**IX. General Provisions**

1. The Motion is granted to the extent provided herein.

2. Any objections to the Motion or the relief requested therein that have not been withdrawn, waived or settled, and all reservations of rights included therein, are hereby overruled on the merits and denied with prejudice. All persons and entities given notice of the Motion that failed to timely object thereto are deemed to consent to the relief sought therein, including, without limitation, all non-Debtor counterparties to the Assumed Contracts.

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

**X. Approval of the Quirky Agreement**

4. The Quirky Agreement, all of the terms and conditions thereof, and consummation of the sale of Quirky Assets contemplated therein, are authorized and approved in all respects pursuant to section 363(b) of the Bankruptcy Code. The failure specifically to include any particular provision of the Quirky Agreement in this Order shall not diminish or impair the effectiveness of such provision, it being the intent of the Court that the Quirky Agreement be authorized and approved in its entirety.

5. The Debtors and their respective officers, employees and agents are authorized and directed to (a) take any and all actions necessary, appropriate or reasonably requested by the Buyer to perform, consummate, implement and close the Sale of Quirky Assets, including, without limitation, (i) the sale to the Buyer of all Quirky Assets, in accordance

with the terms and conditions set forth in the Quirky Agreement and this Order, and (ii) executing, acknowledging and delivering such deeds, assignments, conveyances and other assurance, documents and instruments of transfer and taking any action for purposes of assigning, transferring, granting, conveying and confirming to the Buyer, or reducing to possession, the Quirky Assets, including any further cooperation after the Closing pursuant to the Quirky Agreement; and (b) to assume and assign any and all Assumed Contracts. The Debtors are further authorized to pay, without further order of this Court, whether before, at or after the Closing, any expenses or costs that are required to be paid in order to consummate the Sale of Quirky Assets or perform their obligations under the Quirky Agreement. Any amounts, [including the Break-Up Fee and the Expense Reimbursement Amount,] that become payable by the Debtors to the Buyer pursuant to the Quirky Agreement (and related agreements executed in connection therewith) shall (i) constitute allowed administrative expenses of the Debtors' estates under sections 503(b)(1) and 507(a)(2) of the Bankruptcy Code (to the extent set forth in the Quirky Bidding Procedures Order, the Quirky Agreement and such related agreements); (ii) be treated with such priority if the Chapter 11 Cases convert to cases under chapter 7 of the Bankruptcy Code; and (iii) not be discharged, modified or otherwise affected by any reorganization plan for the Debtors, except by written agreement with the Buyer (such agreement to be provided in the Buyer's sole discretion) and shall be paid under the Carve Out from the sale proceeds.

6. All persons and entities are prohibited and enjoined from taking any action to prevent, adversely affect or interfere with, or which would be inconsistent with, the ability of the Debtors to transfer the Quirky Assets to the Buyer in accordance with the Quirky Agreement and this Order.

**XI. Sale and Transfer Free and Clear of Claims**

7. Except as otherwise expressly provided in the Quirky Agreement and the terms of this Order with respect to Assumed Liabilities, pursuant to sections 105(a) and 363(f) of

the Bankruptcy Code, the Quirky Assets shall be sold free and clear of all claims, liens (including, without limitation, any statutory lien on real and personal property and any and all “liens” as that term is defined and used in the Bankruptcy Code, including section 101(37) thereof), liabilities, interests, rights and encumbrances, including, without limitation, the following: all mortgages, restrictions (including, without limitation, any restriction on the use, voting rights, transfer rights, claims for receipt of income or other exercise of any attributes of ownership), hypothecations, charges, indentures, loan agreements, instruments, leases, licenses, options, deeds of trust, security interests, equity interests, conditional sale rights or other title retention agreements, pledges, judgments, demands, rights of first refusal, consent rights, offsets, contract rights, rights of setoff, recoupment rights, rights of recovery, reimbursement rights, contribution claims, indemnity rights, exoneration rights, product liability claims, alter-ego claims, environmental rights and claims (including, without limitation, toxic tort claims), labor rights and claims, employment rights and claims, pension rights and claims, tax claims, regulatory violations by any governmental entity, decrees of any court or foreign or domestic governmental entity, charges of any kind or nature, debts arising in any way in connection with any agreements, acts, or failures to act, reclamation claims, obligation claims, demands, guaranties, option rights or claims, rights, contractual or other commitment rights and claims, rights of licensees or sublicensees (if any) under section 365(n) of the Bankruptcy Code or any similar statute, rights of tenants and subtenants (if any) under section 365(h) of the Bankruptcy Code or any similar statute, and all other matters of any kind and nature, whether known or unknown, choate or inchoate, filed or unfiled, scheduled or unscheduled, noticed or unnoticed, recorded or unrecorded, perfected or unperfected, allowed or disallowed, contingent or non-contingent, liquidated or unliquidated, matured or unmatured, material or non-material, disputed or undisputed, whether arising prior to or subsequent to the commencement of these Chapter 11 Cases (but, for the avoidance of doubt, in each case arising from the ownership of the Quirky Assets or the operation of the business prior to the Closing Date), and whether

imposed by agreement, understanding, law, equity or otherwise, including claims otherwise arising under any theory, law or doctrine of successor liability or related theories (all of the foregoing collectively being referred to in this Order as "Claims", and, as used in this Order, the term "Claims" includes, without limitation, any and all "claims" as that term is defined and used in the Bankruptcy Code, including section 101(5) thereof), with all such Claims to attach to the proceeds of the Sale of Quirky Assets to be received by the Debtors with the same validity, force, priority and effect which they now have as against the Quirky Assets, subject to any claims and defenses the Debtors may possess with respect thereto; *provided, however*, that setoff rights will be extinguished to the extent there is no longer mutuality after the consummation of the Sale of Quirky Assets.

8. At Closing, all of the Debtors' right, title and interest in and to, and possession of, the Quirky Assets shall be immediately vested in the Buyer pursuant to sections 105(a), 363(b), 363(f) and 365 of the Bankruptcy Code free and clear of any and all Claims, except for Assumed Liabilities, if any. Such transfer shall constitute a legal, valid, binding and effective transfer of, and shall vest the Buyer with good and marketable title to, the Quirky Assets. All person or entities, presently or on or after the Closing, in possession of some or all of the Quirky Assets are directed to surrender possession of the Quirky Assets to the Buyer or its designees on the Closing or at such time thereafter as the Buyer may request.

9. This Order is and shall be binding upon and govern the acts of all entities, including, without limitation, all filing agents, filing officers, title agents, title companies, recorders of mortgages, recorders of deeds, registrars of deeds, registrars of patents, trademarks or other intellectual property, administrative agencies, governmental departments, secretaries of state, federal and local officials and all other persons and entities who may be required by operation of law, the duties of their office or contract, to accept, file, register or otherwise record or release any documents or instruments; and each of the foregoing persons and entities is hereby authorized and directed to accept for filing any and all of the documents



and instruments necessary and appropriate to consummate the Sale of Quirky Assets contemplated by the Quirky Agreement. The Quirky Assets are sold free and clear of any reclamation rights.

10. Except as otherwise expressly provided in the Quirky Agreement with respect to the Assumed Liabilities, if any, all persons and entities (and their respective successors and assigns), including, but not limited to, all debt security holders, equity security holders, affiliates, governmental, tax and regulatory authorities, lenders, customers, vendors, employees, trade creditors, litigation claimants and other creditors holding Claims against the Debtors or the Quirky Assets arising under or out of, in connection with, or in any way relating to, the Debtors, the Debtors' predecessors or affiliates, the Quirky Assets, the ownership, sale or operation of the Quirky Assets and the business prior to Closing or the transfer of the Quirky Assets to the Buyer, are hereby forever barred, estopped and permanently enjoined from asserting such Claims against the Buyer, its successors or assigns, their property or the Quirky Assets. Following the Closing, no holder of any Claim shall interfere with the Buyer's title to or use and enjoyment of the Quirky Assets based on or related to any such Claim, or based on any action the Debtors may take in the Chapter 11 Cases.

11. If any person or entity that has filed financing statements, mortgages, mechanic's Claims, lis pendens or other documents or agreements evidencing Claims against or in the Quirky Assets shall not have delivered to the Debtors prior to the Closing of the Sale of Quirky Assets, in proper form for filing and executed by the appropriate parties, termination statements, instruments of satisfaction, releases of all Claims (other than the Assumed Liabilities, if any) that the person or entity has with respect to the Quirky Assets, (a) the Debtors are hereby authorized and directed to execute and file such statements, instruments, releases and other documents on behalf of the person or entity with respect to the Quirky Assets; (b) the Buyer is hereby authorized to file, register or otherwise record a certified copy of this Order, which, once filed, registered or otherwise recorded, shall constitute conclusive evidence of the

release of all such Claims against the Buyer and the applicable Quirky Assets; and (c) the Buyer may seek in this Court or any other court to compel appropriate parties to execute termination statements, instruments of satisfaction and releases of all such Claims with respect to the Quirky Assets. This Order is deemed to be in recordable form sufficient to be placed in the filing or recording system of each and every federal, state, or local government agency, department or office. Notwithstanding the foregoing, the provisions of this Order authorizing the sale and assignment of the Quirky Assets free and clear of Claims shall be self-executing, and none of the Debtors nor the Buyer shall be required to execute or file releases, termination statements, assignments, consents or other instruments in order to effectuate, consummate and implement the provisions of this Order.

12. To the maximum extent permitted under applicable law, the Buyer shall be authorized, as of the Closing Date, to operate under any license, permit, registration and governmental authorization or approval of the Debtors with respect to the Quirky Assets, and all such licenses, permits, registrations and governmental authorizations and approvals are deemed to have been, and hereby are, directed to be transferred to the Buyer as of the Closing Date.

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

**XII. No Successor or Transferee Liability**

14. The Buyer shall not be deemed, as a result of any action taken in connection with the Quirky Agreement, the consummation of the Sale of Quirky Assets contemplated by the Quirky Agreement, or the transfer or operation of the Quirky Assets to (a)

be a legal successor, or otherwise be deemed a successor to the Debtors (other than with respect to any obligations as an assignee under the Assumed Contracts arising after the Closing); (b) have, de facto or otherwise, merged with or into the Debtors; or (c) be an alter ego or a mere continuation or substantial continuation of the Debtors or the enterprise(s) of the Debtors, including, without limitation, within the meaning of any foreign, federal, state or local revenue law, pension law, the Employee Retirement Income Security Act, the Consolidated Omnibus Budget Reconciliation Act ("COBRA"), WARN (defined below), CERCLA (defined below), the Fair Labor Standard Act, Title VII of the Civil Rights Act of 1964 (as amended), the Age Discrimination and Employment Act of 1967 (as amended), the Federal Rehabilitation Act of 1973 (as amended), the National Labor Relations Act, 29 U.S.C. § 151, *et seq.* (the "NLRA"), environmental liabilities, debts, claims or obligations arising from conditions first existing on or prior to the Closing Date (including, without limitation, the presence of hazardous, toxic, polluting, or contaminating substances or wastes), which may be asserted on any basis, including, without limitation, under CERCLA, any liabilities, debts or obligations of or required to be paid by the Debtors for any taxes of any kind for any period, labor, employment, or other law, rule or regulation (including, without limitation, filing requirements under any such laws, rules or regulations), or under any products liability law or doctrine with respect to the Debtors' liability under such law, rule or regulation or doctrine.

15. Other than as expressly set forth in the Quirky Agreement with respect to Assumed Liabilities, if any, the Buyer shall not have any responsibility for (a) any liability or other obligation of the Debtors or related to the Quirky Assets or (b) any Claims against the Debtors or any of their predecessors or affiliates. The Buyer shall have no liability whatsoever with respect to the Debtors' (or their predecessors' or affiliates') respective businesses or operations or any of the Debtors' (or their predecessors' or affiliates') obligations (as described herein, "Successor or Transferee Liability") based, in whole or part, directly or indirectly, on any theory of successor or vicarious liability of any kind or character, or based upon any theory of

antitrust, environmental, successor or transferee liability, de facto merger or substantial continuity, labor and employment or products liability, whether known or unknown as of the Closing Date, now existing or hereafter arising, asserted or unasserted, fixed or contingent, liquidated or unliquidated, including 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 Quirky Assets prior to the Closing. The Buyer shall have no liability or obligation under the WARN Act (29 U.S.C. §§ 2101 *et seq.*) ("WARN") or the Comprehensive Environmental Response Compensation and Liability Act ("CERCLA"), or any foreign, federal, state or local labor, employment, or environmental law whether of similar import or otherwise by virtue of the Buyer's purchase of the Quirky Assets or assumption of the Assumed Liabilities, if any, by the Buyer.

16. Except as otherwise provided in the Quirky Agreement, nothing in this Order or the Quirky Agreement shall require the Buyer to (a) continue or maintain in effect, or assume any liability in respect of any employee, collective bargaining agreement, pension, welfare, fringe benefit or any other benefit plan, trust arrangement or other agreements to which the Debtors are a party or have any responsibility therefor including, without limitation, medical, welfare and pension benefits payable after retirement or other termination of employment; or (b) assume any responsibility as a fiduciary, plan sponsor or otherwise, for making any contribution to, or in respect of the funding, investment or administration of any employee benefit plan, arrangement or agreement (including but not limited to pension plans) or the termination of any such plan, arrangement or agreement.

17. Effective upon the Closing Date, all persons and entities are forever prohibited and enjoined from commencing or continuing in any matter any action or other proceeding, whether in law or equity, in any judicial, administrative, arbitral or other proceeding against the Buyer, or its assets (including the Quirky Assets), with respect to any (a) Claim (other than an Assumed Liability) or (b) Successor or Transferee Liability including, without

limitation, the following actions with respect to clauses (a) and (b): (i) commencing or continuing any action or other proceeding pending or threatened; (ii) enforcing, attaching, collecting or recovering in any manner any judgment, award, decree or order; (iii) creating, perfecting or enforcing any lien, claim, interest or encumbrance; (iv) asserting any setoff, right of subrogation or recoupment of any kind; (v) commencing or continuing any action, in any manner or place, that does not comply with, or is inconsistent with, the provisions of this Order or other orders of this Court, or the agreements or actions contemplated or taken in respect hereof; or (vi) revoking, terminating or failing or refusing to renew any license, permit or authorization to operate any of the Quirky Assets or conduct any of the businesses operated with such assets.

**XIII. Good Faith; Arms' Length Sale**

18. The Quirky Agreement has been negotiated and executed, and the Sale of Quirky Assets contemplated by the Quirky Agreement are and have been undertaken, by Debtors, the Buyer and their respective representatives at arms' length, without collusion and in "good faith," as that term is defined in section 363(m) of the Bankruptcy Code. Accordingly, the reversal or modification on appeal of the authorization provided herein to consummate the sale shall not affect the validity of the Sale of Quirky Assets (including the assumption and assignment of the Assumed Contracts), unless such authorization and consummation of the sale are duly and properly stayed pending such appeal. The Buyer is a good faith purchaser within the meaning of section 363(m) of the Bankruptcy Code and, as such, is entitled to the full protections of section 363(m) of the Bankruptcy Code.

19. None of the Debtors or the Buyer has engaged in any conduct that would cause or permit the Quirky Agreement or the Sale of Quirky Assets to be avoided or costs, or damages or costs, to be imposed, under section 363(n) of the Bankruptcy Code. The consideration provided by the Buyer for the Quirky Assets under the Quirky Agreement is fair and reasonable, and the Sale of Quirky Assets may not be avoided under section 363(n) of the Bankruptcy Code.

**XIV. Assumption and Assignment of Assumed Contracts**

20. Pursuant to sections 105(a) and 365 of the Bankruptcy Code, the Debtors are authorized and directed to assume and assign to the Buyer each of the Assumed Contracts upon the Closing of the Sale of Quirky Assets, free and clear of all Claims (other than Assumed Liabilities). The payment of the Cure Amounts pursuant to the Quirky Agreement (a) cures all monetary and non-monetary defaults existing thereunder as of the Closing Date; (b) compensates the applicable non-Debtor counterparties for any actual pecuniary loss resulting from such default; and (c) together with the assumption of the Assumed Contracts by the Debtors and the assignment of the Assumed Contracts to the Buyer, constitutes adequate assurance of future performance thereof.

21. To the extent that any counterparty to an Assumed Contract did not timely file a Contract Objection by the Contract Objection deadline, such counterparty is deemed to have consented to (i) the assumption and assignment of the Assumed Contract pursuant to the terms of this Order; and (ii) the proposed Cure Amounts set forth on the Assumption and Assignment Notice.

22. Any provision in any Assumed Contract that prohibits or conditions the assignment of such Assumed Contract or allows the non-Debtor counterparty to such Assumed Contract to impose any penalty, fee, rent increase, profit sharing arrangement or other condition on renewal or extension, or to modify any term or condition upon the assignment of such Assumed Contract, constitutes an unenforceable anti-assignment provision that is void and of no force and effect. All other requirements and conditions under sections 363 and 365 of the Bankruptcy Code for the assumption by the Debtors and assignment to the Buyer of the Assumed Contracts have been satisfied. Upon the Closing, in accordance with sections 363 and 365 of the Bankruptcy Code, the Buyer shall be fully and irrevocably vested with all right, title and interest of the Debtors under the Assumed Contracts, and such Assumed Contracts shall remain in full force and effect for the benefit of the Buyer.

23. Upon the Closing and the payment of the relevant Cure Amounts, the Buyer shall be deemed to be substituted for the Debtors as a party to the applicable Assumed Contracts, and the Debtors and their estates shall be released, pursuant to section 365(k) of the Bankruptcy Code, from any liability under the Assumed Contracts. There shall be no assignment fees, increases or any other fees charged to the Buyer or the Debtors as a result of the assumption and assignment of the Assumed Contracts.

24. Each non-Debtor counterparty to an Assumed Contract is forever barred, estopped, and permanently enjoined from asserting against the Debtors or the Buyer or their respective property (including, without limitation, the Quirky Assets) (i) any assignment fee, acceleration, default, breach or claim or pecuniary loss, or condition to assignment existing, arising or accruing as of the Closing Date or arising by reason of the Closing, including any breach related to or arising out of change-in-control in such Assumed Contracts, or any purported written or oral modification to the Assumed Contracts; or (ii) any claim, counterclaim, defense, breach, default, condition, setoff or other claim asserted or capable of being asserted against the Debtors existing as of the Closing Date or arising by reason of the Closing, except for Assumed Liabilities.

25. Other than the Assumed Contracts, if any, the Buyer assumed none of the Debtors' other contracts or leases and shall have no liability whatsoever thereunder.

26. Nothing in the Motion or this Order shall be deemed or construed as a waiver of any claims or causes of action that the Debtors or the Buyer have or may have against a non-Debtor counterparty to any Assumed Contract, whether or not such claims arise under, are related to the assumption of or are independent of the Assumed Contracts.

**XV. Other Provisions**

27. In connection with the Closing of the Sale of Quirky Assets, all proceeds shall be paid as described more fully in the [Final Order (I) Authorizing Debtors to Use Cash Collateral, (II) Granting Adequate Protection, and (III) Granting Certain Related Relief].

28. The requirements set forth in Bankruptcy Rules 6003(b), 6004 and 6006 and Local Bankruptcy Rules 6004-1 and 9013-1 have been satisfied or otherwise deemed waived.

29. The Buyer shall not be required to seek or obtain relief from the automatic stay under section 362 of the Bankruptcy Code to give any notice permitted by the Quirky Agreement or to enforce any of its remedies under the Quirky Agreement or any other sale-related document. The automatic stay imposed by section 362 of the Bankruptcy Code is modified solely to the extent necessary to implement the preceding sentence; *provided however*, that this Court shall retain exclusive jurisdiction over any and all disputes with respect thereto.

30. The provisions of this Order and the Quirky Agreement are non-severable and mutually dependent.

31. The Quirky Agreement and any related agreements, documents or other instruments may be modified, amended or supplemented by the parties thereto and in accordance with the terms thereof, without further order of the Court; *provided* that any such modification, amendment or supplement does not have a material adverse effect on the Debtors' estates.

32. The Court shall retain exclusive jurisdiction (for as long as the chapter 11 cases are open) to, among other things, interpret, implement, and enforce the terms and provisions of this Order and the Quirky Agreement, all amendments thereto and any waivers and consents thereunder and each of the agreements executed in connection therewith to which the Debtors are a party or which has been assigned by the Debtors to the Buyer, and to adjudicate, if necessary, any and all disputes concerning or relating in any way to the Sale of Quirky Assets. This Court retains jurisdiction to compel delivery of the Quirky Assets, to protect the Buyer and its assets, including the Quirky Assets, against any Claims and Successor and Transferee Liability and to enter orders, as appropriate, pursuant to sections 105(a), 363 or 365



(or other applicable provisions) of the Bankruptcy Code necessary to transfer the Quirky Assets and the Assumed Contracts to the Buyer. Buyer may at its election enforce this Order in any other court of competent jurisdiction in defense of any Claims asserted against it by third parties or similar issues.

33. As provided by Bankruptcy Rules 7062 and 9014, the terms and conditions of this Order shall be effective immediately upon entry and shall not be subject to the stay provisions contained in Bankruptcy Rules 6004(h) and 6006(d) or any similar rule that would delay the effectiveness of this Order. Time is of the essence in closing the sale and the Debtors and the Buyer intend to close the sale consummate the Sale of Quirky Assets as soon as possible. Therefore, any party objecting to this Order must exercise due diligence in filing an appeal and pursuing a stay or risk their appeal being foreclosed as moot.

34. This Order and the Quirky Agreement shall be binding in all respects upon all creditors of (whether known or unknown), and holders of equity interests in, any Debtor, any holders of Claims in, against or on all or any portion of the Quirky Assets, all non-Debtor counterparties to the Assumed Contracts, all successors and assigns of the Buyer, the Debtors and their affiliates and subsidiaries and any subsequent trustee appointed in the Chapter 11 Cases or upon a conversion to chapter 7 under the Bankruptcy Code, and shall not be subject to rejection. Nothing contained in any chapter 11 plan confirmed in the Chapter 11 Cases, any order confirming any such chapter 11 plan or any order approving wind-down or dismissal of the Chapter 11 Cases or any subsequent chapter 7 cases shall conflict with or derogate from the provisions of the Quirky Agreement or this Order, and to the extent of any conflict or derogation between this Order or the Quirky Agreement and such future plan or order, the terms of this Order and the Quirky Agreement shall control.

*[Remainder of page intentionally left blank.]*

35. To the extent any provisions of this Order conflict with, or are otherwise inconsistent with, the terms and conditions of the Quirky Agreement or the Quirky Bidding Procedures Order, this Order shall govern and control.

Dated: November [\_\_\_], 2015  
New York, New York

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HONORABLE MARTIN GLENN  
UNITED STATES BANKRUPTCY JUDGE

EXHIBIT I

Stalking Horse Order

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

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:
  
In re: : Chapter 11  
:
  
QUIRKY, INC., *et al.*<sup>1</sup> : Case No. 15-12596 (MG)  
:
  
Debtors. : (Jointly Administered)  
:
  
:
  
:
  
----- X

**ORDER (I) APPROVING BIDDING PROCEDURES  
AND BID PROTECTIONS IN CONNECTION WITH THE  
SALE OF CERTAIN ASSETS RELATED TO THE BUSINESS OF  
QUIRKY, INC., (II) APPROVING PROCEDURES FOR ASSUMPTION AND  
ASSIGNMENT OF EXECUTORY CONTRACTS, (III) APPROVING THE FORM AND  
MANNER OF NOTICE, AND (IV) SCHEDULING AN AUCTION AND A SALE  
HEARING**

Upon the motion, (the “Motion”),<sup>2</sup> of the above-captioned debtors and debtors in possession (the “Debtors”) for entry of an order (this “Quirky Bidding Procedures Order”) , pursuant to sections 105(a), 363, 365, 503 and 507 of title 11 of the United States Code (the “Bankruptcy Code”), rules 2002, 6004 and 6006 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”) and rules 2002-1, 6004-1, and 6006-1 of the Local Bankruptcy Rules for the Southern District of New York (the “Local Rules”), (i) authorizing and approving the bidding procedures with stalking horse bid protections in connection with the sale of certain of the Debtors’ assets related to the business of Quirky, Inc., (ii) approving the form and manner of notice of the Auction and Sale Hearing, (iii) approving procedures for the assumption and

<sup>1</sup> The Debtors in these chapter 11 cases and the last four digits of each Debtor’s taxpayer identification number are as follows: Quirky, Inc. (2873); Wink, Inc. (8826); and Undercurrent Acquisition, LLC (9692). The Debtors’ principal offices are located at 606 West 28<sup>th</sup> Street, Seventh Floor, New York, NY 10001.

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

assignment of Assumed Contracts and noticing of related cure amounts, and (iv) scheduling an Auction and a Sale Hearing, all as more fully set forth in the Motion; and upon the *Declaration of Gabe Fried in Support of Debtors' Motion for Entry of (i) an Order (a) Approving Bidding Procedures and Bid Protections in Connection with the Sale of Certain Assets Related to the Business of Quirky, Inc., (b) Approving Procedures for Assumption and Assignment of Executory Contracts, (c) Approving the Form and Manner of Notice, and (d) Scheduling an Auction and a Sale Hearing; and (ii) an Order Authorizing and Approving the Sale of Assets of Quirky, Inc.* [Docket No. 61] (the "Fried Declaration"); and upon resolution of the *Objection of the United States Trustee to Debtors' Motion for Entry of (i) an Order (a) Approving Bidding Procedures and Bid Protections in Connection with the Sale of Certain Assets Related to the Business of Quirky, Inc., (b) Approving Procedures for Assumption and Assignment of Executory Contracts, (c) Approving the Form and Manner of Notice, and (d) Scheduling an Auction and a Sale Hearing and (ii) an Order Authorizing and Approving the Sale of Assets of Quirky, Inc.* [Docket No. 80]; and upon resolution of the *Objection of the Official Committee of Unsecured Creditors to the Quirky Bid Procedures Motion* [Docket No. 105]; and this Court having jurisdiction to consider the Motion and the relief requested therein; and consideration of the Motion and the relief requested being a core proceeding; and venue being proper before this Court; and due and sufficient notice of the Motion having been given under the particular circumstances to the Notice Parties; and it appearing that no other or further notice need be provided; and this Court having determined that the relief requested in the Motion being in the best interests of the Debtors, their creditors, and all parties in interest; and this Court having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and

upon all of the proceedings had before this Court and after due deliberation and sufficient cause appearing therefor,

**IT IS HEREBY FOUND AND DETERMINED THAT:**

**A. Bidding Procedures.** The Debtors have articulated good and sufficient reasons for authorizing and approving the bidding procedures attached hereto as **Exhibit 1** (the “Quirky Bidding Procedures”), which are fair and reasonable and appropriate under the circumstances and designed to maximize recovery on, and realizable value of, the Quirky Assets.

**B. Stalking Horse Bid Protections.** The Debtors have demonstrated a compelling and sound business justification for authorizing the payment of a break-up fee and expense reimbursement (together, the “Bid Protections”) to a potential stalking horse bidder (the “Quirky Community Stalking Horse”) for the sale of Quirky Assets that includes the Quirky Community and Platform, including:

- i. the Bid Protections will be the product of negotiations among a potential stalking horse bidder and the Debtors, conducted in good faith and at arm’s length, and any transaction that culminates with a potential stalking horse bidder, in consultation with Comerica Bank, and their respective professionals to negotiate a transaction with a bidder who was prepared to pay the highest or otherwise best purchase price to date for the Quirky Assets to maximize the value of the Debtors estates;
- ii. the Bid Protections are an actual and necessary cost and expense of preserving the respective Debtors’ estates;
- iii. the Bid Protections are fair, reasonable and appropriate in light of, among other things, the size and nature of the potential sale of the Quirky Assets, notwithstanding that the any transaction with a stalking horse bidder is subject to higher or otherwise better offers, and the substantial benefits a potential stalking horse bidder will have provided to the Debtors, their estates and creditors, and all parties in interest herein, including, among other things, by increasing the likelihood that the best possible price for the Quirky Assets will be received;
- iv. the protections afforded to a stalking horse bidder by way of the Bid Protections will be material inducements for, and express conditions of, a stalking horse bidder’s willingness to enter into an agreement with the

Debtors, and will be necessary to ensure that a potential stalking horse bidder will continue to pursue any proposed agreement on terms acceptable to the Debtors in their sound business judgment, subject to competitive bidding; and

- v. the assurance of the payment of the Bid Protections has promoted more competitive bidding by inducing the stalking horse bidder's bid, which otherwise would not have been made, without which competitive bidding would be limited, and which may be the highest or otherwise best available offer for the Quirky Assets, induced the stalking horse bidder to conduct due diligence with respect to the Debtors' business, assets, operations and liabilities, and propose the sale of the Quirky Assets contemplated by the APA, including, among other things, submission of a bid that will serve as a minimum or floor bid on which all other bidders can rely and increases the likelihood that the final purchase price reflects the true value of the Quirky Assets.

**C. Auction and Sale Notice.** The form of Auction and Sale Notice attached hereto as **Exhibit 2** is reasonably calculated to provide all interested parties with timely and proper notice of the proposed sale of the Quirky Assets, including: (i) the date, time and place of the Auction (if one is held); (ii) the Quirky Bidding Procedures and certain dates and deadlines related thereto; (iii) the Sale Objection Deadline and the date, time and place of the Sale Hearing; (iv) reasonably specific identification of Quirky Assets; (v) notification of any agreement between the Debtors and a stalking horse bidder that culminates before the Bid Deadline; (vi) instructions for promptly obtaining a copy of an agreement with a stalking horse bidder (if necessary); (vii) a simplified form purchase agreement that may be used for submitting a bid on one or more Products (the "Product Purchase Form"); and (viii) notice of the proposed assumption and assignment of Assumed Contracts to a stalking horse bidder pursuant to an agreement (or to another Successful Bidder arising from the Auction, if any) and the right, procedures and deadlines for objecting thereto. No other or further notice of the Auction and Sale Hearing shall be required.

**D. Assumption Procedures.** The Assumption and Assignment Notice are reasonably calculated to provide counterparties to the Assumed Contracts with proper notice of the intended assumption and assignment of their executory contracts, any cure amounts relating thereto and the Assumption and Assignment Procedures.

**NOW, THEREFORE, IT IS ORDERED THAT:**

1. The Motion is GRANTED to the extent set forth herein.

**I. Important Dates And Deadlines**

2. **Sale Hearing:** November 24, 2015, at 10:00 a.m. (prevailing Eastern Time) (the "Sale Hearing") is the date and time for the hearing to approve a sale of any or all of the Quirky Assets (each, a "Transaction") and will be held before the Honorable Martin Glenn, United States Bankruptcy Judge in the United States Bankruptcy Court for the Southern District of New York, Courtroom 501, One Bowling Green, New York, New York 10004; *provided, however*, if the Committee files a notice of objection with the Court on or before November 23, 2015 at 4:00 p.m. (prevailing Eastern Time) with respect to any Transaction, the Sale Hearing with respect to such Transaction will be adjourned and rescheduled for December 7, 2015 at 9 a.m. (prevailing Eastern Time). The Sale Hearing may be adjourned without further notice other than announcement in open Court or on the Court's calendar.

3. **Sale Objection Deadline:** November 12, 2015, at 4:00 p.m. (prevailing Eastern Time) is the deadline to object to entry of a proposed sale order with respect to any Transaction (the "Sale Objection Deadline"); *provided, however*, the Committee shall have until November 23, 2015 at 4:00 p.m. (prevailing Eastern Time) to file a notice of objection with the Court with respect to any Transaction, upon which, the Committee shall have until December 1, 2015 at 4:00 p.m. (prevailing Eastern Time) to file a formal objection. Objections, if any, must: (i) be in writing; (ii) conform to the applicable provisions of the Bankruptcy Rules, the Local



Bankruptcy Rules and any orders of the Court; (iii) state with particularity the legal and factual basis for the objection and the specific grounds therefor; and (iv) filed with the Court and served so the objection is actually received no later than the Sale Objection Deadline by the following parties (the “Notice Parties”):

Debtors	Proposed Counsel to the Debtors
Quirky, Inc. 606 West 28 <sup>th</sup> Street New York, New York 10010 Attn: Charles Kwalwasser, Esq. Ed Kremer	Cooley LLP 1114 Avenue of the Americas New, York, New York 10036 Attn: Jeffrey L. Cohen, Esq. Michael A. Klein, Esq.
United States Trustee	Counsel to the Stalking Horse Bidder (if any)
Office of the United States Trustee for the Southern District of New York 201 Varick Street, Suite 1006 New York, New York 10014 Attn: Paul Schwartzberg, Esq.	
Counsel to Comerica	Proposed Counsel to the Committee
Sheppard Mullin 30 Rockefeller Plaza New York, New York 10112 Attn: Bill Wyatt, Esq.	Otterbourg P.C. 230 Park Avenue New York, NY 10169 Attn: Melanie L. Cyganowski, Esq. Kevin Zuzolo, Esq.

**The failure to timely file an objection in accordance with this Quirky Bidding Procedures Order shall forever bar the assertion of any objection to the Quirky Sale Motion, entry of the Quirky Sale Order and/or consummation of the Transaction, including the assumption and assignment of the Assumed Contracts to the Successful Bidder pursuant to the APA, and shall be deemed to constitute any such party’s consent to entry of the Quirky Sale Order and consummation of the sale of Quirky Assets and all transactions related thereto.**

4. **Bidding Dates and Deadlines:** The following dates and deadlines with respect to bidding on the Quirky Assets are hereby established (subject to modification as needed):

- a) Bid Deadline: November 13, 2015 at 12:00 p.m. (prevailing Eastern Time) is the deadline by which all “Qualified Bids” (as defined in the

Quirky Bidding Procedures) must be actually received by the parties specified in the Quirky Bidding Procedures (the “Bid Deadline”); and

- b) Auction: November 17, 2015 at 10:00 a.m. (prevailing Eastern Time) is the date and time the Auction, if one is needed, will be held at the offices of counsel to the Debtors: Cooley LLP, 1114 Avenue of the Americas, New York, New York 10036.

## II. Quirky Bidding Procedures And Related Relief

5. The Quirky Bidding Procedures, substantially in the form attached hereto as Exhibit 1 and incorporated by reference as though fully set forth herein, are hereby approved. The Quirky Bidding Procedures shall govern the submission, receipt and analysis of all bids relating to the sale of Quirky Assets, and any party desiring to submit a higher or otherwise better offer for the Quirky Assets shall do so strictly in accordance with the terms of the Quirky Bidding Procedures and this Quirky Bidding Procedures Order.

6. To the extent the Debtors select a stalking horse bidder for any of the Quirky Assets before the Auction, such a stalking horse bidder shall be selected and the Notice Parties and all necessary parties in interest shall be notified no later than November 2, 2015.

7. As described in the Quirky Bidding Procedures, if the Debtors do not receive any Qualified Bids other than from a stalking horse bidder or if no Qualified Bidder other than a stalking horse bidder indicates its intent to participate in the Auction, the Debtors will not hold the Auction, the stalking horse bidder will be named the Successful Bidder and the Debtors will seek approval agreement entered into with the stalking horse bidder at the Sale Hearing. In such case, the Debtors may continue to market those assets of the Debtors other than the Quirky Assets. If one or more Qualified Bids is timely received from a Qualified Bidder (other than the Quirky Community Stalking Horse) in accordance with the Quirky Bidding Procedures, the Debtors shall conduct the Auction as set forth herein.

8. If there are no Qualified Bidders and no stalking horse bidder by the Bid Deadline, the Debtors, in consultation with the Committee, may cancel the Auction or extend the Bid Deadline, at their own discretion, for a reasonable time; provided that revised dates for the Auction and Sale Hearing be approved by this Court.

9. If the Auction is conducted, each Qualified Bidder participating in the Auction shall be required to confirm that it has not engaged in any collusion with respect to the bidding process or any Transaction. The Auction will be conducted openly and shall be either transcribed or videotaped.

10. The Bid Protections described in the Motion are hereby approved to the extent set forth herein. If a stalking horse bidder becomes entitled to receive the Bid Protections in accordance with the terms of an agreement between the Debtors and the stalking horse bidder (the "Stalking Horse Agreement"), (a) the Debtors are authorized, upon the closing of the Successful Bid or the Back Up Bid (as applicable) and the payment of the purchase price for the Quirky Assets to pay from the proceeds of such purchase price any and all amounts owing to the stalking horse bidder in accordance with the terms of the Stalking Horse Agreement, including the break-up fee not to exceed 3% of the aggregate sale of Quirky Assets and any actual and documented expense reimbursements not to exceed \$50,000, without further action or order by the Bankruptcy Court, in accordance with the terms and conditions of the Stalking Horse Agreement and this Quirky Bidding Procedures Order, and (b) a stalking horse bidder shall be, and hereby is, granted an allowed administrative claim in the Debtors' chapter 11 cases in an amount equal to any allowable break-up fee and expense reimbursement under sections 503(b)(1) and 507(a)(2) of the Bankruptcy Code.

11. To the extent the terms of the Stalking Horse Agreement contradicts this Quirky Bidding Procedures Order, this Quirky Bidding Procedures Order shall govern.

12. No person or entity, other than a stalking horse bidder, shall be entitled to any expense reimbursement, break-up fee, "topping," termination or other similar fee or payment in connection with the sale of the Quirky Assets.

13. Notwithstanding anything in the Quirky Sale Motion or the Quirky Bidding Procedures to the contrary, the sale of Quirky assets shall not include the Personally Identifiable Information of those members of the Quirky Community and Platform that did not log in at any time on or after October 2011.

### **III. Auction And Sale Notice And Related Relief**

14. The Auction and Sale Notice, substantially in the form attached hereto as **Exhibit 2** is hereby approved.

15. Within (3) business days of entry of the Quirky Bidding Procedures Order, the Debtors shall serve the Auction and Sale Notice by first class mail upon the following parties: (i) the Office of the United States Trustee; (ii) Sheppard Mullin, counsel to Comerica, 30 Rockefeller Plaza, New York, NY 10112 (Attn: William R. Wyatt, Esq.); (iii) counsel for any statutory committee; (iv) the Internal Revenue Service; (v) the United States Attorney for the Southern District of New York, (vi) any party known or reasonably believed to have asserted any lien, claim or Encumbrance or other interest in the Quirky Assets; (vii) any party known or reasonably believed to have expressed an interest in acquiring any of the Quirky Assets; and (viii) entities known or reasonably believed to have any such other party entitled to notice pursuant to Bankruptcy Rule 2002 and Local Rule 9013-1(b). The Debtors shall also serve the Product Purchase Form to the members of the Quirky Community and Platform by posting the Product Purchase Form to the Quirky Platform or by electronic mail where available. No other

or further notice need be given. The Auction may be adjourned by the Debtors, in consultation with the Consultation Parties, by filing a notice of adjournment with the Court thereby adjourning all subsequent dates set forth in the Quirky Bidding Procedures. No further notice of any such continuance will be required to be provided to any party. The Auction may be adjourned to a later date by the Debtors by filing a notice of adjournment with the Court. No further notice of any such continuance shall be required to be provided to any party. Any rescheduled date of the Auction (if any) and any subsequent dates set forth in the Bidding Procedures shall only be made with the consent of the Committee or upon further approval of this Court.

**IV. Assumption and Assignment Notice And Related Relief**

16. The procedures set forth below regarding the assumption of the Assumed Contracts pursuant to section 365(b) of the Bankruptcy Code and assigned to the Quirky Community Stalking Horse (or other successful bidder arising from the Auction, if any) pursuant to section 365(f) of the Bankruptcy Code in connection with any Transaction are hereby approved to the extent set forth herein (the “Assumption Procedures”).

17. These Assumption Procedures shall govern the assumption and assignment of all Assumed Contracts assumed and assigned in connection with any Transaction:

- (a) Assumption and Assignment Notice. As soon as is practicable, the Debtors shall serve the Assumption and Assignment Notice, substantially in the form attached hereto as **Exhibit 3** by first class mail on all counterparties to the Assumed Contracts (and provide a copy of the same to the stalking horse bidder or if not stalking Horse Bidder, the Successful Bidder upon completion of the Auction). The Assumption and Assignment Notice shall inform each recipient that its respective contract may be designated as an Assumed Contract in connection with the sale of Quirky Assets and should contain (i) the title of the Assumed Contract, (ii) the name of the Assumed Contract counterparty, (iii) the Debtors’ good faith estimates of the cure amounts required in connection with such Assumed Contract, (iv) the identity of the stalking horse

bidder or Successful Bidder; and (v) the deadline by which the Assumed Contract counterparty must file an objection to the proposed assumption and assignment and/or cure amount, and (vi) the Assumption Procedures relating thereto; provided, however, that service of an Assumption and Assignment Notice does not constitute an admission that such Assumed Contract is an executory contract.

- (b) Objections. Objections, if any, to the proposed assumption and assignment of the Assumed Contract or the cure amount proposed with respect thereto, must: (i) be in writing; (ii) comply with the applicable provisions of the Bankruptcy Rules, Local Bankruptcy Rules and Case Management Order entered in these Chapter 11 Cases; (iii) state with specificity the nature of the objection and, if the objection pertains to the proposed cure amount, the correct cure amount alleged by the objecting counterparty, together with any applicable and appropriate documentation in support thereof; and (iv) be filed with the Court and served upon, so as to be actually received by, the Notice Parties six (6) days before the Sale Hearing.
- (c) Dispute Resolution. Any objection to the assumption and assignment of a contract or cure amount proposed in connection with the Transaction that remains unresolved as of the Sale Hearing shall be heard at the Sale Hearing (or at a later date as fixed by the Court).

18. Any party failing to timely file an objection to the cure amount listed on the Assumption and Assignment Notice (a) shall be forever barred from objecting thereto, including making any demands for additional cure amounts or monetary compensation on account of any alleged defaults against the Debtors, their estates, the stalking horse bidder, or other successful bidder arising from the Auction, if any, with respect to any such Assumed Contract, and (b) shall be deemed to consent to the sale of the Quirky Assets.

19. The Debtors are authorized to execute and deliver all instruments and documents, and take such other action as may be necessary or appropriate to implement and effectuate the transactions contemplated by this Quirky Bidding Procedures Order.

20. This Quirky Bidding Procedures Order shall be effective and enforceable immediately upon entry.

21. This Court shall retain jurisdiction to hear and determine all matters arising from or related to the implementation, interpretation and/or enforcement of this Quirky Bidding Procedures Order.

**IT IS SO ORDERED.**

Dated: October 27, 2015  
New York, New York

/s/Martin Glenn  
MARTIN GLENN  
United States Bankruptcy Judge

**EXHIBIT 1**

**Quirky Bidding Procedures**



**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

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:
  
In re: : Chapter 11
  
:
  
QUIRKY, INC., *et al.*<sup>1</sup> : Case No. 15-12596 (MG)
  
:
  
Debtors. : (Jointly Administered)
  
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----- X

**BIDDING PROCEDURES FOR ASSETS RELATED TO THE BUSINESS OF QUIRKY, INC.**

These bidding procedures (the “Quirky Bidding Procedures”) have been approved by an order of the United States Bankruptcy Court for the Southern District of New York (the “Bankruptcy Court”) entered on October \_\_, 2015 [Docket No. \_\_] (the “Quirky Bidding Procedures Order”) in the above-captioned jointly administered chapter 11 cases of Quirky, Inc. and its debtor affiliates (collectively, the “Debtors”).

These Quirky Bidding Procedures set forth the process by which the Debtors are authorized to conduct the auction (the “Auction”) for the sale the (“Sale”) of certain of the Debtors’ assets related to the business of Quirky, Inc. (the “Quirky Assets”). The Quirky Assets consist of:<sup>2</sup>

- (a) *The Quirky.com platform:* trademarks, domain name of “quirky.com”, database of approximately 1.2 million community members and related personally identifiable information, and the software, source code and third party software licenses necessary to operate the community platform (the “Quirky Community and Platform”);
- (b) *Products:* Through the Quirky Community and Platform, or created by Quirky itself, numerous products including, but not limited to, *Pivot*

<sup>1</sup> The Debtors in these chapter 11 cases and the last four digits of each Debtor’s taxpayer identification number are as follows: Quirky, Inc. (2873); Wink, Inc. (8826); and Undercurrent Acquisition, LLC (9692). The Debtors’ principal offices are located at 606 West 28<sup>th</sup> Street, Seventh Floor, New York, NY 10001.

<sup>2</sup> The Quirky Assets also include furniture, fixtures and equipment (“FF&E”) and Quirky’s lease locations including, *inter alia*, office furniture, fabrication equipment, 3D printers, electronics and related technology and A/V equipment. The FF&E are being separately marketed directly by Quirky but are available for bidding under the Wink Bidding Procedures or the Quirky Bidding Procedures in connection with a bid on the Wink Assets or the Quirky Assets.

*Power*, *Aros*, and *Cordies* have been designed, manufactured, and distributed for retail and online sales. The IP related to these products including, trademarks, domains, websites, designs, patent applications, patents, prototypes, molds and inventory (together, the “Products”);

- (c) *Powered by Quirky*: Quirky’s “Powered By Quirky” initiative provides large companies with access to its community of inventors and exclusivity to certain categories of product ideas. Through strategic alliances with consumer brands including General Electric, Harman and Mattel, Quirky serves as a major driving force for the innovations behind new products at some of the largest brands in the world (“PbQ”);
- (d) *Miscellaneous Intellectual Property*: Quirky owns a myriad of domain names and miscellaneous intellectual property, not otherwise described above.

The sale of the Quirky Assets may be implemented pursuant to the terms and conditions of an agreement entered into before the Auction (the “Stalking Horse Agreement”), as the same may be amended pursuant to the terms hereof, subject to the receipt of higher or otherwise better bids in accordance with these Quirky Bidding Procedures. If the Debtors enter into the Stalking Horse Agreement before the Bid Deadline, all Potential Bidders (as defined herein) that provide the required documentation as set forth herein shall be notified of the Debtors entrance into the Stalking Horse Agreement and terms defining such agreement.

**Copies of the Quirky Bidding Procedures Order, the Stalking Horse Agreement (if any), and other documents related thereto are available free of charge on the website of the Debtors’ noticing and claims agent, Rust Omni Management, [www.quirkybankruptcy.com](http://www.quirkybankruptcy.com), or upon request by contacting Rust Omni Management, by telephone at 866-989-6144, or by e-mail at [quirky@omnimgt.com](mailto:quirky@omnimgt.com).**

**A. Approval of Stalking Horse Bid Protections.**

The Quirky Bidding Procedures Order approved, among other things, the approval of (i) a fee not to exceed 3% of the aggregate sale of the Quirky Assets (the “Break Up Fee”); and (ii) reimbursement of actual, documented, out-of-pocket expenses of up to \$50,000 (the “Expense Reimbursement”, and together with the Break Up Fee, the “Bid Protections”), which is payable to the stalking horse bidder in the event the Debtors enter into a Stalking Horse Agreement and the Bankruptcy Court approves the sale of the Quirky Assets to any other person or entity other than the stalking horse bidder, and such sale closes.

**B. Participation Requirements.**

To participate in the bidding process or otherwise be considered for any purpose hereunder, a person or entity (other than the Quirky Community Stalking Horse) interested in submitting a Bid (a “Potential Bidder”) must, on or before November 11, 2015 at 12:00 p.m. (prevailing Eastern Time) (the “Preliminary Bid Deadline”) deliver (unless previously delivered) the following documents along with an offer for the Quirky Assets in accordance with Section D below (the “Preliminary Bid Documents”):

- (a) an executed confidentiality agreement on terms reasonably acceptable to the Debtors and containing terms in the aggregate no less favorable to the Debtors in any material respect (other than with respect to the effective periods and the non-disclosure and non-solicitation provisions contained therein, all of which terms shall be commercially reasonable) than those contained in the confidentiality agreement by and among the stalking horse bidder (if any) and affiliates to the stalking horse bidder, the Debtors and certain of their respective affiliates (the “Confidentiality Agreement”), except that Potential Bidders who have already signed a confidentiality agreement prior to November 11, 2015 need not execute another agreement.

The Preliminary Bid Documents shall be delivered to the following parties (collectively, the “Notice Parties”):

Debtors	Proposed Counsel to the Debtors
Quirky, Inc. 606 West 28 <sup>th</sup> Street New York, New York 10010 Attn: Charles Kwalwasser, Esq. Ed Kremer	Cooley LLP 1114 Avenue of the Americas New, York, New York 10036 Attn: Jeffrey L. Cohen, Esq. Michael A. Klein, Esq.
Investment Banker to the Debtors	Counsel to Comerica Bank
Hilco Streambank 980 Washington Street Suite 330 Dedham, Massachusetts 02026 Attn: Gabe Fried	Sheppard Mullin 30 Rockefeller Plaza New York, New York 10112 Attn: Bill Wyatt, Esq.

Within one (1) business day after a Potential Bidder delivers the Preliminary Bid Documents, the Debtors shall determine, in consultation with their advisors and (i) any statutory committee appointed in the chapter 11 cases (the “Committee”); and (ii) Comerica Bank (“Comerica” and, together with the Committee, the “Consultation Parties”), and notify the Potential Bidder whether such Potential Bidder has submitted acceptable Preliminary Bid Documents so that the Potential Bidder may conduct a due diligence review with respect to the Quirky Assets. Only those Potential Bidders that have submitted acceptable Preliminary Bid Documents (each, an “Acceptable Bidder”) will be permitted to receive due diligence and access to non-public information and may submit bids.

**C. Access to Due Diligence.**

The Debtors shall provide to each Potential Bidder, upon the request of the Potential Bidder and the execution of a Confidentiality Agreement in the form set forth in section B, reasonable due diligence information, as requested, as soon as reasonably practicable after

such request. To the extent the Debtors provide any information to any Acceptable Bidder that they had not previously provided to the stalking horse bidder (if any), the Debtors shall promptly provide such information to the stalking horse bidder. The due diligence period will end on the Bid Deadline (as defined herein) and the Debtors shall have no obligation to furnish any due diligence information after the Bid Deadline.

All requests for access to the Debtors' vendors must be made through the Debtors who, in their discretion, may require that a representative of the Debtors be included in any communications between such parties.

In connection with the provision of due diligence information to Acceptable Bidders, the Debtors shall not, except with respect to the Quirky Assets, furnish any other confidential information relating to the Debtors, the Debtors' assets or liabilities, or the Sale to any person except an Acceptable Bidder or such Acceptable Bidder's duly-authorized representatives to the extent provided in the applicable Confidentiality Agreement.

The Debtors along with their advisors shall coordinate all reasonable requests for additional information and due diligence access from Acceptable Bidders; provided, however, the Debtors may decline to provide such information to Acceptable Bidders who, in the Debtors' reasonable business judgment and following consultation with the Consultation Parties, have not established that such Acceptable Bidders intend in good faith to, or have the capacity to, consummate their Bid. No conditions relating to the completion of due diligence shall be permitted to exist after the Bid Deadline.

Each Acceptable Bidder shall be deemed to acknowledge and represent that it has had an opportunity to conduct any and all due diligence regarding the Quirky Assets and liabilities that are the subject of the Auction prior to making any such bids; that it has relied solely upon its own independent review, investigation and/or inspection of any documents and/or the Quirky Assets in making its bid; and that it did not rely upon any written or oral statements, representations, promises, warranties or guaranties whatsoever, whether express, implied, by operation of law or otherwise regarding the Debtors' assets or liabilities, or the completeness of any information provided in connection therewith, except as expressly stated herein. Neither the Debtors nor any of their employees, officers, directors, affiliates, subsidiaries, representatives, agents, advisors or professionals are responsible for, and shall bear no liability with respect to, any information obtained by Acceptable Bidders in connection with the Sale.

**The Debtors have designated Hilco Streambank to coordinate all reasonable requests for additional information and due diligence access, including requests for the Microsoft Word version of the Stalking Horse Agreement (if applicable). Requests for due diligence access and additional information can be made by contacting Gabe Fried at [gfried@hilcoglobal.com](mailto:gfried@hilcoglobal.com) or 781-471-1238.**

#### **D. Bid Requirements.**

To be eligible to participate in the Auction, a Potential Bidder (other than the Quirky Community Stalking Horse) must deliver to (i) the Debtors and (ii) their counsel and investment banker, which shall be shared with the Committee within one (1) business day

following receipt thereof, a written, irrevocable offer that must be determined by the Debtors, in consultation with the Consultation Parties, to satisfy each of the following conditions:

- (a) **Same or Better Terms/Identification of Assumed Contracts.** To the extent that a Bid relates to Quirky Assets that are subject to a Stalking Horse Agreement, each Bid must be accompanied by clean and duly executed transaction documents (including schedules and exhibits thereto that identify with particularity which of the Debtors' contracts the Acceptable Bidder seeks to have assigned, along with a copy of the Stalking Horse Agreement (if any) that is marked to reflect the amendments and modifications from such agreement, which modifications, taken as a whole, may not be materially more burdensome to the Debtors than the Stalking Horse Agreement or inconsistent with these Quirky Bidding Procedures.
- (b) **Product Purchase Form.** To the extent that a bid relates to the Purchase of one or more Products, a Potential Bidder may submit the Product Purchase Form.
- (c) **Bid Deposit.** Each Bid must be accompanied by a 10% cash deposit of the proposed purchase price (the "Good Faith Deposit"), which shall be sent to counsel to the Debtors by wire transfer, which amount shall be deposited in an interest-bearing account.
- (d) **Minimum Bid Amount (if applicable).** To the extent the Debtors enter into a Stalking Horse Agreement, the value of each Bid must exceed the aggregate sum of the following: (i) the bid set forth in the Stalking Horse Agreement; (ii) the Bid Protections; and (iii) \$25,000.
- (e) **Good Faith Offer.** Each Bid must constitute a good faith, bona fide offer to purchase all or a portion of the Quirky Assets.
- (f) **No Contingencies.** A Bid must not be conditioned on any contingency, including, among others, on obtaining any of the following: (i) financing, (ii) shareholder, board of directors or other approval, (iii) the outcome or completion of a due diligence review by the Acceptable Bidder; (iv) the Quirky Assets free and clear of the Encumbrances; and/or (v) any third party consents.
- (g) **Irrevocable.** Each Bid must remain irrevocable for two (2) business days after the Sale Hearing (as defined below).
- (h) **Joint Bids.** The Debtors will be authorized to approve joint Bids in the Debtors' exercise of their reasonable good faith business judgment, following consultation with the Consultation Parties, on a case-by-case basis.

- (i) **Adequate Assurance Information.** Each Bid must be accompanied by sufficient and adequate financial and other information (the “Adequate Assurance Information”) to demonstrate, to the satisfaction of the Debtors, following consultation with the Consultation Parties, that such Potential Bidder has the financial wherewithal and ability to consummate in the Sale of the Quirky Assets and the assumption of the Debtors’ liabilities as set forth in the Bid, including payment of any cure amount with respect to any contract that may be assigned with respect to the Sale. The Bid shall also identify a contact person that counterparties to any lease or contract may contact to obtain additional Adequate Assurance Information.
- (j) **No Fees.** Except with respect to the stalking horse bidder, the Bids must not be subject to any break-up fee, transaction fee, termination fee, expense reimbursement or any similar type of payment or reimbursement.

The Auction may be adjourned to a later date by the Debtors, in consultation with the Consultation Parties, by filing a notice of adjournment with the Court. No further notice of any such continuance will be required to be provided to any party.

**E. Qualified Bids.**

Bids, or a combination of one or more Bids, fulfilling all of the preceding requirements shall be deemed to be “Qualified Bids,” and those parties submitting Qualified Bids shall be deemed to be “Qualified Bidders.”

Within two (2) days after the Bid Deadline, the Debtors, in consultation with the Consultation Parties, shall determine which Potential Bidders are Qualified Bidders after consultation with their advisors and will notify the Potential Bidders whether Bids submitted constitute, alone or together with other Bids, Qualified Bids so as to enable such Qualified Bidders to bid at the Auction (as defined below). Any Bid that is not deemed a “Qualified Bid” shall not be considered by the Debtors.

The stalking horse bidder, if selected, shall be deemed to be a Qualified Bidder. The Stalking Horse Agreement submitted by the stalking horse bidder shall be deemed a Qualified Bid, qualifying the stalking horse bidder to participate in the Auction.

**F. Bid Deadline.**

Qualified Bids must be received by (i) the Debtors and (ii) their counsel and investment banker **no later than the Bid Deadline of November 13, 2015 at 12:00 p.m. (prevailing Eastern Time)**. The Debtors, their counsel and/or their investment banker will share the Qualified Bids received with the Consultation Parties within one (1) business day following receipt thereof.

**G. Evaluation of Qualified Bids.**

Prior to the Auction, the Debtors shall evaluate Qualified Bids and, in consultation with their advisors and the Consultation Parties, identify the Qualified Bid that is, in

the Debtors' judgment, the highest or otherwise best bid (the "Starting Bid") with respect to the relevant Quirky Assets. Within 24 hours of such determination, the Debtors shall notify the stalking horse bidder (if any) and the other Qualified Bidders as to which Qualified Bid is the Starting Bid. The Debtors shall distribute copies of the Starting Bid to each Qualified Bidder who has submitted a Qualified Bid.

#### **H. No Qualified Bids.**

If no Qualified Bids are received by the Bid Deadline, then the Auction will not occur, the Stalking Horse Agreement (if applicable) will be deemed the Successful Bid (as defined herein) and the Debtors will pursue entry of an order by the Bankruptcy Court approving the Stalking Horse Agreement and authorizing the sale of the Quirky Assets to the stalking horse bidder at the Sale Hearing. If no Stalking Horse Agreement is in place and there are no Qualified Bids by the Bid Deadline, the Debtors, in consultation with the Consultation Parties, may cancel the Auction or extend the Bid Deadline for a reasonable amount of time, rescheduling the Auction and Sale Hearing upon further leave of the Court.

#### **I. Auction.**

If one or more Qualified Bids is received by the Bid Deadline, then the Debtors shall conduct the Auction with respect to the Quirky Assets. The Auction shall commence on **November 17, 2015 at 10:00 a.m. (prevailing Eastern Time)** at the offices of Cooley LLP, 1114 Avenue of the Americas, New York, New York 10036, or such later time (after consultation with the Consultation Parties) or other place as the Debtors shall timely notify the Quirky Community Stalking Horse and all other Qualified Bidders.

The Auction will be conducted in accordance with the following procedures (the "Auction Procedures")

- (a) the Auction will be conducted openly;
- (b) only the Qualified Bidders, including the stalking horse bidder, shall be entitled to bid at the Auction;
- (c) the Qualified Bidders, including the stalking horse bidder, shall appear in person or through duly-authorized representatives at the Auction;
- (d) only such authorized representatives of each of the Qualified Bidders, the stalking horse bidder, the Committee, members of the Committee, Comerica, the Debtors, and each of their respective advisors shall be permitted to attend the Auction;
- (e) bidding at the Auction shall begin at the Starting Bid; subsequent Bids at the Auction, including any Bids by any stalking horse bidder, shall be made in minimum increments in an amount to be determined by the Debtors, in consultation with the Consultation Parties, to be announced at the Auction;

- (f) each Qualified Bidder will be informed of the terms of the previous Bids;
- (g) the bidding will be transcribed or videotaped to ensure an accurate recording of the bidding at the Auction;
- (h) each Qualified Bidder will be required to confirm on the record of the Auction that it has not engaged in any collusion with respect to the bidding or the Sale;
- (i) absent irregularities in the conduct of the Auction, the Bankruptcy Court will not consider Bids made after the Auction is closed; and
- (j) the Auction shall be governed by such other Auction Procedures as may be announced by the Debtors after consultation with its advisors and the Consultation Parties from time to time on the record at the Auction; provided, however, that any such other Auction Procedures shall not be inconsistent with any order of the Bankruptcy Court or with the provisions of the Stalking Horse Agreement with respect to these Quirky Bidding Procedures.

**The Auction may be adjourned to a later date by the Debtors, in consultation with the Consultation Parties, by filing a notice of adjournment or making an announcement at the Auction. No further notice of any such continuance will be required to be provided to any party.**

#### **J. Acceptance of the Successful Bid.**

Upon the conclusion of the Auction (if such Auction is conducted), the Debtors, in the exercise of their reasonable, good-faith business judgment, and in consultation with the Consultation Parties, shall identify the highest or otherwise best Qualified Bid(s) that in the exercise of their fiduciary duties the Debtors in good faith believe is materially more beneficial to the Debtors than any Stalking Horse Bid (or preliminary Bid if there is no Stalking Horse Bid) (the "Successful Bid"), which will be determined by considering, among other things:

- (a) the number, type and nature of any changes to the Stalking Horse Agreement (or preliminary Bid if there is no Stalking Horse Agreement) as appropriate;
- (b) the total expected consideration to be received by the Debtors;
- (c) the likelihood of the bidder's ability to close a transaction and the timing thereof; and
- (d) the expected net benefit to the estates.

The Qualified Bidder having submitted a Successful Bid will be deemed the "Successful Bidder". The Successful Bidder and the Debtors shall, as soon as commercially reasonable and practicable, complete and sign all agreements, contracts, instruments or other



documents evidencing and containing the terms upon which such Successful Bid was made. For the avoidance of doubt, the Debtors may accept bids for less than all of the Quirky Assets and there may be more than one Successful Bidder.

The Debtors will present the results of the Auction to the Bankruptcy Court at the Sale Hearing (as defined below), at which certain findings will be sought from the Bankruptcy Court regarding the Auction, including, among other things, that (a) the Auction was conducted, and the Successful Bidder(s) was selected, in accordance with these Quirky Bidding Procedures, (b) the Auction was fair in substance and procedure, (c) each Successful Bid was a Qualified Bid, and (d) consummation of each Successful Bid will provide the highest or otherwise best value for the Quirky Assets and is in the best interests of the Debtors' estates.

If an Auction is held, the Debtors shall be deemed to have accepted a Qualified Bid only when (1) such Qualified Bid is declared a Successful Bid at the Auction and (2) definitive documentation has been executed in respect thereof. Such acceptance is conditioned upon approval by the Bankruptcy Court of the Successful Bid and entry of the Sale Order approving such Successful Bid.

#### **K. Sale Hearing.**

A hearing to consider approval of a Qualified Bid submitted by a Successful Bidder (or to approve the Stalking Horse Agreement if no Auction is held) (the "Sale Hearing") is presently scheduled to take place on **November 24, 2015 at 10:00 a.m. (prevailing Eastern Time)**, or as soon thereafter as counsel may be heard, before the Honorable Martin Glenn, United States Bankruptcy Judge in the United States Bankruptcy Court for the Southern District of New York, Courtroom 501, One Bowling Green, New York, New York 10004; *provided, however*, if the Committee files a notice of objection with the Court on or before November 23, 2015 at 4:00 p.m. (prevailing Eastern Time) with respect to a Qualified Bid submitted by a Successful Bidder, the Sale Hearing with respect to such Successful Bid will be adjourned and rescheduled for December 7, 2015 at 9 a.m. (prevailing Eastern Time) with respect to the Quirky Assets set forth in such Qualified Bid.

**The Sale Hearing may be adjourned to a later date by the Debtors, in consultation with the Consultation Parties, by filing a notice of adjournment or making an announcement at the Sale Hearing. No further notice of any such continuance will be required to be provided to any party.**

#### **L. Designation of Back-Up Bidder.**

If for any reason a Successful Bidder fails to consummate the Qualified Bid within the time permitted after the entry of the sale order approving the Sale to the Successful Bidder, then the Qualified Bidder with the second highest or otherwise best Bid (the "Back-Up Bidder"), as determined by the Debtors after consultation with their advisors, and in consultation with the Consultation Parties, at the conclusion of the Auction and announced at that time to all the Qualified Bidders participating therein, will automatically be deemed to have submitted the highest or otherwise best Bid (the "Back-Up Bid").

The Debtors will be authorized, but not required, to consummate the transaction pursuant to the Back-Up Bid as soon as is commercially reasonable without further order of the Bankruptcy Court upon at least twenty-four (24) hours advance notice, which notice will be filed with the Bankruptcy Court. Upon designation of the Back-Up Bidder at the Auction, the Back-Up Bid shall remain open until the closing of the Successful Bid.

**M. Break Up Fee and Expense Reimbursement.**

In the event that neither the Successful Bid nor the Back-Up Bid is made by the stalking horse bidder (if any), the Debtors shall be obligated to pay to the stalking horse bidder from the proceeds of the purchase price for the Quirky Assets, upon the closing of the Successful Bid or the Back-Up Bid (as applicable) and the payment of such purchase price, by wire transfer in immediately available funds to an account designated by the stalking horse bidder, the Break Up Fee and Expense Reimbursement, in each instance in accordance with the applicable provisions of the Stalking Horse Agreement.

**N. Return of Good Faith Deposit.**

The Good Faith Deposit of a Successful Bidder shall, upon consummation of the Successful Bid, be credited to the purchase price paid for the Quirky Assets. If a Successful Bidder fails to consummate the Successful Bid, then the Good Faith Deposit shall be forfeited to, and retained irrevocably by, the Debtors.

The Good Faith Deposit of any unsuccessful Qualified Bidders will be returned within three (3) business days after consummation of the Sale of the Quirky Assets.

**O. Reservation of Rights.**

The Debtors reserve their rights to modify these Quirky Bidding Procedures, in consultation with the Consultation Parties, in any manner that will best promote the goals of the bidding process (subject to any restrictions set forth in the Stalking Horse Agreement) or impose, at or prior to the Auction, additional customary terms and conditions on the Sale of the Quirky Assets.

Notwithstanding anything herein or in the Quirky Bidding Procedures Order to the contrary, nothing will in any way impair or enhance, alter or otherwise affect any and all rights that Comerica may have to “credit bid” pursuant to section 363(k) of the Bankruptcy Code or other applicable law; provided, however, the Committee’s rights to challenge any “credit bid” by Comerica are expressly preserved.

**EXHIBIT 2**

**Form of Auction and Sale Notice**

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

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:
  
In re: : Chapter 11  
:
  
QUIRKY, INC., *et al.*<sup>1</sup> : Case No. 15-12596 (MG)  
:
  
Debtors. : (Jointly Administered)  
:
  
:
  
:
  
----- X

**NOTICE OF SALE BY AUCTION AND SALE HEARING  
FOR ASSETS RELATED TO THE BUSINESS OF QUIRKY, INC.**

**PLEASE TAKE NOTICE** that, on October 1, 2015, Quirky, Inc. and certain of its affiliates, as debtors and debtors in possession (collectively, the “Debtors”) in the above-captioned jointly administered cases (the “Chapter 11 Cases”) filed a motion [Docket No. 60] (the “Motion”) with the United States Bankruptcy Court for the Southern District of New York (the “Bankruptcy Court”) (i) authorizing and approving the bidding procedures with stalking horse bid protections in connection with the sale of assets related to the business of Quirky, Inc., (ii) approving the form and manner of notice of the Auction and Sale Hearing, (iii) approving procedures for the assumption and assignment of Assumed Contracts and noticing of related cure amounts, and (iv) scheduling an Auction and a Sale Hearing and setting other related dates and deadlines all as further described in the Sale Motion. On October \_\_, 2015, the Bankruptcy Court entered an order (the “Quirky Bidding Procedures Order”) approving certain bidding procedures attached thereto as Exhibit 1 (the “Quirky Bidding Procedures”).

**Copies of the Quirky Sale Motion, Quirky Bidding Procedures Order, and other documents related thereto are available free of charge on the website of the Debtors’ noticing and claims agent, Rust Omni Management, at [www.quirkybankruptcy.com](http://www.quirkybankruptcy.com), or upon request by contacting Rust Omni Management, by telephone at 866-989-6144, or by e-mail at [quirky@omnimgt.com](mailto:quirky@omnimgt.com).**

**PLEASE TAKE FURTHER NOTICE** that the Debtors are soliciting offers for the purchase of the Quirky Assets (as defined in the Quirky Bidding Procedures). All interested bidders should carefully read the Quirky Bidding Procedures and Quirky Bidding Procedures Order. To the extent there are any inconsistencies between this notice and the Quirky Bidding Procedures, the latter shall govern in all respects.

<sup>1</sup> The Debtors in these chapter 11 cases and the last four digits of each Debtor’s taxpayer identification number are as follows: Quirky, Inc. (2873); Wink, Inc. (8826); and Undercurrent Acquisition, LLC (9692). The Debtors’ principal offices are located at 606 West 28<sup>th</sup> Street, Seventh Floor, New York, NY 10001.

**PLEASE TAKE FURTHER NOTICE** that the Quirky Assets that are up for sale include numerous products that have been designed, manufactured, and distributed for retail and online sales and the IP related to these products including, trademarks, domains, websites, designs, patent applications, patents, prototypes, molds and inventory (together, the “Products”) Any interested bidder can submit a bid for one or more Products using a simplified form purchase agreement (the “Product Purchase Form”) that will be made available upon request.

**PLEASE TAKE FURTHER NOTICE** that, if the Debtors receive competing Qualified Bids within the requirements and time frame specified by the Quirky Bidding Procedures, the Debtors will conduct an auction (the “Auction”) of the Quirky Assets on November 17, 2015 at 10:00 a.m. (prevailing Eastern Time) at the offices of counsel to the Debtors: Cooley LLP, 1114 Avenue of the Americas, New, York, New York 10036.

**PLEASE TAKE FURTHER NOTICE** that the Debtors will seek approval of the sale of the Quirky Assets at a hearing scheduled to commence on November 24, 2015 at 10:00 a.m. (prevailing Eastern Time) (the “Sale Hearing”) or as soon thereafter as counsel may be heard, before the Honorable Martin Glenn, United States Bankruptcy Judge in the United States Bankruptcy Court for the Southern District of New York, Courtroom 501, One Bowling Green, New York, New York 10004; *provided, however*, if the Committee files a notice of objection with the Court on or before November 23, 2015 at 4:00 p.m. (prevailing Eastern Time) with respect a Qualified Bid submitted by a Successful Bidder, the Sale Hearing with respect to such Successful Bid will be adjourned and rescheduled for December 7, 2015 at 9 a.m. (prevailing Eastern Time) with respect to the Quirky Assets specified in the Committee’s notice of objection.

**PLEASE TAKE FURTHER NOTICE** that objections to the proposed sale of the Quirky Assets, if any, must: (i) be in writing; (ii) conform to the applicable provisions of the Bankruptcy Rules, the Local Bankruptcy Rules and the *Interim Order Implementing Certain Notice and Case Management Procedures* [Docket No. 44] entered in these Chapter 11 Cases; (iii) state with particularity the legal and factual basis for the objection and the specific grounds therefor; and (iv) filed with the Court and served so the objection is actually received no later than November 12, 2015 at 4:00 p.m. (prevailing Eastern Time) (the “Sale Objection Deadline”) by the following parties (the “Notice Parties”) (provided that objections to the identity of the successful bidder (only if different than the Quirky Community Stalking Horse (as defined in the Quirky Bidding Procedures)) may be made at the Sale Hearing):

Debtors	Proposed Counsel to the Debtors
Quirky, Inc. 606 West 28 <sup>th</sup> Street New York, New York 10010 Attn: Charles Kwalwasser, Esq. Ed Kremer	Cooley LLP 1114 Avenue of the Americas New, York, New York 10036 Attn: Jeffrey L. Cohen, Esq. Michael A. Klein, Esq.
United States Trustee	Counsel to the Stalking Horse Bidder (if any)
Office of the United States Trustee for the Southern District of New York	

201 Varick Street, Suite 1006 New York, New York 10014 Attn: Paul Schwartzberg, Esq.	
<b>Counsel to Comerica Bank</b>	<b>Proposed Counsel to the Committee</b>
Sheppard Mullin 30 Rockefeller Plaza New York, New York 10112 Attn: Bill Wyatt, Esq.	Otterbourg P.C. 230 Park Avenue New York, NY 10169 Attn: Melanie L. Cyganowski, Esq. Kevin Zuzolo, Esq.

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

**ANY PARTY OR ENTITY WHO FAILS TO TIMELY FILE AND SERVE AN OBJECTION TO THE SALE OF THE QUIRKY ASSETS ON OR BEFORE THE OBJECTION DEADLINE IN ACCORDANCE WITH THE QUIRKY BIDDING PROCEDURES ORDER SHALL BE FOREVER BARRED FROM ASSERTING ANY OBJECTION TO SUCH SALE, INCLUDING WITH RESPECT TO THE TRANSFER OF PROPERTY FREE AND CLEAR OF ALL LIENS, CLAIMS, ENCUMBRANCES AND OTHER INTERESTS AND THE ASSUMPTION AND ASSIGNMENT OF EXECUTORY CONTRACTS TO THE SUCCESSFUL BIDDER AND ANY CURE AMOUNTS RELATED THERETO.**

**NO SUCCESSOR OR TRANSFEREE LIABILITY**

**The proposed Order approving the Sale of the Quirky Assets provides that the Successful Bidder will have no responsibility for, and the Quirky Assets will be sold free and clear of, any successor liability, including: (a) any debt, liability or other obligation of the Debtors of any kind or nature whatsoever of the Debtors or related to the Quirky Assets other than as expressly set forth in the Stalking Horse Agreement or (b) any claims against the Debtors or any of their predecessors or affiliates.**

Dated: October \_\_, 2015  
New York, New York

\_\_\_\_\_  
Jeffrey L. Cohen  
Michael A. Klein  
Richelle Kalnit  
Cooley LLP  
1114 Avenue of the Americas  
New York, New York 10036  
Telephone: (212) 479-6000  
Facsimile: (212) 479-6275

*Proposed Counsel for the Debtors and Debtors  
in Possession*

**EXHIBIT 3**

**Form of Assumption and Assignment Notice**

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

----- X  
 :  
 In re: : Chapter 11  
 :  
 QUIRKY, INC., *et al.*<sup>1</sup> : Case No. 15-12596 (MG)  
 :  
 Debtors. : (Jointly Administered)  
 :  
 :  
 :  
 :  
 ----- X

**NOTICE OF ASSUMPTION AND ASSIGNMENT OF  
CERTAIN CONTRACTS RELATED TO THE BUSINESS OF QUIRKY, INC.**

**PLEASE TAKE NOTICE** that, on October 1, 2015, Quirky, Inc. and certain of its affiliates, as debtors and debtors in possession (collectively, the “Debtors”) in the above-captioned jointly administered cases (the “Chapter 11 Cases”) filed a motion [Docket No. 60] (the “Quirky Sale Motion”) with the United States Bankruptcy Court for the Southern District of New York (the “Bankruptcy Court”) (i) authorizing and approving the bidding procedures with stalking horse bid protections in connection with the sale (the “Sale”) of the assets related to the business of Quirky, Inc., (ii) approving the form and manner of notice of the Auction and Sale Hearing, (iii) approving procedures for the assumption and assignment of Assumed Contracts and noticing of related cure amounts, and (iv) scheduling an Auction and a Sale Hearing and setting other related dates and deadlines all as further described in the Sale Motion. On October \_\_, 2015, the Bankruptcy Court entered an order (the “Quirky Bidding Procedures Order”) approving certain bidding procedures attached thereto as Exhibit 1 (the “Quirky Bidding Procedures”).

**Copies of the Quirky Sale Motion, Quirky Bidding Procedures Order, and other documents related thereto are available free of charge on the website of the Debtors’ noticing and claims agent, Rust Omni Management, at [www.quirkybankruptcy.com](http://www.quirkybankruptcy.com) , or upon request by contacting Rust Omni Management, by telephone at 866-989-6144, or by e-mail at [quirky@omnimgt.com](mailto:quirky@omnimgt.com).**

**PLEASE TAKE FURTHER NOTICE** that the Debtors are soliciting offers for the purchase of the Quirky Assets (as defined in the Quirky Bidding Procedures). The Debtors have indicated on Schedule A attached hereto a list of the Debtors’ executory contracts that may be assumed and assigned by the Debtors to the Successful Bidder (each, a “Contract”) along with

<sup>1</sup> The Debtors in these chapter 11 cases and the last four digits of each Debtor’s taxpayer identification number are as follows: Quirky, Inc. (2873); Wink, Inc. (8826); and Undercurrent Acquisition, LLC (9692). The Debtors’ principal offices are located at 606 West 28<sup>th</sup> Street, Seventh Floor, New York, NY 10001.



the cure amounts that the Debtors believe must be paid to cure all prepetition defaults (in each instance, the “Cure Cost”).

**PLEASE TAKE FURTHER NOTICE** that the Debtors will seek approval of the sale of the Quirky Assets at a hearing scheduled to commence on November 24, 2015 at 10:00 a.m. (prevailing Eastern Time) (the “Sale Hearing”) or as soon thereafter as counsel may be heard, before the Honorable Martin Glenn, United States Bankruptcy Judge in the United States Bankruptcy Court for the Southern District of New York, Courtroom 501, One Bowling Green, New York, New York 10036; *provided, however*, if the Committee files a notice of objection with the Court on or before November 23, 2015 at 4:00 p.m. (prevailing Eastern Time) with respect a Qualified Bid submitted by a Successful Bidder, the Sale Hearing with respect to such Successful Bid will be adjourned and rescheduled for December 7, 2015 at 9 a.m. (prevailing Eastern Time) with respect to the Quirky Assets set forth in the Committee’s Notice of Objection.

**PLEASE TAKE FURTHER NOTICE** that if you agree with the Cure Costs listed on Schedule A, you need not take any further action.

**PLEASE TAKE FURTHER NOTICE** that any party seeking to object to the validity of the Cure Costs (a “Cure Objection”) as determined by the Debtors, or otherwise assert that any other amounts, defaults, conditions or pecuniary losses must be cured or satisfied under any of the Contracts in order to be assigned to the Successful Bidder, must file an objection, which must: (i) be in writing; (ii) conform to the applicable provisions of the Bankruptcy Rules, the Local Bankruptcy Rules and the *Interim Order Implementing Certain Notice and Case Management Procedures* [Docket No. 44] entered in these chapter 11 cases; (iii) state with particularity the legal and factual basis for the objection and the specific grounds therefor; and (iv) filed with the Court and served so the objection is actually received no later than November 12, 2015 at 4:00 p.m. (prevailing Eastern Time) (the “Objection Deadline”) by the following parties (the “Notice Parties”):

Debtors	Counsel to the Debtors
Quirky, Inc. 606 West 28 <sup>th</sup> Street New York, New York 10010 Attn: Charles Kwalwasser, Esq. Ed Kremer	Cooley LLP 1114 Avenue of the Americas New, York, New York 10036 Attn: Jeffrey L. Cohen, Esq. Michael A. Klein, Esq.
United States Trustee	Counsel to the Stalking Horse Bidder (if any)
Office of the United States Trustee for the Southern District of New York 201 Varick Street, Suite 1006 New York, New York 10014 Attn: Paul Schwartzberg, Esq.	
Counsel to Comerica Bank	Proposed Counsel to the Committee
Sheppard Mullin	Otterbourg P.C.

30 Rockefeller Plaza New York, New York 10112 Attn: Bill Wyatt, Esq.	230 Park Avenue New York, NY 10169 Attn: Melanie L. Cyganowski, Esq. Kevin Zuzolo, Esq.
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**CONSEQUENCES OF FAILING TO TIMELY FILE AND SERVE AN OBJECTION**

**ANY PARTY OR ENTITY WHO FAILS TO TIMELY FILE AND SERVE AN OBJECTION TO THE PROPOSED CURE COST SHALL BE (A) FOREVER BARRED FROM OBJECTING TO THE CURE COSTS AND FROM ASSERTING ANY ADDITIONAL CURE OR OTHER AMOUNTS WITH RESPECT TO THE CONTRACTS, AND THE DEBTORS AND THE SUCCESSFUL BIDDER SHALL BE ENTITLED TO RELY SOLELY UPON THE CURE COSTS LISTED ON EXHIBIT A, AND (B) FOREVER BARRED AND ESTOPPED FROM ASSERTING OR CLAIMING AGAINST THE DEBTORS OR THE SUCCESSFUL BIDDER THAT ANY ADDITIONAL AMOUNTS ARE DUE OR OTHER DEFAULTS EXIST OR ASSERTING ANY OBJECTION TO SUCH SALE, INCLUDING WITH RESPECT TO THE TRANSFER OF PROPERTY FREE AND CLEAR OF ALL LIENS, CLAIMS, ENCUMBRANCES AND OTHER INTERESTS AND THE ASSUMPTION AND ASSIGNMENT OF EXECUTORY CONTRACTS TO THE SUCCESSFUL BIDDER AND ANY CURE AMOUNTS RELATED THERETO.**

**PLEASE TAKE FURTHER NOTICE** that the hearing with respect to the Cure Objections may be held (i) at the Sale Hearing, or (ii) on such other date as the Bankruptcy Court may designate. To the extent the Debtors and non-Debtor counterparty to a Contract are able to consensually resolve the Cure Objection prior to the Sale Hearing, the Debtors shall promptly provide notice to the Committee and the Successful Bidder of such resolution. To the extent the Debtors and non-Debtor counterparty to a Contract are unable to consensually resolve the Cure Objection prior to the Sale Hearing, then the amount to be paid with respect to the Cure Cost will be determined at the Sale Hearing or at such other date and time as may be fixed by the Bankruptcy Court.

Dated: October \_\_, 2015  
New York, New York

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Jeffrey L. Cohen  
Michael A. Klein  
Richelle Kalnit  
1114 Avenue of the Americas  
New York, New York 10036  
Telephone: (212) 479-6000  
Facsimile: (212) 479-6275

*Proposed Counsel for the Debtors and Debtors  
in Possession*

**SCHEDULE A**

**CONTRACTS**

<b>Counterparty</b>	<b>Counterparty Address</b>	<b>Title/Description of Contract</b>	<b>Cure Cost</b>