

TRADEMARK ASSIGNMENT COVER SHEET

Electronic Version v1.1
Stylesheet Version v1.2

ETAS ID: TM505589

SUBMISSION TYPE:	NEW ASSIGNMENT		
NATURE OF CONVEYANCE:	BANKRUPTCY COURT SALE ORDER CLEARING ALL LIENS, INCLUDING, BUT NOT LIMITED TO, THE SECURITY INTEREST RECORDED AT REEL/FRAME 5046/0143		
CONVEYING PARTY DATA			
Name	Formerly	Execution Date	Entity Type
THE DIRECTOR OF THE OHIO DEVELOPMENT SERVICES AGENCY		06/20/2016	State Agency: OHIO
RECEIVING PARTY DATA			
Name:	HEALTHSPOT INC.		
Street Address:	545 Metro Place South		
Internal Address:	Suite 430		
City:	Dublin		
State/Country:	OHIO		
Postal Code:	43017		
Entity Type:	Corporation: DELAWARE		
PROPERTY NUMBERS Total: 3			
Property Type	Number	Word Mark	
Serial Number:	85352533	CARE4	
Serial Number:	85352527	HEALTHSPOT	
Serial Number:	85352518	HEALTHSPOT	
CORRESPONDENCE DATA			
Fax Number:	2127352000		
<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>			
Phone:	212.735.5117		
Email:	francine.waldbaum@skadden.com		
Correspondent Name:	Skadden, Arps, Slate, Meagher & Flom LLP		
Address Line 1:	Four Times Square		
Address Line 2:	Francine Waldbaum		
Address Line 4:	New York, NEW YORK 10036		
ATTORNEY DOCKET NUMBER:	476260/126		
NAME OF SUBMITTER:	Oren Epstein		
SIGNATURE:	/OE/		

CH \$90.00 85352533

DATE SIGNED:

01/11/2019

Total Attachments: 37

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This document has been electronically entered in the records of the United States Bankruptcy Court for the Southern District of Ohio.

IT IS SO ORDERED.



Charles M. Caldwell
Charles M. Caldwell
United States Bankruptcy Judge

Dated: June 20, 2016

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

In re: : Case No. 16-50183
HEALTHSPOT, INC. : Chapter 7
: :
Debtor. : Judge Caldwell

AGREED ORDER (1) AUTHORIZING THE SALE OF CERTAIN ASSETS OF THE DEBTOR FREE AND CLEAR OF ALL LIENS, CLAIMS, LIABILITIES, RIGHTS, INTERESTS AND ENCUMBRANCES; (2) AUTHORIZING THE TRUSTEE TO ENTER INTO AND PERFORM HIS OBLIGATIONS UNDER THE ASSET PURCHASE AGREEMENT ATTACHED HERETO; AND (3) GRANTING RELATED RELIEF (RELATED TO DOC. 164)

This matter having come before the Court pursuant to (i) the *Motion of Chapter 7 Trustee for an Order (1) Authorizing the Sale of Intellectual Property, Telemedicine Kiosks and Related Assets Free and Clear of Liens, Claims, Interests and Encumbrances; (2) Approving Bidding Procedures and Auction; (3) Approving Form and Manner of Notice; and (4) Scheduling a Sale Approval Hearing*, filed on May 13, 2016 (the "Sale Motion") (Doc. 164) by Myron N. Terlecky, Chapter 7 Trustee (the "Trustee" or the "Seller"), (ii) the *Order Partially Granting Motion of Chapter 7 Trustee for an Order (1) Authorizing the Sale of Intellectual Property, Telemedicine*

Kiosks and Related Assets Free and Clear of Liens, Claims, Interests and Encumbrances; (2) Approving Bidding Procedures and Auction; (3) Approving Form and Manner of Notice; and (4) Scheduling a Sale Approval Hearing entered on May 26, 2016, (the “Sale Procedures Order”); (Doc. 193), and (iii) the Report of Auction Sale (Doc. 213) filed by the Trustee in the above-captioned Chapter 7 case (the “Case”), requesting, *inter alia*, entry of an order authorizing and approving, the sale (collectively, and including all actions taken or required to be taken in connection with the implementation and consummation of the APA, the “Sale”) of the certain of the Debtor’s assets (the “Purchased Assets”) to the Prevailing Bidder¹, free and clear of all Encumbrances (as defined below); and an auction having been conducted in accordance with the Sale Procedures Order (the “Auction”); and Rite Aid Hdqtrs. Corp. (the “Buyer”) having submitted the highest and best offer for the Purchased Assets pursuant to the terms of the asset purchase agreement (the “Asset Purchase Agreement” and together with all instruments and documents related thereto the “Purchase Agreement Documents”) attached hereto as **Exhibit A**; and the Court having conducted a hearing (the “Sale Hearing”) on the Sale Motion; at which time all interested parties were offered an opportunity to be heard with respect to the Sale Motion and the proposed Sale to Buyer; and upon the record of the Sale Hearing; and it appearing that due notice of the Sale Motion, the APA, the Sale Procedures Order, the Auction and the Sale Hearing having been provided; and it appearing that the relief granted in this Order is in the best interests of the Debtor’s estate, its 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 Sale Motion and at the Sale Hearing establish just cause for the relief granted herein; and after due deliberation thereon,

¹ Capitalized terms used but not otherwise defined herein shall have the meaning assigned to such terms in the Motion, the Report of Auction, the APA or the Bid Procedures, as applicable.

Upon review of the Sale Motion and based upon the agreement of the parties, the Court FINDS AND CONCLUDES that:

A. On January 13, 2016 (the "Petition Date"), the Debtor commenced this case by filing a voluntary petition under Chapter 7 of the Bankruptcy Code.

B. The Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334. Venue is proper in this District and in this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

C. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(M) and (N). This Order constitutes a final and appealable order within the meaning of 28 U.S.C. § 158(a).

D. The form and manner of service and notice of the Sale Motion, the Auction, the APA, the Sale and the Sale Hearing were proper and sufficient under the United States Bankruptcy Code, the Federal Rules of Bankruptcy Procedure and the Local Bankruptcy Rules for the United States Bankruptcy Court for the Southern District of Ohio.

E. The following pleadings (collectively, the "Objections") were filed in response to the Sale Motion: (1) Dell Financial Services, LLC filed a Limited Objection to the Sale Procedures Motion (Doc. 175) (the "Dell Objection"); (2) Promedica Physicians & Continuum Services filed an Objection to the Sale Procedures Motion (Doc. 177) (the "Promedica Objection"); (3) The State of Ohio, Development Services Agency, also filed a response to the Sale Procedures Motion (Doc. 180) (the "State of Ohio Objection"); (4) a Limited Objection by Computerized Screening, Inc., was filed to the Sale Procedures Motion (Doc. 182) (the "CSI Objection"); and (5) an Objection was filed by NFS Leasing, Inc. (Doc. 186) (the "NFS Leasing Objection"). All Objections to the Sale Motion, the Sale and the Purchase Agreement Documents have been withdrawn, resolved by the agreement of the parties, or to the extent not withdrawn or resolved, are overruled.

F. The legal and factual bases set forth in the Sale Motion and at the Sale Hearing establish just cause for the relief granted herein and the Sale Motion is appropriate, well-taken and should be approved by this Order.

G. The Purchased Assets constitute property of the Debtor's estate and exclusive title thereto is presently vested in the Debtor's estate within the meaning of section 541(a) of the Bankruptcy Code. The sale of the Purchased Assets (as defined in the Sale Motion) in accordance with the Sale Motion is reasonable and justified under the circumstances for the reasons stated therein.

H. The relief requested by the Sale Motion and consummation of the Sale of the Purchased Assets represents the sound judgment of the Trustee for the benefit of the estate and there is a good business reason to grant the Sale Motion.

I. The Buyer was the Prevailing Bidder with the highest and best Prevailing Bid, as set forth herein.

J. The Buyer's Prevailing Bid is in the amount of \$1,150,000.00 for the Purchased Assets, less a credit of \$50,000.00 for the NFS Technology Kits (as defined herein).

K. The Buyer is a "good faith" purchaser entitled to the protections afforded by Section 363(m) of the Bankruptcy Code with respect to the Sale and the Purchased Assets, none of the Seller, the Buyer, or their respective representatives has engaged in any conduct that would prevent the application of section 363(m) of the Bankruptcy Code, and neither the Seller nor the Buyer has engaged in any conduct that would cause or permit the Sale to be avoided, or costs or damages to be imposed, under section 363(n) of the Bankruptcy Code.

L. The Purchase Agreement Documents were negotiated, proposed and entered into by the Trustee and the Buyer, without collusion, in good faith, and from arm's-length bargaining

positions. Neither the Trustee nor the Buyer has engaged in any conduct that would cause or permit any of the Purchase Agreement Documents to be avoided under section 363(n) of the Bankruptcy Code.

M. The Buyer is not an “insider” of the Debtor, as that term is defined in section 101(31) of the Bankruptcy Code.

N. The Asset Purchase Agreement was not entered into, and neither the Seller nor the Buyer has entered into the Asset Purchase Agreement or proposes to consummate the Sale, for the purpose of hindering, delaying or defrauding the Debtor’s present or future creditors, and neither the Seller nor the Buyer is entering into the Asset Purchase Agreement, or proposing to consummate the Sale, 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.

O. The Sale of the Purchased Assets to the Buyer under the terms of the Asset Purchase Agreement meets the applicable provisions of section 363(f) of the Bankruptcy Code such that the sale of the Purchased Assets will be free and clear of any and all liens, claims, liabilities, rights, interests and encumbrances of any kind (collectively, the “Encumbrances”) and will not subject the Buyer or any of the Buyer’s assets to any liability whatsoever (including, without limitation, under any theory of equitable law, antitrust, or successor or transferee liability) and any Encumbrances with respect to the Purchased Assets will be released and discharged as to those assets (with any such Encumbrances to attach to the proceeds of the Sale in the order of their priority) upon the Closing.

P. The Buyer is not a successor to the Seller, the Debtor or the Debtor's estate by reason of any theory of law or equity with respect to any Encumbrances against the Seller, the Debtor or the Purchased Assets.

Q. The Buyer, as purchaser of all of Debtor's Intellectual Property and the other Purchased Assets, may, in its sole discretion, elect to be substituted for Debtor in any litigation regarding the ownership, use and other rights of Buyer in and to the Intellectual Property rights, including the Appellate Action, but, in so doing, Buyer shall not be required to defend any claims or causes of action of any other party against Debtor, the Seller or the Debtor's bankruptcy estate arising prior to the Closing and any party shall be enjoined and stayed from asserting such claims against the Buyer.

R. The transfer of the Purchased Assets to the Buyer under the Asset Purchase 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 Purchased Assets free and clear of all Encumbrances. The transfer of the Purchased Assets to the Buyer will vest the Buyer with good and marketable title to the Purchased Assets.

It is therefore ORDERED, ADJUDGED and DECREED that:

1. The Sale Motion is APPROVED and GRANTED in all respects in accordance with the terms set forth in the Sale Motion, as modified herein.
2. The Trustee shall be and hereby is, authorized to sell the Purchased Assets, other than in the ordinary course of business, "as is" and without any warranties, free and clear of any and all Encumbrances, to the Buyer for a total price of the Prevailing Bid pursuant to section 363 and Rule 6004 of the Federal Rules of Bankruptcy Procedure and Local Bankruptcy Rule 6004-1.

3. The sale of the Purchased Assets to the Buyer authorized pursuant hereto shall be free and clear of any and all Encumbrances, whether arising pre- or post-petition.

4. Any and all Encumbrances on any of the Purchased Assets, whether arising pre- or post-petition, shall attach to the proceeds of the Sale.

5. The Trustee shall be and hereby is authorized to consummate the Sale of the Purchased Assets in accordance with the Sale Motion and this Order and to undertake all actions and execute all documents the Trustee may deem necessary for such consummation, including, without limitation a bill of sale for the Purchased Assets.

6. The net proceeds of the Sale of the Purchased Assets shall be distributed as follows:

- (a) The Stalking Horse, PJGIP, LLC, will be paid a Break-Up Fee in the amount of \$35,000.00.
- (b) The Trustee shall be paid a surcharge on the Sale proceeds pursuant to 11 U.S.C. §506(c) in the amount of \$190,700.00. From the surcharge, the Trustee is authorized to reimburse the State of Ohio, Development Services Agency, in the amount of \$37,596.77 for rent payments made, and to pay the other expenses of Right Way Supply Chain Solutions, LLC and JNH Logistics, LLC, pursuant to prior Order of this Court (see Doc. 192)
- (c) The State of Ohio, Development Services Agency, shall be paid on its lien on the intellectual property assets of the Debtor in the amount of \$426,000.00.
- (d) Commercial Vehicle Group, Inc. shall be paid on its possessory lien on the “tooling” owned by Debtor in the amount of \$22,300.00.
- (e) The State of Ohio, Development Services Agency, shall be paid on its lien on the kiosk inventory owned by Debtor in the amount of \$294,400.45.
- (f) Dell Financial Services shall be paid on its lien on the kiosk inventory owned by Debtor in the amount of \$131,599.55.

7. The Stalking Horse, PJGIP, LLC, pursuant to an agreement with the Trustee, is in possession of certain books and records of the Debtor contained in six (6) bins owned by Ohio

Mobile Shredding (the “OMS Documents”). The Stalking Horse shall retain possession of the OMS Documents for not less than fourteen (14) days after Closing in order to permit the Buyer to inspect and take possession of some or all of the OMS Documents, after which time period all remaining OMS Documents will be returned to Ohio Mobile Shredding for destruction.

8. The Seller has good, marketable and saleable ownership in and title to all of the Purchased Assets (including but not limited to any and all assets and personal property identified in the leases between Debtor and Dell Financial Services, LLC bearing lease numbers 001-008946673-001, 001-6689814-500, 001-6689814-501 and 001-6689814-502), and the Seller is authorized and empowered to transfer to the Buyer all rights, title, privileges and interests of the Seller, the Debtor and the Debtor’s estate in and to all of the Purchased Assets, free and clear of all Encumbrances of any kind, with all such Encumbrances, if any, attaching to the net proceeds of Sale.

9. The Purchased Assets shall not include any assets and personal property (collectively, the “NFS Technology Kits”) identified in the lease between Debtor and Dell Financial Services, LLC bearing lease number 001-6689814-503, assigned to NFS Leasing, Inc., which have been withdrawn from the Sale pursuant to the terms of the Asset Purchase Agreement. The Court makes no determination by this Sale Order with respect to the ownership or nature of the NFS Technology Kits, including whether they are subject to a disguised financing or a true lease.

10. Nothing in this Sale Order or in the Asset Purchase Agreement between Trustee and Buyer: (a) shall prejudice CSI’s right to pursue its pending appeal (the “Appellate Action”) of the Ohio Action in the Federal Appellate Court (each as defined in CSI’s objection at docket number 182) (hereafter, the “CSI Appeal”) as against the Buyer (as a purchaser of the Purchased

Assets, including all of the Debtor's intellectual property and all rights and claims of the Debtor against CSI), nor shall it prejudice the rights of Buyer in defending the CSI Appeal; (b) shall prejudice the Buyer's right to pursue HealthSpot's Cross-Appeal against CSI in the Appellate Action (the "HealthSpot Cross-Appeal"), nor shall it prejudice the rights of CSI in defending the HealthSpot Cross-Appeal; (c) shall prejudice CSI's right, following the Closing, to pursue any rights or claims it may assert against Buyer for any alleged post-Closing acts or claims, and the sale of assets to the Buyer hereunder shall not be free and clear of any alleged rights or interests of CSI in connection with the '436 Patent or the prosecution of the CSI Appeal (collectively, the "Alleged CSI Rights"); (d) shall prejudice any rights of Buyer to defend or oppose any assertion by CSI of any Alleged CSI Rights (nor shall it prejudice any claims or rights of Buyer against CSI arising from CSI's assertion of any Alleged CSI Rights), including, without limitation, any argument or defense that the '436 Patent is invalid or that Buyer is not infringing upon the '436 Patent; and (e) shall result in Buyer assuming any liability for Claims (as defined in the Bankruptcy Code) against the Debtor, the Trustee or the Debtor's bankruptcy estate. Notwithstanding the foregoing or anything in this paragraph to the contrary, Buyer shall not be liable, under any theory in law or equity for any Pre-Closing claims or Encumbrances including, without limitation, any alleged pre-Closing acts of infringement of the '436 Patent by the Debtor. Buyer and CSI shall: (a) within thirty (30) days following the Closing, jointly approach the Federal Appellate Court regarding the lifting of the stay imposed by such court and seek direction from such court regarding the continuation of the CSI Appeal and the HealthSpot Cross-Appeal; and (b) cooperate to take any and all actions required, and shall not interfere or object to such actions, to permit Buyer to be substituted for HealthSpot in connection with the Appellate Action.

11. Good cause has been shown to waive the stay provisions set forth in Bankruptcy Rule 6004(g) and such stay is hereby waived.

Based upon the foregoing and the agreement of the parties, IT IS FURTHER ORDERED, ADJUDGED, AND DECREED THAT:

1. Objections. The Promedica Objection is deemed moot because no executory contracts with the Promedica Physicians & Continuum Services are being assumed as part of the Sale. The NFS Leasing Objection is deemed moot because the Sale will not involve the purchase of the NFS Technology Kits (as defined herein). All other Objections that have not previously been withdrawn or resolved by the agreement of the parties are hereby overruled on the merits and denied with prejudice. All persons and entities given notice of the Sale Motion that failed to timely object thereto are deemed to consent to the relief granted therein.

2. Approval of the Purchase Agreement Documents. The Purchase Agreement Documents, including but not limited to the Asset Purchase Agreement, and all of the terms and conditions thereof, are hereby approved in their entirety. Pursuant to section 363(b) of the Bankruptcy Code, the Trustee is authorized and directed to (a) execute and deliver the Purchase Agreement Documents and (b) consummate the Sale pursuant to and in accordance with the terms and conditions of the Purchase Agreement Documents, and to take all further actions as may be requested by the Buyer for the purpose of assigning, transferring, granting, conveying and conferring to the Buyer or reducing to possession, the Purchased Assets free and clear of all Encumbrances.

3. Notice. The notice of the hearing on the Sale Motion, the Auction, the Asset Purchase Agreement, the Sale and the Sale Hearing was proper and sufficient under the United

States Bankruptcy Code, the Federal Rules of Bankruptcy Procedure and the Local Bankruptcy Rules for the United States Bankruptcy Court for the Southern District of Ohio.

4. Prevailing Bid. The Buyer is the Prevailing Bidder for the Purchased Assets in accordance with the Sale Procedures Order, that the Buyer and its representatives have complied in all respects with the Sale Procedures Order and all other applicable orders of the Bankruptcy Court in negotiating and entering into the Asset Purchase Agreement, and the Sale and the Asset Purchase Agreement comply with the Sale Procedures Order and all other applicable orders of the Bankruptcy Court.

5. Good Faith. The Seller and Buyer entered into the APA in good faith and at arms' length. The negotiation of the APA and the Sale was non-collusive and substantively and procedurally fair to all parties. The Prevailing Bid constitutes the highest and best offer received by the Seller for the Purchased Assets and is fair value in consideration for the Purchased Assets. The Buyer is a "good faith" purchaser entitled to the protections afforded by Section 363(m) of the Bankruptcy Code with respect to the Sale and the Purchased Assets, none of the Seller, the Buyer, or their respective representatives has engaged in any conduct that would prevent the application of section 363(m) of the Bankruptcy Code, and neither the Seller nor the Buyer has engaged in any conduct that would cause or permit the Sale to be avoided, or costs or damages to be imposed, under section 363(n) of the Bankruptcy Code.

6. Transfer of Assets. Pursuant to sections 105(a) and 363(f) of the Bankruptcy Code: (a) the Purchased Assets shall be transferred to the Buyer; (b) the Buyer shall be vested with all right, title, and interest of the Trustee in and to the Purchased Assets; and (c) upon the consummation (the "Closing") of the Sale, the Purchased Assets shall be free and clear of all Encumbrances of any kind or nature whatsoever with all such Encumbrances to attach to the net

proceeds of the Sale in the order of their priority, with the same validity, force and effect which they now have as against the Purchased Assets, subject to any claims and defenses the Trustee may possess with respect thereto.

7. Following Closing, all persons or entities, including, but not limited to, all debt security holders, equity security holders, governmental, tax, and regulatory authorities, lenders, trade and other creditors, holding Encumbrances of any kind or nature whatsoever against or in the Debtor, the Purchased Assets (whether legal or equitable, secured or unsecured, mature or unmatured, contingent or non-contingent, senior or subordinated), arising under or out of, in connection with, or in any way relating to, the Debtor, the Purchased Assets, the operation of the Debtor's business prior to the Closing Date, or the transfer of the Purchased Assets to the Buyer, hereby are forever barred, estopped, and permanently enjoined from asserting against the Buyer, its successors or assigns, its property or the Purchased Assets, such persons' or entities' claimed Encumbrances.

8. This Order (a) is and shall be effective as a determination that, upon Closing, all Encumbrances in the Purchased Assets held by any person other than the Buyer have been and hereby are adjudged and declared to be unconditionally released, discharged and terminated, and (b) is and shall be binding upon and govern the acts of all entities, including, all filing agents, filing officers, title agents, title companies, recorders of mortgages, recorders of deeds, registrars of deeds, administrative agencies or units, governmental departments or units, secretaries of state, federal, state and local officials and all other persons and entities who may be required by operation of law, the duties of their office, or contract, to accept, file, register or otherwise record or release any documents or instruments, or who may be required to report to or insure any title or state of title in or to any of the Purchased Assets. Upon the Closing, all persons and entities described

above in this Paragraph 8 are authorized and directed to strike all evidence of Encumbrances in the Purchased Assets held by any person other than the Buyer immediately prior to the Closing from their records, official or otherwise.

9. If any person or entity (other than the Buyer) that has filed financing statements, mortgages, mechanic's liens, lis pendens, or other documents or agreements evidencing Encumbrances in the Debtor or the Purchased Assets shall not have delivered to the Trustee prior to the Closing Date, in proper form for filing and executed by the appropriate parties, termination statements, instruments of satisfaction or releases of such Encumbrances, then (a) the Trustee is hereby authorized and directed to execute and file such statements, instruments or releases (or other related documents) on behalf of such person or entity, and (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 Encumbrances.

10. Nothing in this Order or any agreement entered into under this Order releases, nullifies, precludes, or enjoins the enforcement or any liability to a governmental unit under police or regulatory statutes or regulations that any entity would be subject to as the owner or operator of property after the date of entry of this Order.

11. The Buyer is hereby authorized in connection with the consummation of the Sale to allocate the Purchased Assets among its affiliates, designees, assignees and/or successors in a manner as it in its sole discretion deems appropriate, and to assign, sublease, sublicense, transfer or otherwise dispose of any of the Purchased Assets to its affiliates, designees, assignees and/or successors with all of the rights and protections accorded under this Order and the Purchase Agreement Documents, and the Trustee shall cooperate with and take all actions reasonably requested by the Buyer to effectuate any of the foregoing.

12. Additional Provisions. The consideration provided by the Buyer for the Purchased Assets under the Purchase Agreement Documents shall be deemed to constitute reasonably equivalent value and fair consideration under the Bankruptcy Code and under the laws of the United States and any state, territory, possession, or the District of Columbia.

13. The consideration provided by the Buyer for the Purchased Assets under the Purchase Agreement Documents is fair and reasonable and may not be avoided under section 363(n) of the Bankruptcy Code.

14. The Buyer shall have no obligation to pay wages, bonuses, severance pay, benefits (including, without limitation, contributions or payments on account of any underfunding with respect to any and all pension plans) or any other payment to employees of the Debtor. The Buyer shall have no liability with respect to any collective bargaining agreement, employee pension plan, employee welfare or retention, benefit and/or incentive plan to which the Debtor is a party and relating to the business of the Debtor (including, without limitation, arising from or related to the rejection or other termination of any such agreement), and the Buyer shall in no way be deemed a party to or assignee of any such agreement, and no employee of the Buyer shall be deemed in any way covered by or a party to any such agreement, and all parties to any such agreement are hereby enjoined from asserting against the Buyer any and all claims arising from or relating to such agreement.

15. Any amounts that become payable by the Trustee to the Buyer pursuant to the Purchase Agreement Documents (a) shall constitute administrative expenses of the Debtor's estate under section 503(b) of the Bankruptcy Code, and (b) shall be paid by the Trustee in the time and manner provided for in the Purchase Agreement Documents without further court order.

16. Each and every federal, state, and local governmental agency or department is hereby directed to accept any and all documents and instruments necessary and appropriate to consummate the Sale.

17. The Buyer shall have no liability or responsibility for any liability or other obligation of the Debtor arising under or related to the Purchased Assets. Without limiting the generality of the foregoing, to the fullest extent permitted by law, the Buyer shall be released from liability for any claims against the Debtor, the Debtor's estate or their predecessors or affiliates, and the Buyer shall have no successor or vicarious liabilities of any kind or character including but not limited to any theory of antitrust, environmental, successor or transferee liability, labor law, de facto merger, or substantial continuity, whether known or unknown as of the Closing Date, now existing or hereafter arising, whether fixed or contingent, with respect to the Debtor or any obligations of the Debtor arising prior to the Closing Date, including, but not limited to, liabilities on account of any taxes arising, accruing, or payable under, out of, in connection with, or in any way relating to, the operation of the business of the Debtor or the Purchased Assets, prior to the Closing Date.

19. This Court retains jurisdiction to enforce and implement the terms and provisions of the Purchase Agreement Documents, all amendments thereto and any waivers and consents thereunder, including, but not limited to, retaining jurisdiction to (a) compel delivery of Purchased Assets to the Buyer, (b) compel delivery of the purchase price or performance of other obligations owed to the Trustee, (c) resolve any disputes arising under or related to the Purchase Agreement Documents, except as otherwise provided therein, (d) interpret, implement, and enforce the provisions of this Order and (e) protect the Buyer against (i) any of the Debtor's liabilities or (ii) any claimed Encumbrances with respect to the Debtor, the Debtor's estate or the Purchased Assets

of any kind or nature whatsoever, as such Encumbrances were in existence immediately prior to the Closing.

20. The Sale is undertaken by the Buyer in “good faith,” as such term is used in section 363(m) of the Bankruptcy Code, and accordingly, the reversal or modification on appeal of the authorization provided herein to consummate the Sale shall not affect the validity of the Sale to the Buyer, unless such authorization is duly stayed pending such appeal. The Buyer is a purchaser in “good faith,” and is entitled to all of the protections afforded by section 363(m) of the Bankruptcy Code.

21. The Asset Purchase Agreement was not entered into, and neither the Seller nor the Buyer has entered into the Asset Purchase Agreement or proposes to consummate the Transaction, for the purpose of hindering, delaying or defrauding the Debtor’s present or future creditors, and neither the Seller nor the Buyer is entering into the Asset Purchase Agreement, or proposing to consummate the Sale, 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.

22. The Sale of the Purchased Assets to the Buyer under the terms of the Asset Purchase Agreement meets the applicable provisions of section 363(f) of the Bankruptcy Code such that the sale of the Purchased Assets will be free and clear of any and all Encumbrances and will not subject the Buyer or any of the Buyer’s assets to any liability whatsoever (including, without limitation, under any theory of equitable law, antitrust, or successor or transferee liability). Any and all Encumbrances with respect to the Purchased Assets shall be permanently released and discharged

as to those assets (with any such Encumbrances to attach to the proceeds of the Sale in the order of their priority) upon the Closing.

23. The Buyer is a not a successor to the Seller, the Debtor or the Debtor's estate by reason of any theory of law or equity with respect to any Encumbrances against the Seller, the Debtor or the Purchased Assets.

24. The Buyer, as purchaser of all of Debtor's Intellectual Property and the other Purchased Assets, may, in its sole discretion, elect to be substituted for Debtor in any litigation regarding the ownership, use and other rights of Buyer in and to the Intellectual Property rights, including the Appellate Action, but, in so doing, Buyer shall not be required to defend any claims or causes of action of any other party against Debtor, the Seller or the Debtor's bankruptcy estate arising prior to the Closing and any party shall be enjoined and stayed from asserting such claims against the Buyer.

25. Following the Closing, the Seller shall promptly (and, in no longer than ten (10) business days, or such later time as the parties may agree) turn over any Purchased Assets in his possession or control to the Buyer in the ordinary course of business during regular business hours or such hours as are reasonable and convenient to all such parties (with Buyer to assume the costs of removal of any physical property) free and clear of all Encumbrances.

26. All third-parties (i.e., any parties other than the Seller and those operating under his control or at his direction) in possession or control of any Purchased Assets shall promptly (and, in no longer than ten (10) business days, or such later time as the parties may agree) turn such assets over to the Buyer in the ordinary course of business during regular business hours or such hours as are reasonable and convenient to all such parties (with Buyer to assume the costs of removal of any physical property) free and clear of all Encumbrances. Notwithstanding the

foregoing, such turnover rights shall not extend to any Purchased Assets that are disputed accounts receivable originally held by Debtor and such accounts receivable shall be subject to any and all defenses available to any such accounts receivable counterparty by law or equity and shall be subject to any claims or rights of offset that have properly been preserved in a timely filed proof of claim.

27. The Buyer shall not be required to seek or obtain relief from the automatic stay under section 362 of the Bankruptcy Code to consummate the Sale or to give any notice permitted by the Asset Purchase Agreement or to enforce any of its remedies under the Purchase Agreement Documents. 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.

28. The terms and provisions of the Purchase Agreement Documents and this Order shall be binding in all respects upon, and shall inure to the benefit of, the Trustee, the Debtor's estate, and its creditors, the Buyer and its affiliates, successors and assigns.

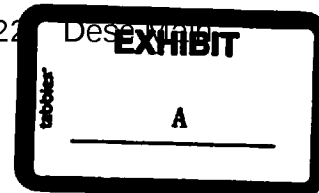
29. The failure specifically to include any particular provisions of any Purchase Agreement Document in this Order shall not diminish or impair the effectiveness of such provisions, it being the intent of the Court that the Purchase Agreement Documents be authorized and approved in their entirety.

30. The Purchase Agreement Documents may be modified, amended or supplemented by the parties thereto, in a writing signed by such parties, and in accordance with the terms thereof, without further order of the Court, provided that any such modification, amendment or supplement does not have a material adverse effect on the Debtor's estate.

31. As provided by Bankruptcy Rules 6004(h) and 6006(d), this Order shall not be stayed for 14 days after the entry of the Order and shall be effective immediately upon entry.

IT IS SO ORDERED.

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ASSET PURCHASE AGREEMENT

This Asset Purchase Agreement (the “**Agreement**”) is made to be effective June __, 2016 (the “**Effective Date**”), between Rite Aid Hdqtrs. Corp., a Delaware corporation (“**Buyer**”), and Myron N. Terlecky, Chapter 7 Trustee (“**Seller**”) of HealthSpot, Inc. (the “**Debtor**” or “**HealthSpot**”).

RECITALS

Seller desires to sell, and Buyer desires to purchase (the “**Transaction**”), substantially all of the assets of Debtor, on the terms and conditions set forth herein, and subject to the approval of the United States Bankruptcy Court for the Southern District of Ohio (the “**Bankruptcy Court**”) in the pending proceedings under Chapter 7 of the Bankruptcy Code, Case No. 16-50183 (the “**Bankruptcy Case**”).

NOW, THEREFORE, in consideration of the mutual promises, representations, covenants, conditions, and premises contained herein, the parties agree as follows:

ARTICLE 1 TRANSFER OF ASSETS

Subject to the terms and conditions set forth in this Agreement, Seller agrees to sell, convey, transfer, assign and deliver to Buyer, and Buyer agrees to purchase from Seller at the Closing described in Article 4 hereof, free and clear of Encumbrances, substantially all the assets of the Debtor of every kind, character and description, whether tangible, intangible, real, personal or mixed, and wherever located (but excluding any assets specifically excluded in the following Sections of this Article 1), all of which are sometimes collectively referred to in this Agreement as the “**Purchased Assets**,” including, but without limitation to, the following:

1.1. **Inventory**. All inventory (the “**Inventory**”), including HealthSpot’s health station kiosks, and all of their components wherever located and whether held by HealthSpot or third parties, including all raw materials, work in process, samples, packaging, supplies, service parts, purchased parts and goods and any and all rights to market and sell all such Inventory.

1.2. **Machinery and Equipment**. All tools, dies, jigs, molds, patterns, machinery and equipment (including manufacturing assembly and test equipment), wherever located and whether held by HealthSpot or third parties.

1.3. **Personal Property**. All personal property, including computers, video displays, servers, network gear, office furnishings and furniture, display racks, shelves, HealthSpot health stations and their components (whether or not assembled), decorations, supplies and other tangible personal property, wherever located and whether CURRENTLY held by HealthSpot or third parties. The personal property purchased by the Buyer shall include, without limitation, all “**technology kits**” associated with all HealthSpot kiosks (including, without limitation, computers, monitors, printers, servers and other products affixed or embedded in a HealthSpot kiosk and all other related personal property, collectively, hereafter, the “**Technology Kits**”) including all personal property subject to any agreement, which, while

styled as a lease or a financing lease, granted ownership of any personal property subject to such agreement to HealthSpot under applicable law, including all Technology Kits subject to any agreements (including any agreements styled as leases) between HealthSpot and either NFS Leasing, Inc., as assignee (the "NFS Technology Kits") or Dell Financial Services L.L.C if any (the "Dell Technology Kits"). With respect to the NFS Technology Kits only, the Transaction may proceed (and Buyer may be required to proceed to Closing) if such property is deemed to be subject to a true lease and thus no longer property of HealthSpot's bankruptcy estate, but to the extent the Bankruptcy Court does not overrule any objection of NFS Leasing, Inc. to the Sale Motion asserting that it is a party to a true lease with HealthSpot for the NFS Technology Kits, nothing herein shall restrict Buyer and NFS Leasing, Inc. from litigating whether the NFS Technology Kits are subject to a true lease (and thus, these kits are not part of the Transaction) or a financing lease (and thus, these kits are part of the Transaction) after Closing and the Bankruptcy Court will retain non-exclusive jurisdiction to hear such dispute (an "NFS True Lease Dispute").

1.4. **Receivables.** All accounts and notes receivable, checks, negotiable instruments and chattel papers.

1.5. **Intellectual Property.** All rights in and to intellectual property and intangible industrial property rights owned, controlled or licensed by HealthSpot or Debtor that are embodied in, related to or necessary for use of, the Purchased Assets, including, without limitation, (a) the name "HealthSpot" and all derivatives thereof and all goodwill associated with the same; (b) all domain names and affiliated email addresses; (c) all registered, unregistered, and applied for patents, trade secrets, copyrights, mask works, trademarks, and logos; (d) all proprietary software, technology and code; and (e) any rights similar, corresponding or equivalent to any of the foregoing anywhere in the world, including, without limitation, any such rights in the Books and Records (collectively, the "Intellectual Property"). Without limiting the foregoing, Intellectual Property includes, without limitation, the Intellectual Property set forth on **Schedule 1.5.**

1.6. **Deposits and Advances.** All performance and other bonds, security and other deposits, advances, advance payments, prepaid credits and deferred charges, if any, except for deposits with lessors of real property.

1.7. **Rebates and Credits.** All rights in, to and under claims for refunds, rebates or other discounts due from suppliers or vendors and rights to offset in respect thereof.

1.8. **Governmental Approvals.** All Governmental Approvals (and pending applications therefor).

1.9. **Claims.** All claims, choses-in-action, rights in action, rights to tender claims or demands to HealthSpot's insurance companies, rights to any insurance proceeds, and other similar claims, that existed as of the date the Bankruptcy Case of HealthSpot was filed, including, without limitation, any claims against Computerized Screening, Inc. and American Well.

1.10. **Books and Records.** All books, files, papers, agreements, correspondence, databases, information systems, programs, software, documents, product specifications, records and documentation thereof related to any of the Purchased Assets or used in the conduct of the business of HealthSpot, on whatever medium, whether currently in the possession or control of the Seller, Debtor or any third party, excluding those financial and corporate records deemed necessary by Seller for the administration of Debtor's Bankruptcy Case (collectively, "Books and Records"), provided, however, that copies of such financial and corporate records deemed necessary by Seller for the administration of the Debtor's Bankruptcy Case shall be provided to Buyer upon Buyer's written request and at Buyer's cost.

1.11. **Other Assets.** All other assets, properties, rights and claims related to the operations or conduct of the business of the Debtor or which arise in or from the conduct thereof, including the Related Bankruptcy Causes of Action and the Assumed and Assigned Contracts (if any) and all other assets set forth on Schedule 1.5 and all other assets identified in the Debtor's filed schedules of assets and liabilities and not included among the Excluded Assets.

1.12. [Omitted.]

1.13. **Excluded Assets.** Buyer is not offering to purchase the following assets (the "Excluded Assets"):

(a) **Cash.** Cash, cash equivalents and marketable securities.

(b) **Bankruptcy Causes of Action.** The avoidance powers granted to the Seller, as Chapter 7 Trustee of the Debtor under the Bankruptcy Code and causes of action and remedies granted pursuant to or incorporated in Sections 502, 510, 541(a)(3) and (4), 544, 545, 547 through 551 and 553 of the Bankruptcy Code or under comparable state or foreign law provisions and all turnover actions pursuant to Section 542 and 543 of the Bankruptcy Code, provided, however, that any of the foregoing causes of action that shall be reasonably necessary or beneficial for the Buyer to acquire all title, beneficial ownership and use of the Purchased Assets free and clear of Encumbrances shall be transferred to the Buyer free and clear of Encumbrances and shall be included among the Purchased Assets acquired by the Buyer (the "Related Bankruptcy Causes of Action").

(c) **Deposit Accounts.** Any interest of HealthSpot in any deposit account with any financial institution.

(d) **Employee Benefit Contracts.** Benefit plans and contracts of insurance for employee group medical, dental and life insurance plans of HealthSpot.

(e) **Obligations and Liabilities Under Agreements.** Any and all obligations and liabilities under the leases, contracts or agreements of HealthSpot (including the office lease and any other vendor and customer agreements), it being the understanding that that all, or substantially all, leases and executory contracts of HealthSpot have already been deemed rejected by the Seller as the Chapter 7 Trustee of HealthSpot as a matter of law under section 365(d)(1) of the Bankruptcy Code. Notwithstanding the foregoing, nothing in this Agreement is intended to, nor shall it: (a) interfere with Buyer's ability to enter into any new agreement or contract with any third-party (including any third-party who may have had a lease

or executory contract with HealthSpot that has been deemed rejected) in connection with the Purchased Assets; (b) prevent the Buyer, within ten (10) days after Closing to designate any executory contracts and/or unexpired leases that have not been deemed rejected in the Debtor's Bankruptcy Case, if any, to be assumed and assigned to Buyer, which process shall proceed by separate motion and order of the Bankruptcy Court and shall result in any such contracts and/or agreements being included among the Purchased Assets (the "**Assumed and Assigned Contracts**"); or (c) in any way limit the nature, scope or extent of the Purchased Assets to be acquired by Buyer including any intellectual property or other rights incident to the ownership of the Purchased Assets that it will acquire hereunder.

(f) **D&O Claims.** All claims, rights in action, rights to tender claims or demands, and rights to any insurance proceeds, regarding any director and officer liability claims.

(g) **PHR's.** All personal health records (PHR's) maintained by the Debtor.

(h) **Office Furniture Previously Sold.** All office furniture and other personal property of Debtor previously sold by Seller by on-line auction pursuant to an order of the Bankruptcy Court entered May 19, 2016 (Doc. 179).

(i) **Certain Promissory Notes.** All rights of HealthSpot under those certain promissory notes made by Steve Cashman and dated on or about March 28, 2011 and December 20, 2011.

ARTICLE 2 PURCHASE PRICE

2.1. **Payment of Purchase Price.** In consideration for the transfer and assignment by Seller of the Purchased Assets and in consideration of the representations, warranties and covenants of the Seller set forth herein, Buyer on the conditions set forth herein,

(a) shall deliver or cause to be delivered to Seller at the Closing (as hereinafter defined) the sum of One Million, One Hundred Fifty Thousand and 00/100 (\$1,150,000.00) minus (i) \$1,000 for each NFS Technology Kit that the Seller is not able to deliver ownership to Buyer (up to a maximum amount of \$50,000 the "**NFS Technology Kit Portion**") and (ii) the deposit referenced in Section 2.1(b) below, payable in a certified or bank cashier's check or a wire transfer of immediately available funds (the "**Purchase Price**"); and

(b) shall deliver or cause to be delivered a deposit of One Hundred Thousand Dollars (\$100,000.00) (the "**Deposit**") payable in a certified or bank cashier's check or a wire transfer of immediately available funds to Seller upon execution of this Agreement.

(c) If the Bankruptcy Court: (i) rules at the Sale Hearing that the transaction between NFS Leasing, Inc. and HealthSpot (the "**NFS Transaction**") is a true lease (in which case ownership of NFS Technology Kits shall reside with NFS Leasing, Inc.), then the NFS Technology Kit Portion shall be deducted from the Purchase Price; (ii) rules at the Sale

Hearing that the NFS Transaction is not a true lease and is, instead, a disguised financing (in which case ownership of the NFS Technology Kits shall reside with Seller and Buyer upon Closing) and Seller is not otherwise able (through negotiations with the NFS Leasing, Inc.) to deliver ownership of the NFS Technology Kits to the Buyer upon Closing, then the NFS Technology Kit Portion shall not be deducted from the Purchase Price; or (iii) determines at the Sale hearing that it will not rule on whether the NFS Transaction constitutes a true lease or a disguised financing transaction, then: (A) if Buyer, in its sole discretion, informs the Seller at or prior to Closing that it elects to commence an NFS True Lease Dispute, the Buyer shall pay the full Purchase Price (without a deduction for the NFS Technology Kit Portion) and Seller shall reserve and not otherwise use or distribute the Technology Kit Portion pending the outcome (or settled resolution between Buyer and NFS) of such proceeding, provided that such proceeding must be adjudicated or resolved by Buyer and NFS Leasing, Inc. within nine (9) months of Closing (except as such period may be extended by order of the Bankruptcy Court upon a showing of cause) and, the NFS Technology Kit Portion shall be allocated to the Purchase Price (or promptly returned to Buyer, as the case may be) in accordance with the ultimate Purchase Price determined under Section 2.1(a); or (B) if Buyer, in its sole discretion, informs Seller at or prior to Closing that it does not elect to commence an NFS True Lease Dispute, unless the Seller is otherwise able (through negotiations with NFS Leasing, Inc.) to deliver ownership of the NFS Technology Kits to the Seller, the Purchase Price shall be adjusted in accordance with Section 2.1(a) as if ownership of all NFS Technology Kits subject to the NFS Transaction resides with NFS Leasing, Inc.

2.2. Return of Deposit.

(a) The Deposit shall be returned to Buyer upon the earlier of:

(i) in the event that Seller determines that the Buyer's bid does not constitute a Qualifying Bid, within seven (7) business days of June 9, 2016 (the date that the Seller provides notice of Qualifying Bids);

(ii) two business days following the conclusion of the Auction, as such term is used in the bidding procedures (the "**Bidding Procedures**")¹ attached at Exhibit E to the Seller's motion (the "**Sale Motion**") at docket number 164 in the Bankruptcy Case and approved by the Bankruptcy Court at docket number 193, in the event Buyer is a Qualified Bidder but Buyer is neither the Prevailing Bidder nor the Backup Bidder;

(iii) two business days following termination of this Agreement by Buyer pursuant to Section 12.1 where Buyer is the Prevailing Bidder. The Deposit under this sub-paragraph shall be non-refundable only in the event the Buyer is the Prevailing Bidder, and in breach of this Agreement, does not close by June 27, 2016, or such other date as agreed to by the parties or as ordered by the Bankruptcy Court, it being understood that Seller's retention of Buyer's deposit shall be Seller's liquidated damages and Seller's sole and exclusive right and remedy in such an instance.

¹ Terms not defined herein shall have the meanings ascribed to them in the Bidding Procedures or Sale Motion as applicable.

(iv) if the Buyer is the Backup Bidder, the earlier of: (a) two (2) business days after the Closing with the Prevailing Bidder, provided, however, in no event shall the Deposit be returned to the Buyer later than July 26, 2016 (and Seller shall promptly notify Buyer if it closes on a sale with the Prevailing Bidder so as to ensure compliance with this provision); and (b) two (2) business days following the termination of this Agreement by Buyer pursuant to section 12.1. The Deposit under this sub-paragraph shall be non-refundable only in the event the Buyer is the Backup Bidder, and in breach of this Agreement, does not close by the date identified in Section 12.1(c), or such other date as agreed to by the parties or as ordered by the Bankruptcy Court, it being understood that Seller's retention of Buyer's deposit shall be Seller's liquidated damages and Seller's sole and exclusive right and remedy in such an instance.

2.3. **Allocation of Purchase Price.** The Purchase Price, shall be allocated among the Purchased Assets as reasonably determined and agreed upon by Buyer and Seller within sixty (60) days of the Closing Date. Such allocation will be used by the parties in reporting the transaction contemplated by this Agreement for Federal and state tax purposes. Each of the Seller and the Buyer agree to cooperate with each other in preparing IRS Form 8594, and to furnish the other with a copy of such form within a reasonable period prior to its filing date.

ARTICLE 3 CONDITIONS

3.1. [Omitted.][Omitted.]**Bankruptcy Court Sale Order.** Notwithstanding any other provision of this Agreement, neither Seller nor Buyer shall have any obligation to consummate the Transaction without prior Bankruptcy Court approval as set forth through the entry, prior to the Closing, of an Order by the Bankruptcy Court (the "Sale Order") which approves the Transaction on substantially the same terms and conditions set forth in this Agreement and authorizes Seller to proceed with such Transaction.

3.4. **Entry of Sale Order.** Seller agrees that it will promptly take such actions as are reasonably necessary or appropriate to obtain prompt entry of the Sale Order. Buyer agrees that it will promptly take such actions as are reasonably requested by Seller and are reasonably necessary or appropriate to assist Seller in obtaining entry of the Sale Order. The Sale Order shall be consistent with the terms of this Agreement and shall be in a form reasonably acceptable to the Buyer.

3.5. **Enforcement of Sale Order** If the entry of the Sale Order shall be appealed or collaterally attacked, Seller and Buyer shall use their respective reasonable efforts to defend such appeal or collateral attack of the Sale Order after its entry. To the extent commercially reasonable, Seller shall promptly respond to and oppose objections to the entry of the Sale Order, and oppose any actions taken by the parties objecting to, appealing, or seeking a stay of the consummation of the sale of the Purchased Assets provided by this Agreement. Seller shall use commercially reasonable efforts to take all actions necessary to proceed with the Closing (including without limitation, the defense of motions and actions filed by third parties in the Bankruptcy Case) and shall provide Buyer with reasonable assistance to obtain possession and ownership of the Purchased Assets in connection with and following Closing. Notwithstanding any provision to the contrary herein, Seller shall not seek or agree to amend, vacate or modify any provision of the Sale Order without the prior written consent of Buyer.

3.6. **Provisions of Sale Order.** The Sale Order shall include (among other standard and customary provisions routinely requested by the purchasers of assets free and clear of Encumbrances under section 363 of the Bankruptcy Code and routinely approved by bankruptcy courts in such orders) the following terms:

- (a) approving this Agreement in its entirety;
- (b) overruling all filed or other asserted objections to the Agreement , the Transaction, and/or the Sale Motion (except only to the extent set forth in this Agreement with respect to an objection by NFS Leasing, Inc. with respect to whether its leasing transaction with HealthSpot constitutes a true lease or a disguised financing transaction);
- (c) finding and ordering that the Seller has good, marketable and saleable ownership in and title to all of the Purchased Assets (including all of the NFS/Dell Technology Kits) and authorizing and empowering the Seller to transfer to the Buyer all rights, title, privileges and interests of the Debtor in and to all of the Purchased Assets, free and clear of all liens, claims, rights of others or other encumbrances of any kind (“**Encumbrances**”), with all such Encumbrances, if any, attaching to the net proceeds of sale;
- (d) finding and ordering that notice of the hearing on the Sale Motion, Auction, this Agreement and the Transaction was proper and sufficient under the United States Bankruptcy Code, the Federal Rules of Bankruptcy Procedure and the Local Bankruptcy Rules for the United States Bankruptcy Court for the Southern District of Ohio;
- (e) finding and ordering that the Buyer is the Prevailing Bidder for the Purchased Assets in accordance with the Bidding Procedures Order, that the Buyer and its representatives have complied in all respects with the Bidding Procedures Order and all other applicable orders of the Bankruptcy Court in negotiating and entering into the this Agreement, and the Transaction and the Agreement comply with the Bidding Procedures Order and all other applicable orders of the Bankruptcy Court.
- (f) finding and ordering that the Seller and Buyer entered into this Agreement in good faith, at arms' length, that its negotiation was non-collusive and substantively and procedurally fair to all parties, that the Purchase Price constitutes the highest and best offer received by the Seller for the Purchased Assets and is fair value in consideration for the Purchased Assets;
- (g) finding and ordering that the Buyer is a “good faith” purchaser entitled to the protections afforded by Section 363(m) of the Bankruptcy Code with respect to the Transaction and the Purchased Assets, that none of the Seller, the Buyer, or their respective representatives has engaged in any conduct that would prevent the application of section 363(m) of the Bankruptcy Code, and that neither the Seller nor the Buyer has engaged in any conduct that would cause or permit this Agreement or the Transaction provided for herein to be avoided, or costs or damages to be imposed, under section 363(n) of the Bankruptcy Code;
- (h) finding and ordering that this Agreement was not entered into, and neither the Seller nor the Buyer has entered into this Agreement or proposes to consummate the Transaction, for the purpose of hindering, delaying or defrauding the Debtor’s present or future

creditors, and neither the Seller nor the Buyer is entering into this Agreement, or proposing to consummate the Transaction, 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;

(i) finding and ordering that the sale of the Purchased Assets to the Buyer under the terms of this Agreement meets the applicable provisions of section 363(f) of the Bankruptcy Code such that the sale of the Purchased Assets will be free and clear of any and all Encumbrances and will not subject the Buyer or any of the Buyer's assets to any liability whatsoever (including, without limitation, under any theory of equitable law, antitrust, or successor or transferee liability) and ordering that any Encumbrances with respect to the Purchased Assets be released and discharged as to those assets (with any such liens to attach to the proceeds in the order of their priority) upon the Closing;

(j) finding and ordering that the Buyer is not a successor to the Seller, the Debtor or the Debtor's estate by reason of any theory of law or equity with respect to any Encumbrances against the Seller, the Debtor or the Purchased Assets;

(k) finding and ordering that the Buyer, as purchaser of all of HealthSpot's Intellectual Property and the other Purchased Assets, may, in its sole discretion, elect to be substituted for HealthSpot in any litigation regarding the ownership, use and other rights of Buyer in and to the Intellectual Property rights, including the CSI Infringement Action, but, in so doing, Buyer shall not be required to defend any claims or causes of action of any other party against HealthSpot, the Seller or the Debtor's bankruptcy estate arising prior to the Closing and any party shall be enjoined and stayed from asserting such claims against the Buyer.

(l) directing all third-parties (i.e., any parties other than the Seller and those operating under his control or at his direction) in possession or control of any Purchased Assets to promptly (and, in no longer than ten (10) business days, or such later time as the parties may agree) turn such assets over to the Buyer in the ordinary course of business during regular business hours or such hours as are reasonable and convenient to all such parties (with Buyer to assume the costs of removal of any physical property) free and clear of all Encumbrances. Notwithstanding the foregoing, such turnover rights shall not extend to any Purchased Assets that are disputed accounts receivable originally held by HealthSpot and such accounts receivable shall be subject to any and all defenses available to any such accounts receivable counterparty by law or equity and shall be subject to any claims or rights of offset that have properly been preserved in a timely filed proof of claim.

ARTICLE 4 CONDITIONS TO CLOSING; THE CLOSING

4.1. **Closing Date.** The closing of the purchase and sale of the Purchased Assets by Seller to Buyer (the "Closing") shall take place at the offices of Strip, Hoppers, Leithart, McGrath & Terlecky, Co., LPA, 575 South Third Street, Columbus, Ohio 43215, at 10:00 a.m. local time, on June 27, 2016, or at such other place and/or time as the parties may agree in writing (the "Closing Date").

4.2. **Conditions to Seller's Obligations.** Seller's obligation to consummate the Transactions contemplated by this Agreement is subject to the satisfaction or waiver by Seller on or prior to the Closing Date of each of the following conditions.

(a) All of the representations and warranties of Buyer contained herein shall continue to be true and correct at the Closing in all material respects, all covenants and obligations to be performed by Buyer prior to the Closing shall have been performed in all material respects and Buyer shall have certified the foregoing to Seller in writing.

(b) Buyer shall have executed and/or delivered, as applicable, to Seller all of those documents, instruments and agreements required to be executed and delivered to Seller under the terms hereof.

(c) The Bankruptcy Court shall have entered the Sale Order.

4.3. **Conditions to Buyer's Obligations.** Buyer's obligation to consummate the Transactions contemplated by this Agreement is subject to the satisfaction or waiver by Buyer on or prior to the Closing Date of each of the following conditions:

(a) All representations and warranties of the Seller contained herein shall continue to be true and correct at the Closing in all material respects, all covenants and obligations to be performed by Seller prior to Closing shall have been performed in all material respects and Seller shall have certified the foregoing to Buyer in writing.

(b) Seller shall have executed and/or delivered, as applicable, to Buyer all of those documents, instruments and agreements required to be executed and delivered to Buyer under the terms hereof, including by executing any assignments necessary relating to the proper conveyance of all Intellectual Property and all other Purchased Assets.

(c) The Bankruptcy Court shall have entered the Sale Order and the Sale Order shall: (i) have become final and non-appealable, unless this condition has been waived in writing by Buyer in its sole discretion; or (ii) shall include (as it otherwise must) a "good faith" finding under section 363(m) and no stay or reversal of the Sale Order shall be in place immediately prior to Closing, such that any potential appeal or other relief sought by any party with respect to the Sale Order shall become moot under applicable law upon the occurrence of the Closing.

(d) There shall not be in effect, on the Closing Date, any injunction or other binding order of any court or other tribunal having jurisdiction over the Buyer that prohibits or stays the immediate occurrence of the Closing and the immediate purchase of the Purchased Assets by the Buyer.

4.4. **Seller's Obligations at the Closing.**

(a) At the Closing, the Seller shall deliver or cause to be delivered to Buyer:

(i) a certified copy of the Sale Order; and

(ii) Instruments of assignment and transfer (including a bill of sale) of all of the Purchased Assets, in form and substance satisfactory to Buyer's counsel.

(b) Simultaneously with the consummation of the transfer, Seller shall put Buyer into full possession and enjoyment of all the Purchased Assets free and clear of all Encumbrances (and, in the case of assets not within the possession or control of Seller, shall reasonably assist Buyer in obtaining possession and enjoyment of such assets).

4.5. **Buyer's Obligations at the Closing.** At the Closing, Buyer shall deliver to Seller the payment set forth in section 2.1(a).

ARTICLE 5 NON-ASSUMPTION OF LIABILITIES

Buyer is not assuming any debt, liability or obligation of Debtor or Seller, including any debt, liability or obligation arising prior to Closing, and including any direct or indirect indebtedness, guaranty, endorsement, warranty, product liability, environmental liability, commissions, claim, loss, damage, deficiency, cost, expense, tax (including, but not limited to, all foreign, federal, state, provincial, local and other taxes, fees, levies, duties and other assessments or charges of whatever kind (including without limitation, income, excise, stamp, transfer, property (tangible and intangible), value added, real estate, sales, payroll, gains, gross receipts, withholding and franchise taxes) together with any interest, penalties, or additions payable in connection with such taxes, fees, levies, duties or other assessments or charges, obligation or responsibility, fixed or unfixed, known or unknown, asserted or unasserted, liquidated or unliquidated, secured or unsecured.

ARTICLE 6 REPRESENTATIONS AND WARRANTIES OF SELLER.

The Seller hereby represents and warrants to Buyer that the following facts and circumstances are and, except as contemplated hereby, and at all times up to the Closing Date will be, true and correct, and hereby acknowledges that such facts and circumstances constitute the basis upon which Buyer is induced to enter into and perform this Agreement. Each representation and warranty set forth in this Article 6 shall survive the Closing and any investigation made by or on behalf of Buyer.

6.1. **Qualification.** Seller is the duly authorized Chapter 7 Trustee of the Debtor and has all necessary powers to enter into and perform this Agreement and to sell the Debtor's assets, subject to entry of the Sale Order by the Bankruptcy Court.

6.2. **Inventory.** The Inventory consists of items of a quality and quantity useable, or saleable in the ordinary course of business by Debtor, including obsolete and slow moving items and items below standard quality. All items included in the Inventory are the property of the Debtor.

6.3. **Title to Assets.** At the Closing, Seller will have good and marketable title to all the Purchased Assets and its interests in the Purchased Assets, whether real, personal,

mixed, tangible, and intangible, which constitute all the Assets and interests in Assets that are or were used in the business of Debtor with the exception of the Excluded Assets.

6.4. **Authority and Consents.** Seller's duty to perform this Agreement and the consummation of this Transaction by Seller are contingent upon the Seller obtaining entry of the Sale Order by the Bankruptcy Court and no other consents or approvals are necessary. This Agreement constitutes a legal, valid and binding obligation of Seller enforceable in accordance with its terms.

6.5. **Pending Patent Litigation.** The Seller represents and Buyer acknowledges that Computerized Screening, Inc. ("CSI") claims that the Debtor is infringing on U.S. Patent No. 6,692,436 ("Patent 436") owned by CSI. An order was entered in the United States District Court, Northern District of Ohio, in the case *HealthSpot, Inc. v. Computerized Screening, Inc.*, Case No. 14-CV-00804 (the "CSI Infringement Action"), finding there was no infringement of Patent 436 (the "District Court Order"). An appeal of the District Court Order is pending before the United States Court of Appeals for the Federal Circuit.

6.6 **Intellectual Property.**

(a) Seller has taken commercially reasonable actions consistent with Seller's fiduciary duties as a Chapter 7 Trustee to maintain and protect the Intellectual Property.

(b) Other than the CSI Infringement Action, no legal proceedings are pending or, to Seller's knowledge, are threatened, contesting the validity, use, ownership or enforceability of any of the Purchased Assets. To Seller's knowledge, the Debtor was not infringing, misappropriating or otherwise conflicting with any intellectual property of any third party. To Seller's knowledge, there are no facts which indicate a likelihood of any of the foregoing. Seller has not received any notices, written or otherwise, regarding any of the foregoing.

(c) To Seller's knowledge, no third party is infringing, misappropriating or otherwise conflicting with, and no third party has infringed, misappropriated or otherwise conflicted with any of the Intellectual Property.

ARTICLE 7
BUYER'S REPRESENTATIONS AND WARRANTIES

The Buyer hereby represents and warrants the following to the Seller as of the Closing:

7.1. **Organization.** The Buyer is a duly organized corporation, validly existing and in good standing under the laws of the state of Delaware.

7.2. **Authorization of Agreement.** The execution and delivery of this Agreement and the performance of the Transactions contemplated herein shall be duly and validly authorized by the Buyer.

ARTICLE 8 COVENANTS

8.1. **Preservation of Purchased Assets.** Through the Closing, Seller shall make all reasonable efforts to preserve and protect the Purchased Assets, including, but not limited to, taking, or failing to take, any action that could reasonably be expected to result in any loss (including, without limitation, deletion of data), lapse, abandonment, expiration, invalidity or unenforceability of any Intellectual Property.

8.2. **Access to Purchased Assets.** Promptly following Closing, Seller shall permit Buyer to have access to the premises where any Purchased Assets under the control of the Seller are located in order to remove the Purchased Assets and shall reasonably cooperate with Buyer with regard to the removal of the Purchased Assets, including those assets in the possession or control of third parties.

8.3. **Further Assurances.** The Seller, at any time as and when reasonably requested by Buyer before or after the Closing Date, shall execute, acknowledge, and deliver any further assignments, conveyances and other assurances, documents and instruments of transfer, reasonably requested by Buyer and shall take any other action consistent with the terms of this Agreement that may reasonably be requested by Buyer for the purpose of assigning, transferring, granting, conveying and confirming to Buyer, or reducing to possession, any or all property and assets to be conveyed and transferred by this Agreement.

ARTICLE 9 COSTS

9.1. **Finder's or Broker's Fees.** Each of the parties represents and warrants that it has dealt with no broker or finder in connection with any of the transactions contemplated by this Agreement, and, insofar as it knows, no broker or other person is entitled to any commission or finder's fee in connection with any of these transactions.

9.2. **Expenses.** Each of the parties shall pay all costs and expenses, including, but not limited to attorneys' fees, incurred or to be incurred by it in negotiating and preparing this Agreement and in closing and carrying out the transactions contemplated by this Agreement.

ARTICLE 10 FORM OF AGREEMENT

10.1. **Headings.** The subject headings of the Articles and Sections of this Agreement are included for purposes of convenience only, and shall not affect the construction or interpretation of any of its provisions.

10.2. **Entire Agreement; Modification; Waiver.** This Agreement constitutes the entire agreement between the parties pertaining to the subject matter contained in it and supersedes all prior and contemporaneous agreements, representations, and understandings of the parties. No supplement, modification or amendment of this Agreement shall be binding unless executed in writing by all the parties. No waiver of any of the provisions of this Agreement shall be deemed, or shall constitute, a waiver of any other provision, whether or not

similar, nor shall any waiver constitute a continuing waiver. No waiver shall be binding unless executed in writing by the party making the waiver.

10.3. **Counterparts.** This Agreement may be executed simultaneously in one or more counterparts and true and correct executed copies of such counterparts may be exchanged electronically (by fax or by a "PDF" file sent by electronic mail), and each of which shall be deemed an original, and all of which together shall constitute one and the same instrument.

ARTICLE 11 PARTIES

11.1. **Parties in Interest.** Nothing in this Agreement, whether express or implied, is intended to confer any rights or remedies under or by reason of this Agreement on any persons other than the parties to it and their respective successors and assigns, nor is anything in this Agreement intended to relieve or discharge the obligation or liability of any third persons to any party to this Agreement, nor shall any provision give any third persons any right of subrogation or action over against any party to this Agreement.

11.2. **Assignment.** This Agreement shall be binding on and shall inure to the benefit of the parties to it and their respective heirs or legal representatives (in the case of the Shareholders), and their respective successors and assigns. For the avoidance of doubt, Buyer may assign any or all of its rights, interests or obligations under this Agreement to any affiliate of Buyer or any other entity formed to hold the Purchased Assets.

ARTICLE 12 TERMINATION; REMEDIES

12.1. **Termination.** Notwithstanding anything herein to the contrary, this Agreement may be terminated prior to Closing as follows:

(a) by the Buyer, if the Bankruptcy Court has not entered the Sale Order by June 21, 2016 (or such later date as the Buyer in its sole discretion may have agreed to in writing with the Seller); or

(b) by the Buyer, if Buyer is selected as the Prevailing Bidder and the Closing has not occurred by June 30, 2016 (or such later date as the Buyer in its sole discretion may have agreed to in writing with the Seller not exceeding an aggregate of 30 days) as a result of Seller's breach of its obligations hereunder; or

(c) by the Buyer if the Buyer is selected as the Backup Bidder and the Closing has not occurred by July 26, 2016 (or such later date as the Buyer in its sole discretion may have agreed to in writing with the Seller not exceeding an aggregate of 30 days) as a result of Seller's breach of its obligations hereunder. Notwithstanding the foregoing, if Seller elects to proceed to Closing with Buyer as the Backup Bidder, Seller shall provide the Buyer with no less than five (5) business days' notice of the Closing on such sale.

12.2. **Recovery of Litigation Costs.** If any legal action or any arbitration or other proceeding is brought for the enforcement of this Agreement, or because of an alleged dispute, breach, default or misrepresentation in connection with any of the provisions of this Agreement, the successful or prevailing party or parties shall be entitled to recover reasonable attorneys' fees and other costs incurred in that action or proceeding, in addition to any other relief to which it or they may be entitled.

12.3. **Defaults Permitting Termination.** If either Buyer or Seller materially defaults in the due and timely performance of any of its warranties, covenants, or agreements under this Agreement, the non-defaulting party or parties may within ten (10) days of obtaining knowledge of said default or if sooner on the Closing Date give notice of termination of this Agreement, in the manner provided in Article 14 (the "**Termination Date**"). The notice shall specify with particularity the default or defaults on which the notice is based. The termination shall be effective five (5) days after it is given, unless the specified default or defaults have been cured on or before the Termination Date.

**ARTICLE 13
NATURE AND SURVIVAL OF
REPRESENTATIONS, WARRANTIES, COVENANTS AND AGREEMENTS**

All representations, warranties, covenants and agreements of the parties hereto contained in this Agreement, and in any certificate or other writing delivered pursuant hereto or in connection herewith shall survive the making of this Agreement, any investigation by or on behalf of any party to this Agreement and the Closing.

**ARTICLE 14
NOTICES**

All notices, requests, demands and other communications under this Agreement shall be in writing and shall be deemed to have been duly given on the date of service if served personally on the party to whom notice is to be given, or on the third day after mailing if mailed to the party to whom notice is to be given, by first class mail registered or certified, postage prepaid, and properly addressed as follows:

Seller: HealthSpot, Inc. ATTN: Myron N. Terlecky, Chapter 7 Trustee 575 South Third St. Columbus, OH 43215	Buyer: Rite Aid Hdqtrs. Corp. ATTN: Henry Jaffe, Esquire, Pepper Hamilton LLP 1313 N. Market Street, Suite 5100 Wilmington, DE 19899
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Email: mnt@columbuslawyer.net

Email: jaffeh@pepperlaw.com


Any party may change its address for purposes of this Article by giving the other parties written notice of the new address in the manner set forth above. All notices shall also be sent by email at the email addresses listed above.

[Reminder of Page Intentionally Blank - Signature Page Follows]

IN WITNESS WHEREOF, the parties to this Agreement have duly executed this Agreement.

BUYER:

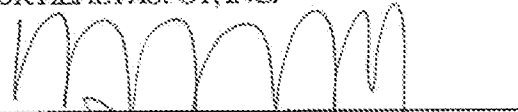
Rite Aid Hdqtrs. Corp.

By: 

Accepted by Buyer this 8th day of June, 2016.

SELLER

MYRON TERLECKY, CHAPTER 7 TRUSTEE
FOR HEALTHSPOT, INC.


Myron Terlecky, Chapter 7 Trustee

Accepted by Seller this 8th day of June, 2016.

[Signature Page to Asset Purchase Agreement]

TRADEMARK
REEL: 006522 FRAME: 0844

AGREED TO:

/s/ Myron N. Terlecky
Myron N. Terlecky (0018628)
John W. Kennedy (0042672)
Strip, Hoppers, Leithart, McGrath & Terlecky Co., LPA
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Columbus, Ohio 43215-5759
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Attorneys for Chapter 7 Trustee

/s/ Henry Jaffe
Henry Jaffe, Esq. (pro hac vice)
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Attorney for Buyer, Rite Aid Hdqtrs. Corp.

/s/ Adam B. Landon
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Attorneys for Computerized Screening, Inc.

Copies to: All creditors and parties in interest.

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