

TRADEMARK ASSIGNMENT COVER SHEET

Electronic Version v1.1
Stylesheet Version v1.2

ETAS ID: TM601174

SUBMISSION TYPE:	NEW ASSIGNMENT
NATURE OF CONVEYANCE:	Bankruptcy Sale Order, dated July 7, 2020 (releasing all prior liens, claims, encumbrances and other interests)

CONVEYING PARTY DATA

Name	Formerly	Execution Date	Entity Type
IBB Winddown Inc., pursuant to authority granted under Bankruptcy Sale Order dated July 7, 2020	FORMERLY Bluestem Brands, Inc.	08/28/2020	Corporation:
JAS Winddown Inc., pursuant to authority granted under Bankruptcy Sale Order dated July 7, 2020	FORMERLY Johnny Appleseed's, Inc.	08/28/2020	Corporation:
BLR Wind Down LLC, pursuant to authority granted under Bankruptcy Sale Order dated July 7, 2020	FORMERLY Blair LLC	08/28/2020	Limited Liability Company:

RECEIVING PARTY DATA

Name:	BLST Holding Company LLC
Street Address:	13300 Pioneer Trail
City:	Eden Prairie
State/Country:	MINNESOTA
Postal Code:	55347
Entity Type:	Corporation: DELAWARE

PROPERTY NUMBERS Total: 3

Property Type	Number	Word Mark
Serial Number:	87616114	HAYMAKER
Registration Number:	2966236	MONTEREY BAY CLOTHING COMPANY
Registration Number:	3862363	NOW YOU CAN!

CORRESPONDENCE DATA

Fax Number: 3104079090

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.

Phone: 3104074000

Email: nmaoz@ktbslaw.com

Correspondent Name: N. Maoz; KTBS Law LLP

Address Line 1: 1999 Avenue of the Stars

TRADEMARK

Address Line 2: 39th Floor
Address Line 4: Los Angeles, CALIFORNIA 90067

NAME OF SUBMITTER:	Nir Maoz
SIGNATURE:	/Nir Maoz/
DATE SIGNED:	10/05/2020

Total Attachments: 116
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**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:)	
)	Chapter 11
BLUESTEM BRANDS, INC., <i>et al.</i> , ¹)	Case No. 20-10566 (MFW)
)	
Debtors.)	(Jointly Administered)
)	
)	Re: Docket Nos. 23, 425, 447

ORDER (I) APPROVING ASSET PURCHASE AGREEMENT; (II) AUTHORIZING AND APPROVING SALE OF CERTAIN ASSETS OF DEBTORS PURSUANT TO SECTION 363 OF THE BANKRUPTCY CODE FREE AND CLEAR OF ALL LIENS, CLAIMS, INTERESTS, AND ENCUMBRANCES; (III) APPROVING THE ASSUMPTION, ASSIGNMENT AND SALE OF CERTAIN EXECUTORY CONTRACTS AND UNEXPIRED LEASES PURSUANT TO SECTION 365 OF THE BANKRUPTCY CODE; (IV) AUTHORIZING THE DEBTORS TO CONSUMMATE TRANSACTIONS RELATED TO THE ABOVE; AND (V) GRANTING RELATED RELIEF

Upon the motion (the “Motion”), dated March 9, 2020, of Bluestem Brands, Inc. (“BBI”) and its affiliated debtors and debtors in possession (collectively, the “Debtors”) in the above-captioned chapter 11 cases (collectively, the “Chapter 11 Cases”), pursuant to sections 105(a), 363, and 365 of Title 11 of the United States Code, 11 U.S.C. §§ 101, et seq. (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 9006-1 of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware (the “Local Rules”), for entry of an order: (a) authorizing and approving that certain Asset Purchase Agreement, dated as of March 8, 2020, by and among Northstar Holdings Inc., BBI, and the direct and indirect subsidiaries of BBI party thereto (collectively, the “Sellers” and each, individually, a “Seller”) and

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, are as follows: Bluestem Brands, Inc. (5164); Appleseed’s Holdings, Inc. (9117); Blair LLC (1670); Bluestem Enterprises, Inc. (1237); Bluestem Fulfillment, Inc. (5931); Bluestem Sales, Inc. (1539); Draper’s & Damon’s LLC (2759); Gold Violin LLC (0873); Haband Company LLC (8496); Home Forever LLC (2324); Johnny Appleseed’s, Inc. (5560); Norm Thompson Outfitters LLC (8344); Northstar Holdings Inc. (6823); Orchard Brands Corporation (6322); Orchard Brands International, Inc. (8962); Orchard Brands Sales Agency, LLC (8855); Value Showcase LLC (2920); WinterSilks, LLC (0688). The service address for each of the above Debtors is 7075 Flying Cloud Drive, Eden Prairie, Minnesota 55344.

BLST Operating Company, LLC f/k/a BLST Acquisition Company LLC (together with its designees, successor and/or assigns, as provided under Section 11.9 of the Asset Purchase Agreement the “Purchaser”), as amended by that certain First Amendment to Asset Purchase Agreement, dated as of March 20, 2020, that certain Second Amendment to Asset Purchase Agreement, dated as of April 13, 2020, that certain Third Amendment to Asset Purchase Agreement, dated as of May 26, 2020, including as reflected in that certain amended and restated form of purchase agreement filed as Exhibit A to that certain *Notice of Filing of Amended and Restated Stalking Horse APA* [Docket No. 399], and that certain Fourth Amendment to Asset Purchase Agreement, dated as of July 2, 2020, and that certain Fifth Amendment to Asset Purchase Agreement, dated as of July 6, 2020 (as amended, restated, supplemented or otherwise modified from time to time, the “Asset Purchase Agreement”), a fully conformed copy of which is attached hereto as **Exhibit A**, (b) approving the sale of the Purchased Assets² pursuant to the Asset Purchase Agreement, (c) approving the assumption, assignment and sale of certain executory contracts and unexpired leases pursuant to section 365 of the Bankruptcy Code, (d) authorizing the Debtors to consummate transactions related to the Asset Purchase Agreement, and (e) granting related relief; and the Court having entered on June 3, 2020, that certain *Corrected Order (I) Approving Bid Procedures in Connection with the Sale of Substantially All of the Debtors’ Assets, (II) Approving the Form and Manner of Notice Thereof, (III) Scheduling an Auction and Sale Hearing and (IV) Approving Procedures for the Assumption and Assignment of Contracts, and (V) Granting Related Relief* [Docket No. 425] (the “Bid Procedures Order”); and the Debtors having determined that the highest or otherwise best offer for the Purchased Assets was made by the Purchaser pursuant to the Asset Purchase Agreement; and the Court having conducted a hearing on July 7, 2020 at 10:00 a.m. (ET) (the “Sale Hearing”), at which time all parties in interest were offered an opportunity to be heard with respect to the proposed sale of the Purchased Assets (the “Sale”), to consider the

² Capitalized terms used but not otherwise defined herein have the meanings ascribed to them in the Asset Purchase Agreement or the Bid Procedures Order (as hereinafter defined), as applicable.

approval of the Sale pursuant to the terms and conditions of the Asset Purchase Agreement, and the Court having considered: (i) the Motion, all objections thereto, and all replies in support thereof; (ii) the arguments of counsel made, and evidence adduced, related to the Motion; and (iii) the full record in these Chapter 11 Cases, including the record related to the hearing to consider the Bid Procedures Order (the “Bid Procedures Hearing”) and the Sale Hearing held before the Court; all parties in interest having been heard, or having had the opportunity to be heard, regarding the approval of the Asset Purchase Agreement and sale of the Purchased Assets and the related relief granted herein; and it appearing that the relief requested in the Motion is in the best interests of the Debtors, their estates, their creditors, and other parties in interest, it is hereby **FOUND, CONCLUDED, AND DETERMINED THAT:**

A. Findings of Fact and Conclusions of Law. The findings and conclusions set forth herein constitute this Court’s findings of fact and conclusions of law pursuant to Bankruptcy Rule 7052, made applicable to these Chapter 11 Cases pursuant to Bankruptcy Rule 9014. To the extent that any of the following findings of fact constitute conclusions of law, they are adopted as such. To the extent any of the following conclusions of law constitute findings of fact, they are adopted as such.

B. Jurisdiction. This Court has jurisdiction over the Motion and over the property of the Debtors, including the Purchased Assets to be sold, transferred, and conveyed pursuant to the Asset Purchase Agreement, pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2). Venue of these Chapter 11 Cases and the Motion in this district and Court is proper under 28 U.S.C. §§ 1408 and 1409.

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

D. Property of the Estate. The Debtors are the sole and lawful owner of, and have clear and marketable title to, the Purchased Assets to be sold pursuant to the Asset Purchase Agreement. The Debtors' right, title and interest in and to the Purchased Assets constitute property of the Sellers' estates and title thereto is vested in the Sellers' estates within the meaning of section 541(a) of the Bankruptcy Code.

E. Statutory Bases for Relief. The statutory bases for the relief requested in the Motion are sections 105(a), 363, and 365 of the Bankruptcy Code and Bankruptcy Rules 2002, 6004, and 6006.

F. Petition Date. On March 9, 2020 (the "Petition Date"), each Debtor filed a voluntary petition under Chapter 11 of the Bankruptcy Code. The Debtors continue to operate their businesses and manage their properties as debtors-in-possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.

G. Bid Procedures Order. This Court entered the Bid Procedures Order on June 3, 2020, (1) establishing bid and auction procedures; (2) scheduling an auction (if necessary) and the Sale Hearing to consider the sale of the Purchased Assets; (3) establishing procedures for noticing and determining cure amounts related to the Sellers' executory contracts and unexpired leases; and (4) granting certain related relief.

H. Notice. As evidenced by the affidavits of service and publication previously filed with the Court [Docket Nos. 95, 415, 446, and 461], and based on the representations of counsel at the Sale Hearing, due, proper, timely, adequate, and sufficient notice of the Motion, the Bid Procedures Order, the Sale Hearing, the Sale, and the assumption, assignment and sale of the executory contracts and unexpired leases to be assumed and subsequently assigned and sold pursuant to this Sale Order has been provided in accordance with sections 102(1), 363, and 365 of the Bankruptcy Code and Bankruptcy Rules 2002, 6004, 6006, 9007, and 9014 and in compliance with the Bid Procedures Order, to each party entitled to such notice, including, as applicable: (a) the United States Trustee for the District of Delaware; (b) the Committee; (c) counsel to the DIP Agent; (d) counsel to the Term Loan Agent; (e) counsel to Bluestem Group Inc.; (f) SCUSA

and its counsel; (g) WebBank; (h) the United States Attorney's Office for the District of Delaware; (i) the Internal Revenue Service; (j) the United States Securities and Exchange Commission; (k) the state attorneys general for all states in which the Debtors conduct business; and (l) any party that requests service pursuant to Bankruptcy Rule 2002.. With respect to entities whose identities or addresses are not reasonably ascertainable by the Debtors, publication of the Sale Notice in *USA Today (national edition)* on June 9, 2020, as evidenced by the *Verification of Publication* filed by the Debtors on June 9, 2020 [Docket No. 449], was, and is deemed, sufficient, and reasonably calculated under the circumstances to reach such entities. The notices described above were good, sufficient, and appropriate under the circumstances, and no other or further notice of the Motion, the Bid Procedures Order, the Sale, and the Sale Hearing is, or shall be, required. The Sale Notice provided all interested parties with timely and proper notice of the Sale contemplated by the Asset Purchase Agreement, the Bid Procedures Order, and the Sale Hearing.

I. Disclosures. The disclosures made by the Debtors in the Motion, the Sale Notice, and related documents filed with the Court concerning the Asset Purchase Agreement, and at the Bid Procedures Hearing and the Sale Hearing were sufficient under the circumstances.

J. Sale and Marketing Process. The Bid Procedures attached as an exhibit to the Bid Procedures Order were non-collusive, proposed and executed in good faith as a result of arms'-length negotiations, and substantively and procedurally fair to all parties. Based on the evidence adduced at the hearing, the Debtors and their professionals have adequately marketed and conducted the sale process in accordance with, and have otherwise complied in all respects with, the Bid Procedures Order and the Bid Procedures. The sale process established by the Bid Procedures Order and Bid Procedures afforded a full, fair, and reasonable opportunity for any entity to make a higher or otherwise better offer to purchase the Purchased Assets. The sale process was conducted in a noncollusive, fair, and good faith manner. All potential purchasers had a full and fair opportunity to participate in the sale process and make higher or better offers.

K. Successful Bidder. The Debtors determined, in accordance with their business judgment and the Bid Procedures Order and the Bid Procedures, in consultation with the

Consultation Parties (as defined in the Bid Procedures), that the Purchaser's bid was the sole Qualified Bid and represented the highest or otherwise best offer for the Purchased Assets. As a result, the Debtors declared the Purchaser the Successful Bidder in a notice filed with this Court [Docket No. 508] (the "Notice of Successful Bidder") and cancelled the Auction.

L. Highest and Best Bid. After a full, fair, and robust sale process, the Sellers' determination that the Asset Purchase Agreement constitutes the highest and best offer for the Purchased Assets constitutes a valid and sound exercise of the Sellers' business judgment. The total consideration provided by the Purchaser for the Purchased Assets as reflected in the Asset Purchase Agreement represents not only a fair and reasonable offer to purchase the Purchased Assets, but also the highest and best offer received by the Debtors for the Purchased Assets. No other entity or group of entities has submitted a Qualified Bid or otherwise presented a higher or otherwise better offer to the Sellers to purchase the Purchased Assets for greater economic value to the Sellers' estates than the Purchaser. The transactions contemplated under the Asset Purchase Agreement, including the total consideration to be realized by the Debtors thereunder, (i) is the highest and best offer received by the Debtors after extensive marketing, including through the Bidding Procedures, and (ii) is in the best interests of the Debtors, their creditors, their estates, and other parties in interest. The sale of the Purchased Assets under the Asset Purchase Agreement represents the best available alternative for the Debtors' estates. Taking into consideration all relevant factors and circumstances, no other entity has offered to purchase the Purchased Assets for greater economic value to the Debtors or their estates. Therefore, the Debtors' determination that the Asset Purchase Agreement constitutes the highest and best offer and the Debtors' selection of the Asset Purchase Agreement as the Successful Bid each constitute a valid and sound exercise of the Debtors' business judgment and the Debtors' decision to enter into the Asset Purchase Agreement and consummate the transactions contemplated thereunder constitutes a proper exercise of the fiduciary duties of the Debtors and their officers and directors.

M. Best Interests of the Estates, Creditors, and Parties in Interest. Given all of the circumstances of these Chapter 11 Cases and the adequacy and fair value of the consideration

provided by the Purchaser under the Asset Purchase Agreement, the Sale constitutes a reasonable and sound exercise of the Sellers' business judgment, is in the best interests of the Debtors, their estates, their creditors, and other parties in interest, and should be approved.

N. Sound Business Purpose. The Debtors have demonstrated compelling circumstances and a good, sufficient, and sound business purpose and justification for the Sale of the Purchased Assets outside the ordinary course of business under section 363(b) of the Bankruptcy Code, whether before and outside of a chapter 11 plan or otherwise. Given all of the circumstances of these Chapter 11 Cases, such action is an appropriate exercise of the Debtors' business judgment and in the best interests of the Debtors, their estates, their creditors, and other parties in interest.

O. Good Faith. The Purchaser is purchasing the Purchased Assets in good faith and is a good faith purchaser within the meaning of section 363(m) of the Bankruptcy Code. Neither the Purchaser nor any of its Affiliates, officers, directors, members, partners, principals, or shareholders (or equivalent) or any of their respective representatives, successors, or assigns is an "insider" (as defined under section 101(31) of the Bankruptcy Code) of any Debtor, and, therefore, each such person is entitled to the full protections of section 363(m), and otherwise has proceeded in good faith in all respects in connection with these Chapter 11 Cases in that: (1) the Purchaser recognized that the Debtors were free to deal with any other party interested in acquiring the Purchased Assets; (2) the Purchaser complied with the provisions of the Bid Procedures Order; (3) the Purchaser's bid was subject to the competitive bid procedures set forth in the Bid Procedures Order; (4) all payments to be made by the Purchaser and other agreements or arrangements entered into by the Purchaser in connection with the Sale have been disclosed; (5) the Purchaser has not violated section 363(n) of the Bankruptcy Code by any action or inaction; and (6) the negotiation and execution of the Asset Purchase Agreement, including the Sale contemplated thereby, were at arms'-length and in good faith. There was no evidence of insider influence or improper conduct by the Purchaser or any of its Affiliates in connection with the negotiation of the Asset Purchase Agreement with the Debtors.

P. No Collusion. The Asset Purchase Agreement and the transactions contemplated thereby cannot be avoided under section 363(n) of the Bankruptcy Code. None of the Debtors, the Purchaser, or any of their respective Affiliates, officers, directors, members, partners, principals, or shareholders (or equivalent) or any of their respective representatives, attorneys, successors, or assigns have engaged in any conduct that would cause or permit the Asset Purchase Agreement or the consummation of the transactions contemplated thereby to be avoided, or costs or damages to be imposed, under section 363(n) of the Bankruptcy Code.

Q. Fair Consideration. The consideration provided by the Purchaser pursuant to the Asset Purchase Agreement: (1) is fair and adequate and (2) constitutes reasonably equivalent value, fair consideration and fair value under the Bankruptcy Code and under the laws of the United States, any state, territory, possession, or the District of Columbia (including the Uniform Voidable Transactions Act, the Uniform Fraudulent Transfer Act, the Uniform Fraudulent Conveyance Act and similar laws).

R. Purchaser Not a Successor. By consummating the Sale pursuant to the Asset Purchase Agreement (including operating the Purchased Assets under the Debtors' trade names), the Purchaser is not a mere continuation of any Debtor or any Debtor's estate, and there is no continuity, no common identity, and no continuity of enterprise between the Purchaser and any Debtor. The Purchaser shall not be deemed to be holding itself out as a continuation of the Debtors based on the Sale, the APA or this Sale Order. The Purchaser is not a successor to any Debtor or any Debtor's estate by reason of any theory of law or equity, and the Sale does not amount to a consolidation, merger, or *de facto* merger of the Purchaser and the Debtors. Neither the Purchaser nor any of its Affiliates and their respective successors, assigns, members, partners, principals, and shareholders (or equivalent) shall assume or in any way be responsible for any obligation or liability of any Debtor (or any Affiliates thereof) or any Debtor's estate, except to the extent expressly provided in the Asset Purchase Agreement. For the avoidance of doubt, and without limiting the foregoing, notwithstanding any provision of the Debtors' letter agreement with Raymond James & Associates, Inc. ("Raymond James") (attached as Exhibit 1 to the Debtors'

application to retain Raymond James as investment banker [Docket No. 108], the “RJ Engagement Letter”), including the definition of the term “Company” used therein, Purchaser shall not succeed to, assume or be responsible for any liability or obligation of any Debtor to Raymond James under the terms of the RJ Engagement Letter.

S. No Sub Rosa Plan. The Sale neither impermissibly restructures the rights of the Debtors’ creditors nor impermissibly dictates the terms of a chapter 11 plan of the Debtors. The Sale does not constitute a *sub rosa* or *de facto* plan of reorganization or liquidation.

T. Power and Authority. The Debtors and the Purchaser, each acting by and through their existing agents, representatives, and officers, have full corporate power and authority to execute and deliver the Asset Purchase Agreement and all other documents contemplated thereby. Upon entry of this Sale Order, the Debtors require no further consents or approvals to consummate the Sale contemplated by the Asset Purchase Agreement, except as otherwise set forth in the Asset Purchase Agreement.

U. Binding Agreement. The Asset Purchase Agreement is a valid and binding contract between the Sellers and the Purchaser and shall be enforceable pursuant to its terms. The Asset Purchase Agreement was not entered into for the purpose of hindering, delaying or defrauding creditors under the Bankruptcy Code or under laws of the United States, any state, territory, possession or the District of Columbia. The Asset Purchase Agreement and the Sale itself, and the consummation thereof, shall be, to the extent provided in the Asset Purchase Agreement, specifically enforceable against and binding upon (without posting any bond) the Debtors and any chapter 7 or chapter 11 trustee appointed with respect to any of the Debtors, and shall not be subject to rejection or avoidance by the foregoing parties or any other person. The terms and provisions of the Asset Purchase Agreement and this Order shall be binding in all respects upon, and shall inure to the benefit of, the Debtors, their estates, and their creditors (whether known or unknown), the Purchaser, and each of their respective affiliates, successors, and assigns, and any affected third parties, including, without limitation, all Persons asserting Encumbrances (collectively, the “Bound Parties”), notwithstanding any subsequent appointment

of any trustee, examiner, or receiver under the Bankruptcy Code or any other law, and all such provisions and terms shall likewise be binding on such trustee, examiner, receiver, party, entity, or other fiduciary under the Bankruptcy Code or any other law with respect to any of the Bound Parties, and all such terms shall likewise be binding on such trustee, examiner, receiver, party, entity, or other fiduciary, and shall not be subject to rejection or avoidance by the Debtors, their estates, their creditors or any trustee, examiner, receiver, party, entity, or other fiduciary. The provisions of this Order and the terms and provisions of the Asset Purchase Agreement, shall survive the entry of any order that may be entered confirming or consummating any chapter 11 plan of the Debtors, dismissing these chapter 11 cases, or converting these chapter 11 cases to cases under chapter 7. The rights and interests granted pursuant to this Order and Asset Purchase Agreement shall continue in these or any superseding cases and shall be binding upon the Bound Parties and their respective successors and permitted assigns including, without limitation, any trustee, party, entity, or other fiduciary hereafter appointed as a legal representative of the Debtors under chapter 7 or chapter 11 of the Bankruptcy Code. Any trustee appointed for the Debtors under any provision of the Bankruptcy Code, whether the Debtors are proceeding under chapter 7 or chapter 11 of the Bankruptcy Code, shall be authorized and directed to perform under the Asset Purchase Agreement and this Order without the need for further order of the Court.

V. Valid Transfer. The transfer of each of the Purchased Assets to the Purchaser pursuant to the Asset Purchase Agreement will be a legal, valid, and effective transfer of such Purchased Assets, and vests or will vest the Purchaser with all right, title, and interest of the Sellers to the Purchased Assets free and clear of all Adverse Interests (as defined below) (except to the extent set forth in the Asset Purchase Agreement) accruing, arising or relating thereto any time prior to the Closing Date, unless otherwise expressly assumed under, or expressly permitted by, the Asset Purchase Agreement.

W. Free and Clear Sale. Each Seller may sell the Purchased Assets free and clear of all Adverse Interests against such Seller, its estate, or any of the Purchased Assets (except to the extent set forth in the Asset Purchase Agreement) because, in each case, one or more of the

standards set forth in section 363(f)(1)–(5) of the Bankruptcy Code has been satisfied. If the Sale were not free and clear of all Adverse Interests, or if the Purchaser would, or in the future could, be liable for any of the Adverse Interests (except to the extent set forth in the Asset Purchase Agreement), the Purchaser would not have entered into the Asset Purchase Agreement and would not consummate the Sale, thus adversely affecting the Debtors and their estates and creditors. The total consideration to be provided under the Asset Purchase Agreement reflects the Purchaser’s reliance on this Sale Order to provide it, pursuant to sections 105(a) and 363(f) of the Bankruptcy Code, with title to and possession of the Purchased Assets free and clear of all Adverse Interests (except to the extent set forth in the Asset Purchase Agreement).

X. Assigned Contracts. The Sellers seek authority to assume, assign and sell to the Purchaser the Assigned Contracts, and any other executory contracts or unexpired leases related to the Purchased Assets that are to be assumed, assigned and sold to the Purchaser as more particularly set forth in the Asset Purchase Agreement (collectively, the “Assigned Contracts”). The Debtors have demonstrated that assumption, assignment and sale of the Assigned Contracts under the Asset Purchase Agreement is an exercise of its sound business judgment and is in the best interests of the Debtors, their estates and creditors, and other parties in interest. The Assigned Contracts to be assumed, assigned and sold to the Purchaser under the Asset Purchase Agreement are an integral part of the Asset Purchase Agreement and the Sale and, accordingly, such assumption, assignment and sale are reasonable and enhance the value of the Debtors’ estates. Subject to Paragraphs 4.19 and 4.20 hereof, any contract counterparty to any Assigned Contract that has not actually filed with the Court an objection to such assumption, assignment and/or sale as of the applicable deadline specified in the Bid Procedures Order (as such date may have been modified or extended in accordance with the terms of the Bid Procedures Order or with the consent of the Debtors and the Purchaser) is deemed to have consented to such assumption, assignment and sale.

Y. Designation Rights. Pursuant to Section 1.5 of the Asset Purchase Agreement, the Purchaser shall maintain certain rights to modify the list of Assigned Contracts

after the date of this Sale Order and up to the applicable Designation Deadline as set forth in such section. Such modification rights include, but are not limited to, the right of the Purchaser, prior to the applicable Designation Deadline, to designate certain Designation Rights Assets for assumption by the Debtors and assignment and sale to the Purchaser, as well as for rejection by the Debtors. The notice and opportunity to object provided to the contract counterparties to such Assigned Contracts and to other parties in interest, as set forth in the Bid Procedures Order and Asset Purchase Agreement, fairly and reasonably protects any rights that such contract counterparties and other parties in interest may have with respect to such Contracts.

Z. Cure Notice. The Sellers filed the *Notice of Cure amounts and Potential Assumption and Assignment of Certain Executory Contracts and/or Unexpired Leases in Connection with Sale* [Docket No. 437] (the “Cure Notice”) pursuant to which the Sellers identified the dollar amount, if any, that the Sellers assert is necessary to be paid to cure all defaults, if any, under their executory contracts and unexpired leases based on the Sellers’ books and records (the “Seller Asserted Cure Amount”) and served the Cure Notice on the non-Debtor counterparties to the executory contracts and unexpired leases listed thereon [Docket Nos. 452, 463, and 482] in accordance with the Bid Procedures Order. Except to the extent the Debtors agreed to an extension, pursuant to the Bid Procedures Order and the Cure Notice, contract counterparties to the Sellers’ executory contracts and unexpired leases were required to file objections (each, a “Cure Objection”), if any, to the Seller Asserted Cure Amount by no later than June 19, 2020. The Cure Notice and the Bid Procedures Order provided that in the absence of a timely filed Cure Objection, the cure costs set forth in the Cure Notice (each, a “Cure Cost” and, collectively, the “Cure Costs”) relating to the period prior to the objection deadline would be controlling and fixed, notwithstanding anything to the contrary in any Assigned Contract, or any other document, and the contract counterparty to any Assigned Contract shall be deemed to have consented to the Cure Costs set forth in the Cure Notice.

AA. Adequate Assurance of Future Performance. In accordance with the Bid Procedures Order, upon request by any contract counterparty to the Debtors, the Debtors sent such

counterparty evidence that the Purchaser has the ability to perform under the executory contract or unexpired lease and otherwise complies with the requirements of adequate assurance of future performance under section 365(b)(1) of the Bankruptcy Code. Pursuant to the Bid Procedures Order, contract counterparties to Assigned Contracts whose executory contracts and unexpired leases were listed on the Cure Notice were required to file any objections to the Purchaser's ability to provide adequate assurance of future performance as contemplated under sections 365(b)(1)(C), 365(b)(3) (to the extent applicable) and 365(f)(2)(B) of the Bankruptcy Code (the "Adequate Assurance Objections"), by no later than July 2, 2020 at 5:00 p.m. (ET). Such contract counterparties to Assigned Contracts that failed to file an Adequate Assurance Objection are forever barred from objecting to the assumption, assignment and sale of such Assigned Contract on the grounds of a failure to provide adequate assurance of future performance. Pursuant to the section 1.5(c) of the Asset Purchase Agreement, the Debtors shall provide not less than five (5) Business Days' notice to any contract counterparty to any contract that shall be designated an Assigned Contract under the Asset Purchase Agreement, except as otherwise agreed by the Debtors, the Purchaser, and such applicable contract counterparty. Based on evidence adduced at the hearing and based on the record in these Chapter 11 Cases, to the extent necessary, the Sellers have satisfied the requirements of section 365 of the Bankruptcy Code, including sections 365(b)(1), 365(b)(3) (to the extent applicable) and 365(f)(2) of the Bankruptcy Code, in connection with the assumption, assignment and sale of the Assigned Contracts to the extent provided under the Asset Purchase Agreement and: (1) conditioned on the assumption, assignment and sale of the applicable Assigned Contract, the Purchaser will cure, in accordance with the terms set forth in this Sale Order and the Asset Purchase Agreement, any default existing prior to the date of the assumption and assignment of such Assumed Contract, within the meaning of section 365(b)(1)(A) of the Bankruptcy Code, (2) conditioned on the assumption, assignment and sale of the applicable Assigned Contract, the Purchaser has provided or will provide compensation or adequate assurance of compensation to any party for any actual pecuniary loss to such party resulting from a default prior to the date of assumption, assignment and sale of such Assigned Contract, within the meaning

of section 365(b)(1)(B) of the Bankruptcy Code, and (3) Purchaser has provided adequate assurance of future performance of and under the Assigned Contracts, within the meaning of sections 365(b)(1)(C), 365(b)(3) (to the extent applicable) and 365(f)(2) of the Bankruptcy Code based on the evidence adduced at the Sale Hearing.

BB. DIP Repayment. On May 18, 2020, the Court entered the *Final Order (I) Authorizing the Debtors to Obtain Post-Petition Secured Financing Pursuant to Section 364 of the Bankruptcy Code; (II) Authorizing the Debtors to Use Cash Collateral; (III) Granting Liens and Superpriority Administrative Expense Claims; (IV) Granting Adequate Protection to the Prepetition Term Loan Lenders; (V) Modifying the Automatic Stay; and (VI) Granting Related Relief*[Docket No. 378] (the “DIP Order”). Sound business justifications exist for the Purchaser’s delivery to the DIP Agent (as defined in the DIP Order) at the Closing, by wire transfer of immediately available funds of the Purchaser, an amount equal to the Obligations (as defined in the DIP Credit Agreement) (the “DIP Repayment Amount”) in accordance with the DIP Credit Agreement and the DIP Order. Delivery of the DIP Repayment Amount shall satisfy the requirements set forth in the DIP Order.

CC. Carve Out. Sound business justifications also exist for the establishment and funding of an escrow maintained by the Sellers and funded in the Carve-Out Reserve Amount (as defined in the DIP Order) in accordance with the DIP Credit Agreement and the DIP Order (including section 2.3.3 thereof).

DD. Wind Down. The Excluded Cash and the Wind-Down Budget will avoid a freefall shutdown of the Debtors’ remaining estates, provide for, among other things and in accordance with the Asset Purchase Agreement, the payment of payroll and related expenses, certain professional and U.S. trustee fees, and other wind down expenses incurred after the Closing Date, and funding to implement and orderly and responsible wind-down of the Debtors’ estates. The Debtors shall deliver any Surplus Cash to Purchaser promptly following the date any such Cash and Cash Equivalents becomes Surplus Cash pursuant to the Asset Purchase Agreement.

EE. Single, Integrated Transaction. Entry of this Sale Order approving the Asset Purchase Agreement and all provisions of this Sale Order and the Asset Purchase Agreement are a necessary condition precedent to the Purchaser consummating the Sale. The provisions of this Sale Order and the Asset Purchase Agreement and the transactions contemplated by this Sale Order and the Asset Purchase Agreement and Sale to the Purchaser are inextricably linked and technically and collectively constitute a single, integrated transaction.

FF. Consummation is Legal, Valid and Authorized. The consummation of the Sale is legal, valid, and properly authorized under all applicable provisions of the Bankruptcy Code, including sections 105(a), 363(b), 363(f), 363(m), 365(b), and 365(f) of the Bankruptcy Code and all of the applicable requirements of such sections have been complied with.

GG. Protection of Consumer Privacy. As contemplated in the Asset Purchase Agreement, and subject to the terms of this Sale Order, the sale to the Purchaser under the Asset Purchase Agreement of any personally identifiable information (as such term is defined in section 101(41A) of the Bankruptcy Code) satisfies the requirements of section 363(b)(1)(A) of the Bankruptcy Code.

HH. Legal and Factual Bases. The legal and factual bases set forth in the Motion and at the Sale Hearing establish just cause for the relief granted herein.

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

Section 1. Approval of the Motion

1.1 The relief requested in the Motion is granted as set forth herein.

1.2 Any and all objections and responses to the Motion, the entry of this Sale Order or the relief granted herein (other than cure claim objections that are set forth in the objections identified in Exhibit C hereto) that have not been withdrawn, waived, settled, or resolved, and all reservations of rights included therein, are hereby overruled and denied on the merits. Notwithstanding anything in this Sale Order to the contrary, all cure claim or adequate assurance objections to the objections that are identified in Exhibit C are reserved. All persons

and entities notified or deemed notified of the relief sought in the Motion and set forth in this Sale Order that failed to timely object thereto are deemed to consent to such relief.

1.3 Notice of the Motion, the Bid Procedures Order, the Bid Procedures Hearing, the Sale Hearing, and the Sale was fair and equitable under the circumstances and complied in all respects with section 102(1) of the Bankruptcy Code and Bankruptcy Rules 2002, 6004, and 6006.

1.4 The Court's findings of fact and conclusions of law in the Bid Procedures Order, including the record of the Bid Procedures Hearing, are incorporated herein by reference. No appeal, motion to reconsider, or similar pleading has been filed with respect to the Bid Procedures Order, and the Bid Procedures Order is a final order of the Court, has not been vacated, withdrawn, rescinded, or amended and remains in full force and effect.

Section 2. **Approval of the Sale of the Purchased Assets**

2.1 The Asset Purchase Agreement and all other ancillary documents, and all of the terms and conditions thereof, and the Sale and related transactions contemplated thereby, are hereby approved in all respects, except as otherwise expressly set forth herein.

2.2 Pursuant to sections 363 and 365 of the Bankruptcy Code, entry by the Debtors into the Asset Purchase Agreement is hereby authorized and approved as a valid exercise of the Debtors' business judgment. Pursuant to sections 105, 363 and 365 of the Bankruptcy Code, the Debtors are authorized to continue performance under and make all payments required by the Asset Purchase Agreement and all other ancillary documents as and when due thereunder without further order of this Court. Pursuant to section 363(b) of the Bankruptcy Code, the Debtors, acting by and through their existing agents, representatives and officers, are authorized, without further order of this Court, to take any and all actions necessary or appropriate to: (a) consummate and close the Sale pursuant to and in accordance with the terms and conditions of the Asset Purchase Agreement; (b) transfer and assign all right, title, and interest to all assets, property, licenses, and rights to be conveyed in accordance with the terms and conditions of the Asset Purchase Agreement; and (c) execute and deliver, perform under, consummate, and implement the Asset

Purchase Agreement and all additional instruments and documents that may be reasonably necessary or desirable to implement the Asset Purchase Agreement and the Sale, including any other ancillary documents, deeds, assignments, stock powers, transfers of membership interests and other instruments of transfer, or as may be reasonably necessary or appropriate to the performance of the obligations as contemplated by the Asset Purchase Agreement and such other ancillary documents. Neither the Purchaser nor the Sellers shall have any obligation to proceed with the Closing under the Asset Purchase Agreement until all conditions precedent to its obligations to do so have been met, satisfied, or waived in accordance with the terms of the Asset Purchase Agreement.

2.3 The Debtors are authorized to cause to be filed with the secretary of state of any state or other applicable officials of any applicable Governmental Units (as defined in section 101(27) of the Bankruptcy Code), any and all certificates, agreements, or amendments necessary or appropriate to effectuate the transactions contemplated by the Asset Purchase Agreement, any related agreements and this Sale Order, including amended and restated certificates or articles of incorporation and by-laws or certificates or articles of amendment, and all such other actions, filings, or recordings as may be required under appropriate provisions of the applicable laws of all applicable Governmental Units or as any of the officers of the Debtors may determine are necessary or appropriate. The execution of any such document or the taking of any such action shall be, and hereby is, deemed conclusive evidence of the authority of such person to so act.

2.4 This Sale Order shall be binding in all respects upon the Debtors, their estates, all creditors, all holders of equity interests in the Debtors, all holders of any Adverse Interests against any Debtor, any holders of Adverse Interests against or on all or any portion of the Purchased Assets, all counterparties to any executory contract or unexpired lease of the Debtors, the Purchaser, any trustees, examiners, or other fiduciary under any section of the Bankruptcy Code, if any, subsequently appointed in any of the Debtors' Chapter 11 Cases or upon a conversion to chapter 7 of the Bankruptcy Code of any of the Debtors' cases, and any filing agents, filing officers, title agents, recording agencies, secretaries of state, and other persons and

entities who may be required by operation of law, the duties of their office or contract, to accept, file, register, or otherwise record or release any documents or instruments or who may be required to report or insure any title in or to the Purchased Assets. The terms and provisions of the Asset Purchase Agreement and this Sale Order shall inure to the benefit of the Debtors, their estates and their creditors, the Purchaser and its Affiliates, and any other affected third parties, including all persons asserting any Adverse Interests in the Purchased Assets to be sold pursuant to the Asset Purchase Agreement, notwithstanding any subsequent appointment of any trustee(s), party, entity, or other fiduciary under any section of any chapter of the Bankruptcy Code, as to which trustee(s), party, entity, or other fiduciary such terms and provisions likewise shall be binding. Nothing contained in any chapter 11 plan confirmed in any of these Chapter 11 Cases, any order confirming any such chapter 11 plan or any order approving the wind-down or dismissal of any of these Chapter 11 Cases or any subsequent chapter 7 cases (including any discharge of claims thereunder) or otherwise shall alter, conflict with or derogate from the provisions of this Sale Order or the Asset Purchase Agreement, and to the extent of any conflict or derogation between this Sale Order or the Asset Purchase Agreement and such future plan or order, the terms of this Sale Order and the Asset Purchase Agreement shall control. This Sale Order shall survive any dismissal or conversion of any of these Chapter 11 Cases or any dismissal of any subsequent chapter 7 cases.

Section 3. **Sale and Transfer of Assets**

3.1 Pursuant to sections 105(a), 363(b), 363(f), 365(b) and 365(f) of the Bankruptcy Code, upon the Closing Date and thereafter pursuant to the Asset Purchase Agreement, and pursuant to and except to the extent otherwise set forth in the Asset Purchase Agreement, the Purchased Assets shall be transferred free and clear of all encumbrances, claims, interests, and liens, including the Excluded Liabilities, (other than to the extent set forth in the Asset Purchase Agreement, including, solely to the extent set forth in the Asset Purchase Agreement, with respect to Assumed Liabilities, Permitted Encumbrances and the Purchaser's obligations with respect to Designation Rights Assets, Selected Employees and Transferred Employees) (collectively, the "Adverse Interests"), with all such Adverse Interests to attach to the proceeds of the Sale in the

order of their priority, with the same validity, force, and effect that they now have as against the Purchased Assets, subject to any claims and defenses the Debtors may possess with respect thereto. Those holders of Adverse Interests who did not object (or who ultimately withdrew their objections, if any) to the Sale are deemed to have consented to the Sale being free and clear of their Adverse Interests pursuant to section 363(f)(2) of the Bankruptcy Code. Those holders of Adverse Interests who did object could be compelled in a legal or equitable proceeding to accept money satisfaction of such Adverse Interests pursuant to section 363(f)(5) of the Bankruptcy Code, or fall within one or more of the other subsections of section 363(f) of the Bankruptcy Code and are therefore adequately protected by having their Adverse Interests that constitute interests in the Purchased Assets, if any, attach solely to the proceeds of the Sale ultimately attributable to the property in which they have an interest, in the same order of priority and with the same validity, force and effect that such holders had prior to the Sale, subject to any defenses of the Debtors.

3.2 The sale of the Avoidance Actions pursuant to the Asset Purchase Agreement is hereby approved. To the extent any Avoidance Action is not assignable to the Purchaser or any of its Affiliates, the Debtors, and any chapter 11 or chapter 7 trustee (or any other designee) of any of the Debtors and their estates, shall be prohibited from bringing any such Avoidance Actions.

3.3 Conditioned upon the occurrence of the Closing Date, this Sale Order shall be construed and shall constitute for any and all purposes a full and complete general assignment, conveyance, and transfer of all of the Purchased Assets or a bill of sale transferring all of the Debtors' right, title, and interest in such Purchased Assets to the Purchaser pursuant to the terms and allocations set forth in the Asset Purchase Agreement. For the avoidance of doubt, the Excluded Assets set forth in the Asset Purchase Agreement are not included in the Purchased

Assets, and the Excluded Liabilities set forth in the Asset Purchase Agreement are not Assumed Liabilities.

3.4 All persons are prohibited from taking any action to adversely affect or interfere with the ability of the Debtors to transfer the Purchased Assets to the Purchaser in accordance with the Asset Purchase Agreement and this Sale Order.

3.5 Subject to the terms and conditions of this Sale Order, the transfer of the Purchased Assets to the Purchaser pursuant to the Asset Purchase Agreement and the consummation of the Sale and any related actions contemplated thereby do not require any consents other than as specifically provided for in the Asset Purchase Agreement, constitute a legal, valid, and effective transfer of all of the Debtors' right, title, and interest in the Purchased Assets, notwithstanding any requirement for approval or consent by any person, and shall vest the Purchaser with the right, title, and interest of the Sellers in and to the Purchased Assets as set forth in the Asset Purchase Agreement, as applicable, free and clear of all Adverse Interests of any kind or nature whatsoever (except to the extent set forth in the Asset Purchase Agreement).

3.6 To the maximum extent permitted under applicable law, the Purchaser or its Affiliates, to the extent provided by the Asset Purchase Agreement, shall be authorized, as of the Closing Date, to operate under any license, permit, registration, and governmental authorization or approval of the Sellers constituting Purchased Assets, and all such licenses, permits, registrations, and governmental authorizations and approvals are deemed to have been, and hereby are directed to be, transferred to the Purchaser or its Affiliates as of the Closing Date as provided by the Asset Purchase Agreement. To the extent provided by section 525 of the Bankruptcy Code, no Governmental Unit may revoke or suspend any grant, permit, or license relating to the operation of the Purchased Assets sold, transferred, assigned, or conveyed to the Purchaser or its Affiliates on account of the filing or pendency of these Chapter 11 Cases or the consummation of the Sale. Each and every federal, state, and local governmental agency or department is hereby authorized and directed to accept any and all documents and instruments necessary and appropriate to consummate the Sale set forth in the Asset Purchase Agreement. This

Sale 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.

3.7 All entities that are presently, or on the Closing Date may be, in possession of some or all of the Purchased Assets to be sold, transferred, or conveyed (wherever located) to the Purchaser pursuant to the Asset Purchase Agreement are hereby directed to surrender possession of the Purchased Assets to the Purchaser on the Closing Date.

3.8 Effective upon the Closing Date and except to the extent included in Assumed Liabilities or Permitted Encumbrances or as otherwise expressly provided in the Asset Purchase Agreement, all entities, including all lenders, debt security holders, equity security holders, governmental, tax, and regulatory authorities, parties to executory contracts and unexpired leases, contract counterparties, customers, licensors, litigation claimants, employees and former employees, dealers and sale representatives, and trade or other creditors holding Adverse Interests against the Debtors or the Purchased Assets, legal or equitable, matured or unmatured, contingent or noncontingent, liquidated or unliquidated, asserted or unasserted, whether arising prior to or subsequent to the commencement of these Chapter 11 Cases, whether imposed by agreement, understanding, law, equity, or otherwise), arising under or out of, in connection with, or in any way relating to, the Purchased Assets or the transfer of the Purchased Assets, hereby are forever barred and estopped from asserting any Adverse Interests relating to the Purchased Assets or the transfer of the Purchased Assets against the Purchaser and its Affiliates, assets, or property, or the Purchased Assets transferred to the Purchaser, including, without limitation, taking any of the following actions with respect to or based on any Adverse Interest relating to the Purchased Assets or the transfer of the Purchased Assets (other than to the extent set forth in the Asset Purchase Agreement): (a) commencing or continuing in any manner any action or other proceeding against the Purchaser, its Affiliates, assets or properties; (b) enforcing, attaching, collecting or recovering in any manner any judgment, award, decree, or order against the Purchaser, its Affiliates, assets, or properties; (c) creating, perfecting, or enforcing any Adverse Interest against the Purchaser or its Affiliates, assets or properties; (d) asserting an Adverse Interest as a setoff (except for setoffs

asserted prior to the Petition Date), or right of subrogation of any kind against any obligation due the Purchaser or Affiliates; (e) commencing or continuing any action in any manner or place that does not comply, or is inconsistent, with the provisions of this Sale Order or the agreements or actions contemplated or taken in respect thereof; or (f) interfering with, preventing, restricting, prohibiting or otherwise enjoining the consummation of the Sale. No such persons shall assert or pursue against the Purchaser or its Affiliates, assets, or property any such Adverse Interest directly or indirectly, in any manner whatsoever.

3.9 The Purchaser and its Affiliates and their respective successors, assigns, members, partners, principals and shareholders (or equivalent) are not and shall not be (a) deemed a “successor” in any respect to the Debtors or their estates as a result of the consummation of the transactions contemplated by the Asset Purchase Agreement or any other event occurring in the Debtors’ Chapter 11 Cases under any theory of law or equity, (b) deemed to have, *de facto* or otherwise, merged or consolidated with or into the Debtors or their estates, (c) deemed to have a common identity with the Debtors, (d) deemed to have a continuity of enterprise with the Debtors, or (e) deemed to be a continuation or substantial continuation of the Debtors or any enterprise of the Debtors. The Purchaser shall not assume, nor be deemed to assume, or in any way be responsible for any liability or obligation of any of the Debtors and/or their estates including, but not limited to, any bulk sales law, successor liability, liability or responsibility for any claim against the Debtors or against an insider of the Debtors, or similar liability except to the extent otherwise expressly provided in the Asset Purchase Agreement, including, solely to the extent set forth in the Asset Purchase Agreement, with respect to Assumed Liabilities, Permitted Encumbrances and the Purchaser’s obligations with respect to Designation Rights Assets. Except to the extent otherwise set forth in the Asset Purchase Agreement, including, solely to the extent set forth in the Asset Purchase Agreement, with respect to Assumed Liabilities, Permitted Encumbrances and the Purchaser’s obligations with respect to Designation Rights Assets, the transfer of the Purchased Assets and the Assumed Contracts to the Purchaser under the Asset Purchase Agreement shall not result in (i) the Purchaser and its Affiliates and their respective

successors, assigns, members, partners, principals and shareholders (or equivalent), or the Purchased Assets, having any liability or responsibility for any claim against the Debtors or against an insider of the Debtors, (ii) the Purchaser and its Affiliates and their respective successors, assigns, members, partners, principals and shareholders (or equivalent), or the Purchased Assets, having any liability whatsoever with respect to or be required to satisfy in any manner, whether at law or in equity, whether by payment, setoff (except for setoffs asserted prior to the Petition Date) or otherwise, directly or indirectly, any Adverse Interests or Excluded Liability or (iii) the Purchaser and its Affiliates and their respective successors, assigns, members, partners, principals and shareholders (or equivalent), or the Purchased Assets, having any liability or responsibility to the Debtors, in each case except to the extent expressly set forth in the Asset Purchase Agreement.

3.10 Without limiting the effect or scope of the foregoing, except to the extent expressly provided in the Asset Purchase Agreement, as of the Closing Date, the Purchaser and its Affiliates and their respective successors, assigns, members, partners, principals and shareholders (or equivalent) shall have no successor or vicarious liabilities of any kind or character with respect to the applicable Purchased Assets, including, but not limited to: (a) any employment or labor agreements or the termination thereof; (b) any pension, welfare, compensation or other employee benefit plans, agreements, practices and programs, including, without limitation, any pension plan of or related to any of the Debtors or any of the Debtors' Affiliates or predecessors or any current or former employees of any of the foregoing, or the termination of any of the foregoing; (c) the Debtors' business operations or the cessation thereof; (d) any litigation involving one or more of the Debtors; (e) any claims of any former employees of the Debtors; (f) any employee, workers' compensation, occupational disease or unemployment or temporary disability related law; and (g) any claims that might otherwise arise under or pursuant to (i) the Employee Retirement Income Security Act of 1974, as amended; (ii) the Fair Labor Standards Act; (iii) Title VII of the Civil Rights Act of 1964; (iv) the Federal Rehabilitation Act of 1973; (v) the National Labor Relations Act; (vi) the Worker Adjustment and Retraining Notification Act of 1988; (vii) the Age Discrimination in Employee Act of 1967, as amended; (viii) the Americans with Disabilities Act

of 1990; (ix) the Consolidated Omnibus Budget Reconciliation Act of 1985; (x) the Multiemployer Pension Plan Amendments Act of 1980; (xi) state and local discrimination laws; (xii) state and local unemployment compensation laws or any other similar state and local laws; (xiii) state workers' compensation laws; (xiv) any other state, local or federal employee benefit laws, regulations or rules or other state, local or federal laws, regulations or rules relating to, wages, benefits, employment or termination of employment with any or all Debtors or any predecessors; (xv) any antitrust laws; (xvi) any product liability or similar laws, whether state or federal or otherwise; (xvii) any environmental laws, rules, or regulations, including, without limitation, under the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. §§ 9601, *et seq.*, or similar state statutes; (xviii) any bulk sales or similar laws; (xix) any federal, state or local tax statutes, regulations or ordinances, including, without limitation, the Internal Revenue Code of 1986, as amended; and (xx) any common law doctrine of *de facto* merger or successor or transferee liability, successor-in-interest liability theory or any other theory of or related to successor liability, now existing or hereafter arising, whether asserted or unasserted, fixed or contingent, liquidated or unliquidated with respect to the Debtors or any obligations of the Debtors 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 Purchased Assets, the Asset Purchase Agreement or the Assumed Contracts except to the extent otherwise set forth in this Sale Order.

3.11 Except as expressly set forth in the Asset Purchase Agreement, including with respect to Assumed Liabilities, Permitted Encumbrances and the Purchaser's obligations with respect to Designation Rights Assets, Selected Employees and Transferred Employees, it is expressly ordered and directed that the Sale of the Purchased Assets is free and clear of any and all unemployment compensation taxes and any related contribution and reimbursement obligations of the Debtors, and all state tax and labor agencies shall treat the Purchaser as a "new employer" in all respects and for any applicable tax rates and contribution and reimbursement obligations and "experience rates" as of and after the Closing Date (and each state unemployment compensation

law agency or department shall be prohibited from treating the Purchaser as a successor of the Debtors for any contribution rates, benefit charges, benefit rates, experience rates or similar charges or taxes).

3.12 Subject to the Asset Purchase Agreement, the Purchaser is hereby authorized in connection with the consummation of the Sale to transfer or direct the transfer of any or all of the Purchased Assets and the Assumed Contracts (or any rights to acquire the Purchased Assets and the Assumed Contracts) to its direct and indirect subsidiaries in a manner as it, in its sole and absolute discretion, deems appropriate and to assign, sublease, sublicense, transfer or otherwise dispose of any of the Purchased Assets or the rights under any Assumed Contract to its direct and indirect subsidiaries with all of the rights and protections accorded under this Sale Order and the Asset Purchase Agreement, and the Debtors shall cooperate with and take all actions reasonably requested by the Purchaser to effectuate any of the foregoing.

Section 4. **Assumption and Assignment**

4.1 Pursuant to sections 105(a), 363, and 365 of the Bankruptcy Code, and subject to and conditioned upon the occurrence of the Closing Date, and subject to Paragraphs 4.7, 4.19 and 4.20 hereof, the Sellers' assumption, assignment and sale to the Purchaser, and the Purchaser's assumption on the terms set forth in the Asset Purchase Agreement of the Assigned Contracts is hereby approved in its entirety, and the requirements of section 365 of the Bankruptcy Code with respect thereto are hereby deemed satisfied. Subject to Paragraphs 4.7, 4.19 and 4.20 hereof, the Debtors are hereby authorized in accordance with sections 105(a), 363, and 365 of the Bankruptcy Code to assume, assign and sell to the Purchaser, effective upon the Closing Date of the Sale of the Purchased Assets or thereafter pursuant to the Asset Purchase Agreement, the Assigned Contracts free and clear of all Adverse Interests of any kind or nature whatsoever (except to the extent set forth in the Asset Purchase Agreement) and execute and deliver to the Purchaser such documents or other instruments as may be necessary to assign and transfer the Assigned Contracts to the Purchaser.

4.2 Upon the date that each Assigned Contract is assumed, assigned and sold, in accordance with sections 363 and 365 of the Bankruptcy Code, the Purchaser shall be fully and irrevocably vested in all right, title, and interest of each Assigned Contract. The Debtors shall cooperate with, and take all actions reasonably requested by, the Purchaser to effectuate the foregoing, as further provided in the Asset Purchase Agreement. The Purchaser shall likewise cooperate with the Debtors and otherwise comply with the terms and conditions in relation to any Designation Rights Asset under the Asset Purchase Agreement.

4.3 The Assigned Contracts (including, for the avoidance of doubt, any non-disclosure agreement entered into by any of the Sellers following the Petition Date that constitutes an Assigned Contract) shall be transferred to, and remain in full force and effect for the benefit of the Purchaser in accordance with their respective terms, notwithstanding any provision in any such Assigned Contract that is assumed, assigned and sold to the Purchaser pursuant to the Asset Purchase Agreement (including those of the type described in sections 365(b)(2) and (f) of the Bankruptcy Code) that prohibits, restricts, or conditions such assignment or transfer, or requires any counterparty to consent to assignment.

4.4 Subject to Paragraphs 4.7, 4.19 and 4.20 hereof, the Purchaser has provided adequate assurance of future performance for the Assigned Contracts within the meaning of sections 365(b)(1)(C), 365(b)(3) (to the extent applicable) and 365(f)(2)(B) of the Bankruptcy Code.

4.5 **Exhibit B** attached hereto lists executory contracts and unexpired leases for which either (a) no Cure Objections were timely filed with the Court or (b) informal responses were received by the Debtors and resolved by mutual written agreement between the Purchaser, the Debtors, and the applicable contract counterparty. The Cure Costs for the contracts listed on **Exhibit B** are hereby fixed at the amounts set forth in the Cure Notice or as otherwise agreed in writing by the Purchaser, the Debtors, and the applicable contract counterparty, and the contract counterparties to such executory contracts and unexpired leases are forever bound by such Cure Costs. Unless the Purchaser and the applicable contract counterparty subsequently agree to

different terms, pursuant to sections 365(b)(1)(A) and (B) of the Bankruptcy Code, the Purchaser shall pay to the applicable contract counterparty the Cure Costs relating to any Assigned Contracts on **Exhibit B** within seven (7) days of the assumption, assignment and sale thereof. Upon payment of such Cure Costs as provided for herein, the contract counterparties to such Assigned Contracts are hereby enjoined from taking any action against the Purchaser or the Purchased Assets with respect to any claim for cure. For the avoidance of doubt, the inclusion of an executory contract or unexpired lease on **Exhibit B** shall not limit the rights of the Purchaser under the Asset Purchase Agreement (i) not to designate such executory contract or unexpired lease for assumption, assignment and sale at Closing and (ii) to designate such executory contract or unexpired lease for assumption, assignment and sale or for rejection post-Closing.

4.6 At least one (1) day prior to the Closing Date, the Purchaser shall provide the Debtors, and the Debtors shall file, schedules of (a) all Assigned Contracts to be assumed, assigned and sold as of the Closing Date, and (b) all Non-Assigned Contracts. Any Contract that is not designated as an Assigned Contract or a Non-Assigned Contract as of the Closing Date shall constitute a Designation Rights Asset under the Asset Purchase Agreement.

4.7 Any executory contract or unexpired lease for which there is an unresolved adequate assurance objection or cure claim objection set forth on **Exhibit C** hereto shall not be assumed, assigned and sold unless (i) all such objections relating to such contract or lease are withdrawn, (ii) the contract or lease counterparty consents, or (iii) the Court subsequently orders otherwise.

4.8 The rights of the Purchaser to modify the lists of Assigned Contracts and Non-Assigned Contracts after the date of this Sale Order and up to the applicable Designation Deadline as set forth in Section 1.5 of the Asset Purchase Agreement are hereby approved and shall survive confirmation of any chapter 11 plan, notwithstanding sections 365(d)(2) and 365(d)(4) or any similar provision of the Bankruptcy Code. Moreover, with respect to any Designation Rights Asset which is not an Assigned Contract on the Closing Date and provided such Contract has not been rejected by the Debtors after the Closing Date pursuant to section 365

of the Bankruptcy Code, upon written notice(s) from the Purchaser to the Debtors, the Debtors are hereby authorized to take all actions reasonably necessary to assume, assign and sell to the Purchaser pursuant to section 365 of the Bankruptcy Code any such Contract(s) as set forth in such notice(s); provided, that any Determined Cure Cost applicable thereto shall be satisfied solely by the Purchaser. Notwithstanding anything in this Sale Order to the contrary, on the date any such Contract is assumed, assigned and sold to the Purchaser, such Contract shall thereafter be deemed a Purchased Asset for all purposes under this Sale Order and the Asset Purchase Agreement.

4.9 The payment of the applicable Cure Costs (if any) shall effect a cure of all defaults existing as of the date that the applicable Assigned Contracts are assumed and shall compensate for any actual pecuniary loss to such contract counterparty resulting from such default.

4.10 Pursuant to section 365(f) of the Bankruptcy Code, the assignment and sale by the Debtors to the Purchaser of such Assigned Contracts shall not be a default thereunder. After the payment of the relevant Cure Costs as provided for herein, the Debtors and the Purchaser shall not have any further liabilities to the contract counterparties to the Assigned Contracts, other than the Purchaser's obligations under the Assigned Contracts that become due and payable on or after the date that such Assigned Contracts are assumed, assigned and sold, including as set forth in Paragraph 4.18 of this Sale Order.

4.11 Any provisions in any Assigned Contracts that prohibit or condition the assignment and sale of such Assigned Contracts or allow the party to such Assigned Contracts to terminate, recapture, impose any penalty or condition on renewal or extension, purport to require the consent of any counterparty, or modify any term or condition upon the assignment and sale of such Assigned Contracts constitute unenforceable anti-assignment provisions that are void and of no force and effect with respect to the assignment and sale of the Assigned Contracts to the Purchaser and all Assigned Contracts shall remain in full force and effect, without existing default(s), subject only to payment by the Purchaser of the appropriate cure amount, if any. All other requirements and conditions under sections 363 and 365 of the Bankruptcy Code for the

assumption by the Debtors and assignment and sale to the Purchaser of the Assigned Contracts have been satisfied.

4.12 Subject to Paragraphs 4.19 and 4.20 hereof, any party having the right to consent to the assumption, assignment or sale of any Assigned Contract that failed to object to such assumption, assignment and/or sale is deemed to have consented to such assumption, assignment and sale as required by section 365(c)(1)(B) of the Bankruptcy Code.

4.13 As of the date of assignment and sale to the Purchaser, the Purchaser shall be deemed to be substituted for the Debtors as a party to the applicable Assigned Contracts and the Debtors shall be relieved, pursuant to section 365(k) of the Bankruptcy Code, from any liability under the Assigned Contracts arising from and after the assignment and sale.

4.14 All counterparties to the Assigned Contracts shall cooperate and expeditiously execute and deliver, upon the reasonable requests of the Purchaser, and shall not charge the Purchaser for, any instruments, applications, consents, or other documents which may be required or requested by any public or quasi-public authority or other party or entity to effectuate the applicable transfers in connection with the Sale.

4.15 Pursuant to sections 105(a), 363, and 365 of the Bankruptcy Code, all counterparties to the Assigned Contracts are forever barred and permanently enjoined from raising or asserting against the Debtors or the Purchaser any assignment fee, rent acceleration, rent increase on account of assignment, default, breach, claim, pecuniary loss, or condition to assignment, arising under or related to the Assigned Contracts, existing as of the date that such Assigned Contracts are assumed, assigned and sold or arising by reason of the Closing. For the avoidance of doubt, nothing in this paragraph alters any counterparty's entitlement to the Cure Cost determined with respect to its Assigned Contract.

4.16 Notwithstanding any term of any Assigned Contract to the contrary, any extension or renewal options or other rights contained in such Assigned Contract that purport to be personal only to, or exercisable only by, the Debtors, a named entity, or an entity operating under a specific trade name, may, in each case, be freely exercised to their full extent by the

Purchaser subject to the other applicable terms of the Assigned Contract. Any extension or renewal options in connection with all Assigned Contracts that the Debtors have sought to exercise prior to the entry of this Sale Order have been timely and validly exercised by the Debtors, and all Assigned Contracts are in full force and effect and have not been previously rejected, and the Debtors' time to assume or reject the Assigned Contracts has not otherwise expired.

4.17 Neither the Purchaser nor any successor of the Purchaser shall be responsible for any Adverse Interests or obligations arising out of any of the executory contracts or unexpired leases that are not assumed, assigned, and sold to the Purchaser (whether at the Closing or prior to the applicable Designation Deadline), except to the extent specifically provided by the Asset Purchase Agreement.

4.18 Notwithstanding anything to the contrary in this Sale Order, with respect to each Assigned Contract, from and after the date that such Assigned Contract is assumed, assigned and sold to the Purchaser, the Purchaser shall be responsible for continuing obligations under such Assigned Contract, *cum onere*, including, without limitation, liabilities for any breach of such Assigned Contract occurring after such assumption, assignment and sale and obligations to pay year-end adjustment and reconciliation amounts that become obligations after the entry of this Sale Order (irrespective of whether such obligations accrued before, on, or after assumption, assignment and sale of the Assigned Contract), including tax reconciliations, common area charges and insurance premiums, in each case subject to the terms and conditions of the Assigned Contracts, and subject to any defenses provided by such Assigned Contracts and applicable non-bankruptcy law and unless otherwise agreed.

4.19 Notwithstanding anything in this Sale Order to the contrary, to the extent that executory contracts and unexpired leases that were not previously included in the Cure Notice are designated for assumption, assignment and sale after the Closing Date, the right of counterparties to such contracts and leases to object to the assumption, assignment and sale thereof, including with respect to cure amounts and adequate assurance of future performance, is reserved to the extent set forth in the following paragraph, and the Sellers shall not be authorized to assume,

assign and sell such contracts and leases to the Purchaser absent compliance with the following paragraph or further order of the Court.

4.20 In the case of any executory contracts and/or unexpired leases that the Debtors seek to assume, assign and sell pursuant to the Asset Purchase Agreement that were not previously included in the Cure Notice, within three (3) Business Days following receipt of a written notification by the Purchaser (email shall suffice) that an executory contract and/or unexpired lease is designated for assumption, assignment and sale, the Debtors shall file with the Court a written supplemental Cure Notice of the Debtors' intent to assume, assign and sell such executory contract and/or unexpired lease, substantially in the form of the Cure Notice attached as an exhibit to the Bid Procedures Order (each, a "Supplemental Cure Notice"). The Debtors shall serve such Supplemental Cure Notice via first class mail (except as set forth in clause (i), which shall be by overnight mail) on each of the following parties (the "Supplemental Cure Notice Parties"): (i) each counterparty to any such executory contract and/or unexpired lease (and their known counsel) to be assumed, assigned and sold by the Debtors, (ii) the U.S. Trustee, (iii) counsel to the Committee, and (iv) counsel to the Purchaser. The Debtors shall also serve on affected counterparties and their respective known counsel by electronic mail (if available) or overnight mail adequate assurance information for the Purchaser. The Supplemental Cure Notice shall set forth the following information, to the best of the Debtors' knowledge: (a) the street address of the real property that is the subject of any unexpired lease that the Debtors seek to assume, assign and sell or a description of any executory contract that the Debtors seek to assume, assign and sell, (b) the name and address of the affected counterparties (and their known counsel), (c) a description of the deadlines and procedures for filing objections to the Supplemental Cure Notice, if so permitted as set forth below, and (d) any proposed cure amounts as of that time. A party in interest may object to a Supplemental Cure Notice solely with respect (i) to the proposed cure amount contained therein but only to the extent such objection could not have been raised prior to the Cure Objection Deadline, or (ii) adequate assurance of future performance. Any such objection must be in writing and filed and served so that such objection is filed with this Court and actually received by the

Debtors and the Supplemental Cure Notice Parties no later than 14 calendar days after the date the Debtors served the applicable Supplemental Cure Notice. If no permitted objection is timely filed and served with respect to the applicable Supplemental Cure Notice, all non-Debtor parties to such executory contract and/or unexpired lease shall be deemed to have consented to the cure amount set forth in such supplemental Cure Notice. If a permitted objection to a Supplemental Cure Notice is timely filed and served on the Supplemental Cure Notice Parties in the manner specified above, unless the parties agree otherwise in writing, a hearing will be scheduled by the Court to consider that objection. The assumption, assignment and sale of any executory contract and/or unexpired lease set forth in a Supplemental Cure Notice shall be deemed to have occurred as of the date of filing of a Supplemental Cure Notice upon payment of the cure amount, unless otherwise agreed by the relevant counterparty.

Section 5. **Consumer Privacy Provisions**

5.1 The sale of personally identifiable information contemplated in the Asset Purchase Agreement is consistent with the Sellers' privacy policies and satisfies the requirements of section 363(b)(1)(A) of the Bankruptcy Code.

5.2 The Purchaser shall be bound by and meet the material standards established by the Sellers' privacy policies solely with respect to the personally identifiable information transferred to the Purchaser pursuant to the Asset Purchase Agreement; provided, however, that nothing in this Sale Order shall affect, limit, restrict, prohibit or impair any right to amend or replace the Sellers' privacy policies on a going forward basis with respect to the personally identifiable information transferred to the Purchaser, in accordance with the terms thereof and applicable law.

Section 6. **DIP Matters**

6.1 Upon the Closing of the Sale, the Purchaser shall deliver to the DIP Agent, by wire transfer of immediately available funds of the Purchaser, an amount equal to the DIP Repayment Amount in accordance with Sections 2.11(a) and (c) of the DIP Credit Agreement and pursuant to the terms of the Asset Purchase Agreement.

6.2 The Trigger Notice (as defined in the DIP Order) shall be deemed to be delivered on the Closing Date, and the Carve-Out Reserve Amount (as defined in the DIP Order) shall be reported in writing to the DIP Agent on the Closing Date (including the calculation thereof in accordance with Section 2.3.2 of the DIP Order). Upon the Closing of the Sale, an escrow shall be established and maintained by the Seller and funded in the Carve-Out Reserve Amount (as defined in the DIP Order), in accordance with Section 2.3.3 of the DIP Order (the “Carve Out”). The distributions and priority of the Carve Out and the DIP Repayment Amount shall be governed by the provisions of the DIP Order. Except as set forth in this paragraph, nothing in this Order shall impair, modify, or otherwise affect the Carve Out. The creation and funding of the Carve Out is approved pursuant to section 363(b) of the Bankruptcy Code. The Debtors and the other parties thereto are authorized, without further notice or relief from this Court, to take any and all actions that are necessary or appropriate in the exercise of their business judgment to implement the Carve Out, including engaging applicable escrow agents and making or authorizing the payments contemplated in connection therewith. The Carve Out shall not constitute property of the Debtors’ estates or be subject to claw back or disgorgement, and such funds (including any residual funds) may be released and applied in accordance with the terms of the DIP Order. Except as expressly set forth in this Order, nothing herein shall otherwise impair, modify, or affect the DIP Order. For the avoidance of doubt, at the time of the Closing of the Sale, the Carve Out escrow shall also be funded with cash from the Debtors’ estates to pay Raymond James’s fees and expenses in the amount of \$1,500,000 *plus* any Monthly Advisory Fees earned but not yet paid as of the Closing of the Sale *plus* Raymond James’s estimated reimbursable expenses not previously reimbursed *minus* one-hundred percent (100%) of each of the first four Monthly Advisory Fees and fifty percent (50%) of any subsequent Monthly Advisory Fees earned by Raymond James pursuant to the RJ Engagement Letter; *provided, however*, that all parties’ rights with respect to the amount of the fees earned by Raymond James under the terms of the RJ Engagement Letter are preserved and Raymond James’ entitlement to such fees are subject to entry of an order of the

Court approving Raymond James's final fee application (each of the capitalized terms in this sentence not defined in this Order shall have the meaning ascribed in the RJ Engagement Letter).

6.3 Nothing in this Order affects the priorities set forth in the DIP Order, including with respect to professional fees and expenses incurred by the Debtors' retained professionals and the retained professionals of the Official Committee of Unsecured Creditors (the "Creditors' Committee").

Section 7. **Additional Provisions**

7.1 Cigna. Notwithstanding anything to the contrary in this Order, or any Notice related thereto, but conditioned upon the occurrence of the Closing Date, the Employee Benefits Agreements (as defined in the *Objection of Cigna to Notice of Cure amounts and Potential Assumption and Assignment of Certain Executory Contracts and/or Unexpired Leases in Connection with Sale* [Docket No. 485] (the "Cigna Objection") are assumed, assigned and sold to the Purchaser as of the Closing Date, and, in lieu of cure, all obligations due and unpaid under the Cigna Employee Benefits Agreements accruing prior to the Closing Date shall pass through to the Purchaser and survive assumption and assignment so that nothing in this Order or 11 U.S.C. § 365 shall affect such obligations. This fully resolves the Cigna Objection.

7.2 Comenity. Notwithstanding anything to the contrary in this Order, or any Notice related thereto, but conditioned upon the occurrence of the Closing Date, the Plan Agreements (as defined in the DIP Order) of Comenity Bank, f/k/a World Financial Network Bank, and Comenity Capital Bank (collectively, "Comenity"), and the Program Funding Agreement for Arizona Mail Order Private Label Credit Card Agreement between Comenity Bank and Orchard Brands Corporation dated as of December 30, 2012 (the "Arizona Funding Agreement") are assumed, assigned and sold to the Purchaser as of the Closing Date, and, in lieu of cure, all obligations due and unpaid under the Plan Agreements and the Arizona Funding Agreement accruing prior to the Closing Date shall pass through to the Purchaser and survive

assumption and assignment so that nothing in this Order or 11 U.S.C. § 365 shall affect such obligations. This fully resolves any informal or formal objection of Comenity.

7.3 Synnex. Notwithstanding anything to the contrary in this Order, the Motion or Asset Purchase Agreement, any claims against Synnex Corporation, including any Avoidance Actions arising under Chapter 5 of the Bankruptcy Code (as defined in the Asset Purchase Agreement), that are purchased by the Purchaser shall remain subject to all rights, claims, counterclaims and defenses of Synnex Corporation to such claims and/or Avoidance Actions, including but not limited to setoff and/or recoupment, which are expressly preserved and reserved; *provided, however*, that any such right, claim, counterclaim or defense may be asserted against the Purchaser only as a defense, including an affirmative defense, to any claims, including Avoidance Actions, purchased by the Purchaser from the Debtors' estates and asserted by the Purchaser against Synnex Corporation. For the avoidance of doubt, the foregoing shall not be construed to limit the rights of the Debtors, the Purchaser, or any other party in interest with respect to Synnex's assertion of such rights.

7.4 Golden Triangle. Notwithstanding anything to the contrary in this Order, in full and final resolution of the Golden Triangle Station LLC's Limited Objection of Golden Triangle Station LLC to The Notice of Cure Amounts and Potential Assumption and Assignment of Certain Executory Contracts and/or Unexpired Leases in Connection with Sale [Docket No. 477], the Debtors (a) acknowledge that the true and correct contract counterparty of that certain lease with Bluestem Brands, Inc. for the premises located at 7075 Flying Cloud Drive, Eden Prairie, Minnesota 55344-3532, dated as of October 16, 2015 (the "Lease") is Golden Triangle Station LLC, as assignee of Liberty Property Partnership, (b) agree that the cure amount necessary to assume the Lease is \$89,850.20, and (c) do not purport to assume or reject that certain Guaranty between Golden Triangle Station LLC, as assignee of Liberty Property Management, and Bluestem Group Inc., dated as of October 14, 2015.

7.5 SCUSA. Notwithstanding anything to the contrary herein or in the Asset Purchase Agreement, SCUSA shall have 14 days following receipt, via email sent to its counsel

of record in these chapter 11 cases or otherwise, of a notice of an “Assumption Notice” (as such term is defined in that certain *Order (I) Authorizing and Approving Procedures to Reject or Assume Executory Contracts and Unexpired Leases and (II) Granting Related Relief* [Docket No. 247]) to file an objection with this Court with respect to such proposed assumption.

7.6 Stay Relief. The automatic stay pursuant to section 362 is hereby lifted to the extent necessary, without further order of this Court, to (i) allow the Purchaser to deliver any notice provided for in the Asset Purchase Agreement and any ancillary documents and (ii) allow the Purchaser to take any and all actions permitted under this Sale Order, the Asset Purchase Agreement and any ancillary documents in accordance with the terms and conditions thereof.

7.7 Bulk Transfer Laws. Each of the Sellers and the Purchaser hereby waive, and shall be deemed to waive, any requirement of compliance with, and any claims related to non-compliance with, the provisions of any bulk sales, bulk transfer, or similar law of any jurisdiction that may be applicable.

7.8 Non-Interference. Following the Closing Date, no holder of an Adverse Interest in or against the Debtors or the Purchased Assets shall interfere with the Purchaser’s title to or use and enjoyment of the Purchased Assets based on or related to such Adverse Interest or any actions that the Debtors or their successors, including any chapter 11 or chapter 7 trustee, may take in these Chapter 11 Cases or any successor chapter 7 cases.

7.9 Authorization. The Debtors, including their respective officers, employees and agents, are hereby authorized to execute such documents and do such acts as are necessary or desirable to carry out the transactions contemplated by the terms and conditions of the Asset Purchase Agreement and this Sale Order. The Debtors shall be, and they hereby are, authorized to take all such actions as may be necessary to effectuate the terms of the Asset Purchase Agreement, this Sale Order and the relief granted pursuant to this Sale Order.

7.10 Good Faith. The Sale contemplated by the Asset Purchase Agreement is undertaken by the Purchaser without collusion and in good faith, as that term is defined in section 363(m) of the Bankruptcy Code, and accordingly, the reversal or modification on appeal of the

authorization provided herein to consummate the Sale shall not affect the validity of the Sale (including, for the avoidance of doubt, the assumption, assignment and sale to the Purchaser of the Assumed Contracts and the Sale of the Purchased Assets free and clear of all Adverse Interests (unless otherwise assumed under, or permitted by, the Asset Purchase Agreement)), unless such authorization and consummation of such Sale were stayed pending such appeal. The Purchaser 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. The Purchaser has not colluded with any of the other bidders, potential bidders, or any other parties interested in the Purchased Assets, and therefore the sale of the Purchased Assets may not be avoided pursuant to section 363(n) of the Bankruptcy Code.

7.11 Cooperation. From time to time, as and when requested by any party, each party to the Asset Purchase Agreement shall execute and deliver, or cause to be executed and delivered, all such documents and instruments and shall take, or cause to be taken, all such further or other actions as such other party may reasonably deem necessary or desirable to consummate the Sale, including such actions as may be necessary to vest, perfect or confirm, of record or otherwise, in the Purchaser its right, title and interest in and to the Purchased Assets.

7.12 Scope of Approval. The failure specifically to include any particular provisions of the Asset Purchase Agreement, including any of the documents, agreements, or instruments executed in connection therewith, in this Sale Order shall not diminish or impair the efficacy, approval, or effectiveness of such provision, document, agreement, or instrument, it being the intent of this Court that the Asset Purchase Agreement and each such document, agreement or instrument be authorized and approved in its entirety, except as otherwise specifically set forth herein.

7.13 Post-Closing Claims Administration. After the Closing Date: (a) neither the Debtors nor any successor in interest, including any chapter 11 or chapter 7 trustee in these Chapter 11 Cases or any successor chapter 7 cases, shall consent or agree to the allowance of any claim to the extent it would constitute an Assumed Liability or Permitted Encumbrance without

the prior written consent of the Purchaser; and (b) the Purchaser shall have standing to object to any claim against the Debtors and their estates to the extent that, if allowed, it would constitute an Assumed Liability or Permitted Encumbrance, and the Court will retain jurisdiction to hear and determine any such objections.

7.14 Notice of Sale Closing. Within one (1) Business Day of the occurrence of the Closing of the Sale, the Debtors shall file and serve a notice of the closing of the Sale.

7.15 Computations of Time-Periods. All time periods set forth in this Sale Order shall be calculated in accordance with Bankruptcy Rule 9006(a).

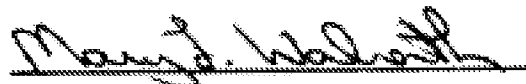
7.16 Sale Order Governs in Event of Inconsistencies. To the extent that this Sale Order is inconsistent with any prior order or pleading with respect to the Motion in these Chapter 11 Cases, the terms of this Sale Order shall govern. To the extent there are any inconsistencies between the terms of this Sale Order and the Asset Purchase Agreement (including all ancillary documents executed in connection therewith), the terms of this Sale Order shall govern.

7.17 Modifications. The parties to the Asset Purchase Agreement may make any non-material modifications, amendments or supplements to such agreement and to any related agreements, documents or other instruments in accordance with the terms thereof without further order of this Court.

7.18 Non-Severability. The provisions of this Sale Order are nonseverable and mutually dependent.

7.19 No Stay. Notwithstanding the provisions of the Bankruptcy Rules, including Bankruptcy Rules 6004(h), 6006(d), and 7062, this Sale Order shall not be stayed after the entry hereof, but shall be effective and enforceable immediately upon entry, and the fourteen (14) day stay provided in Bankruptcy Rules 6004(h) and 6006(d) is waived and shall not apply.

7.21 Retention of Jurisdiction. This Court shall retain jurisdiction to, among other things, interpret, implement, and enforce the terms and provisions of this Sale Order and the Asset Purchase Agreement, and all amendments thereto any waivers and consents thereunder, and of each of the agreements executed in connection therewith to which the Debtors are a party or which have been assigned by the Debtors to the Purchaser, and to adjudicate, if necessary, any and all disputes concerning or relating in any way to the Sale.



MARY F. WALRATH
UNITED STATES BANKRUPTCY JUDGE

Dated: July 7th, 2020
Wilmington, Delaware
26734795...

Exhibit A

Asset Purchase Agreement

(Fully Conformed Through Fifth Amendment)

Conformed Copy Through Amendment No. 5

ASSET PURCHASE AGREEMENT

BY AND AMONG

BLST ACQUISITION COMPANY LLC

as Purchaser,

and

NORTHSTAR HOLDINGS INC

and

THE OTHER SELLERS NAMED HEREIN,

as Sellers

Dated as of March 8, 2020

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Exhibit F	Bidding Procedures Order

ASSET PURCHASE AGREEMENT

ASSET PURCHASE AGREEMENT (as amended, supplemented, amended and restated or otherwise modified from time to time, this “Agreement”), dated as of March 8, 2020 (the “Execution Date”), by and among (a)(i) Northstar Holdings Inc., a Delaware corporation (“Holdings”), (ii) Bluestem Brands, Inc., a Delaware corporation (“BBI”), and (iii) the direct and indirect subsidiaries of BBI party hereto as set forth on the signature pages attached hereto (together with Holdings and BBI, each a “Seller” and, collectively, the “Sellers”), and (b) BLST Acquisition Company LLC, a Delaware limited liability company (and together with its designee(s), successors and/or assigns, as provided under Section 11.9, the “Purchaser”). ARTICLE 10 contains definitions of certain terms used in this Agreement and also provides cross-references to certain terms defined elsewhere in this Agreement.

RECITALS

WHEREAS, on or about March 8, 2020 (the actual commencement date, the “Petition Date”), the Sellers intend to commence voluntary cases (such cases, the “Chapter 11 Cases”) under the Bankruptcy Code in the United States Bankruptcy Court for the District of Delaware (the “Bankruptcy Court”);

WHEREAS, each Seller continues in possession of its assets and is authorized under the Bankruptcy Code to continue the operation of its businesses as a debtor in possession;

WHEREAS, subject to the terms and conditions hereof, (a) the Sellers desire to sell to the Purchaser, and the Purchaser desires to purchase from the Sellers, all of the Sellers’ right, title and interest in and to the Purchased Assets, and (b) the Sellers desire to transfer and assign to the Purchaser, and the Purchaser desires to assume from the Sellers, all of the Assumed Liabilities;

WHEREAS, the Sellers and the Purchaser have agreed that the sale, transfer and assignment of the Purchased Assets and the Assumed Liabilities from the Sellers to the Purchaser shall be effected pursuant to sections 105, 363 and 365 and/or, with the prior consent of Purchaser which may be withheld in its sole discretion, 1129 of chapter 11 of title 11 of the United States Code, 11 U.S.C. § 101 et seq. (as amended, the “Bankruptcy Code”); and

WHEREAS, in connection with the Chapter 11 Cases and subject to the terms and conditions contained herein, following entry of the Sale Order finding the Purchaser as the Successful Bidder at the Auction, the Sellers shall sell and transfer to the Purchaser, and the Purchaser shall purchase and acquire from the Sellers, pursuant to sections 105, 363 and 365 and/or, with the prior consent of Purchaser which may be withheld in its sole discretion, 1129 of the Bankruptcy Code, the Purchased Assets, and the Purchaser shall assume from the Sellers the Assumed Liabilities, all as more specifically provided herein and in the Sale Order.

NOW, THEREFORE, in consideration of the foregoing and the mutual representations, warranties, covenants and agreements set forth herein, and intending to be legally bound hereby, the Purchaser and the Sellers hereby agree as follows:

ARTICLE 1

PURCHASE AND SALE OF ASSETS; ASSUMPTION OF LIABILITIES

1.1 Purchase and Sale of Assets. Pursuant to sections 105, 363 and 365 of the Bankruptcy Code and on the terms and subject to the conditions set forth in this Agreement and the Sale Order, each Seller shall sell, transfer, assign, convey and deliver to the Purchaser, and the Purchaser shall purchase, acquire and accept from each Seller, on the Closing Date, all of such Seller's right, title and interest in, to and under, free and clear of all Encumbrances (other than Encumbrances included in the Assumed Liabilities and Permitted Encumbrances), all of the assets, properties, rights and interests of any nature, tangible or intangible, real or personal, wherever located, of such Seller related to or used, or held for use, in connection with the operation of the Business, now existing or hereafter acquired on or prior to the Closing Date, whether or not reflected on the books or financial statements of such Seller, as the same shall exist on the Closing Date, but in all cases excluding the Excluded Assets (as amended or modified by Section 1.5, collectively, the "Purchased Assets"), including the following assets, properties, rights and interests of such Seller:

(a) all Accounts Receivable;

(b) all Documents used in or relating to the Business or in respect of the Purchased Assets or the Assumed Liabilities (including customer data and including emails); provided, however, that subject to the limitations contained in Section 8.6, the Sellers shall have continued access to such Documents as are necessary to administer the Chapter 11 Cases;

(c) (i) all Contracts of such Seller to which such Seller is a party or is otherwise bound or to which it is a beneficiary, and all rights pursuant thereto, set forth on Schedule 1.1(c) and (ii) any other Contract of such Seller added as a Purchased Asset in accordance with Section 1.5 (including any Contract added as a Purchased Asset following the Closing Date in accordance with Section 1.5) (the Contracts referred to in this Section 1.1(c), together with the Assumed Real Property Leases, collectively, the "Assigned Contracts"), subject to the right of the Purchaser to cause any Assigned Contract to be a Non-Assigned Contract in accordance with Section 1.5;

(d) all deposits and all prepaid charges and expenses of such Seller, including (i) security deposits with third party suppliers, vendors, service providers or landlords, and lease and rental payments, (ii) rebates, (iii) tenant reimbursements, (iv) prepaid Taxes (including ad valorem Taxes, personal property Taxes and real estate Taxes), and (v) pre-payments, in each case to the extent that any of the foregoing relate to any Purchased Asset (including any Assigned Contract) or Assumed Liability;

(e) all Furniture and Equipment;

(f) the name "Bluestem Brands", the names of the Sellers, all other trade names listed on Schedule 1.1(f) used in connection with the Business and, in all cases, any derivations thereof (collectively, the "Purchased Names");

(g) (i) all leases and subleases for the Leased Real Property to which such Seller is a party or is otherwise bound or to which it is a beneficiary, and all rights pursuant thereto, set forth on Schedule 1.1(g) and (ii) any other lease or sublease for Leased Real Property added as a Purchased Asset in accordance with Section 1.5 (including any lease or sublease added as a Purchased Asset following the Closing Date in accordance with Section 1.5) (such leases and subleases referred to in this Section 1.1(g), collectively, the “Assumed Real Property Leases” and the underlying Leased Real Property, the “Assumed Leased Real Property”), subject to the right of the Purchaser to cause any Assumed Real Property Lease to be a Non-Assigned Contract in accordance with Section 1.5;

(h) to the extent transferable (and such non-transferability is not overridden or canceled by the Sale Order or other order of the Bankruptcy Court), all Permits and all pending applications or filings therefor and renewals thereof and all rights and incidents of interest therein, subject to the right of the Purchaser to cause any Permit or pending applications or filings therefor or renewals thereof to be a Designation Rights Asset or Excluded Asset in accordance with Section 1.5;

(i) all rights under non-disclosure or confidentiality, non-compete, or non-solicitation agreements to which such Seller is a party with current or former directors, officers, employees or agents, or with third parties, or any such agreement to which such Seller is a beneficiary, in each case, if such agreement is an Assigned Contract;

(j) (i) all rights, claims, credits, settlement proceeds, causes of action or rights of set off against third parties relating to the Purchased Assets (including, for the avoidance of doubt, those arising under the Assigned Contracts) or the Assumed Liabilities, including all rights under vendors’, manufacturers’ and contractors’ warranties, indemnities and guarantees; and (ii) all Avoidance Actions;

(k) any claims, counterclaims, setoffs, rights of recoupment, equity rights or defenses that such Seller may have with respect to any Assumed Liabilities;

(l) except as contemplated by Section 1.2(e) and Section 1.2(j) and only to the extent transferable (and such non-transferability is not overridden or canceled by the Sale Order or other order of the Bankruptcy Court) all of such Seller’s insurance policies and rights and benefits thereunder (including (i) all rights pursuant to and proceeds from such insurance policies, (ii) all claims, demands, proceedings and causes of action asserted by such Seller under such insurance policies relating to any Purchased Asset or Assumed Liability, (iii) all proceeds payable to such Seller in respect of life insurance policies that are owned by such Seller or for which such Seller is a beneficiary and (iv) any letters of credit related thereto);

(m) any claim, right or interests of such Seller in or to any refund, rebate, abatement or other recovery for Taxes with respect to the Business, the Purchased Assets or the Assumed Liabilities, in each case, together with any interest due thereon or penalty rebate arising therefrom;

(n) (i) Contracts of the Seller Plans set forth on Schedule 1.1(n) and (ii) any other Seller Plan added as a Purchased Asset in accordance with Section 1.5 (such Seller Plans

referred to in this Section 1.1(n), collectively, the “Assumed Seller Plans”), and any associated funding media, assets, reserves, credits and service agreements, and all Documents created, filed or maintained in connection with the Assumed Seller Plans and any applicable insurance policies;

(o) all Seller Intellectual Property and IT Assets;

(p) all Inventory;

(q) except to the extent that any transfer or assignment is prohibited by applicable Law, all personnel files for Transferred Employees;

(r) all goodwill and other intangible assets associated with, or relating to, the Business or the Purchased Assets;

(s) ownership interests in other entities (except for equity of any Seller), including joint ventures;

(t) subject to section 363(b)(1)(A) of the Bankruptcy Code, all rights to the websites, domain names, telephone and facsimile numbers and e-mail addresses used by such Seller, as well as rights to receive mail and other communications addressed to such Seller (including mail and communications from customers, vendors, suppliers, distributors and agents);

(u) all Cash and Cash Equivalents, whether on hand, in transit or in banks or other financial institutions, security entitlements, securities accounts, commodity contracts and commodity accounts and including any cash collateral that is collateralizing any letters of credit or insurance policies, or any obligations with respect thereto, except that the foregoing shall not include any Cash and Cash Equivalents (i) in the Bankruptcy Deposit Accounts or (ii) in the total amount of “Total Disbursements” in the wind-down budget set forth on Annex II hereto, as may be amended from time to time with the prior written consent of Purchaser in its sole discretion (the aggregate amount of such Cash and Cash Equivalents pursuant to this clause (ii), the “Excluded Cash” and, such wind-down budget, the “Wind-Down Budget”);

(v) the Surplus Cash; and

(w) all owned real property set forth on Schedule 1.1(w).

1.2 Excluded Assets. Notwithstanding anything to the contrary in this Agreement or any of the Ancillary Agreements, in no event shall any Seller be deemed to sell, transfer, assign, convey or deliver, and each Seller shall retain all right, title and interest to, in and under, the following assets, properties, rights and interests of such Seller (collectively, the “Excluded Assets”):

(a) all Contracts that are not Assigned Contracts (subject to Section 1.5, the “Non-Assigned Contracts”);

(b) all Documents (whether copies or originals) (i) to the extent they relate solely to any of the Excluded Assets or the Excluded Liabilities, (ii) that such Seller is required by Law to retain and is prohibited by Law from providing a copy of to the Purchaser or (iii) to the

extent they relate to (A) any employees of such Seller who are not Transferred Employees or (B) any Transferred Employees where the Documents do not satisfy Section 1.1(q);

(c) all Permits that relate solely to any of the Excluded Assets or the Excluded Liabilities;

(d) all shares of capital stock or other equity interests of a Seller, or securities convertible into or exchangeable or exercisable for any such shares of capital stock or other equity interests;

(e) all of such Seller's director and officer insurance policies, fiduciary policies or employment practices policies (in each case of the foregoing, including any tail policies or coverage thereon), and any of such Seller's rights, claims, demands, proceedings, credits, causes of action or rights of set off thereunder;

(f) all rights under this Agreement and the Ancillary Agreements (including the right to receive the Purchase Price);

(g) all Documents (whether copies or originals) relating to formation, qualifications to conduct business as a foreign corporation or other legal entity, arrangements with registered agents relating to foreign qualifications, taxpayer and other identification numbers, seals, minute books, stock transfer books, stock ledgers, stock certificates, by-laws and other documents relating to the organization and existence of such Seller as a corporation or other legal entity, as applicable (together with analogous documentation);

(h) any retainers or similar amounts paid to third party advisors or other professional service providers, and any deposits and prepaid charges and expenses of such Seller in each case to the extent related to any Excluded Asset (including a Non-Assigned Contract) or Excluded Liability, including (i) security deposits with third party suppliers, vendors, service providers or landlords, and lease and rental payments, (ii) rebates, (iii) tenant reimbursements, (iv) prepaid Taxes, and (v) pre-payments;

(i) any claims, counterclaims, setoffs, rights of recoupment, equity rights, defenses, or other rights or interests of such Seller in or to any refund, rebate, abatement or other recovery or otherwise to the extent related to any Excluded Liability;

(j) all claims or causes of action (other than Avoidance Actions) that relate solely to any Excluded Asset or Excluded Liability;

(k) all of the Seller Plans other than the Assumed Seller Plans, and any associated funding media, assets, reserves, credits and service agreements, and all Documents created, filed or maintained in connection with such Seller Plans and any applicable insurance policies;

(l) all Tax Returns of any of the Sellers and all Documents (including working papers) related thereto;

(m) all Excluded Cash except to the extent constituting Surplus Cash;

(n) all cash deposits in cash collateral, indemnity or other accounts solely to the extent comprising professional fee retainers, professional fee escrows, and indemnity accounts funded in accordance with the order approving the DIP Credit Agreement, held by or on behalf of the Sellers' or the bankrupt estates' professionals ("Bankruptcy Deposit Accounts") except to the extent constituting Surplus Cash;

(o) all assets expressly excluded from the definition of Purchased Assets pursuant to Section 1.1; and

(p) the properties and assets set forth on Schedule 1.2(p).

1.3 Assumption of Liabilities. On the terms and subject to the conditions set forth in this Agreement and the Sale Order, on the Closing Date, the Purchaser shall assume only the following Liabilities expressly set forth in this Section 1.3 (collectively, the "Assumed Liabilities"):

(a) all Liabilities of any of the Sellers under each Assigned Contract arising after the Closing Date (excluding any Liabilities not expressly assumed in this Agreement arising out of any breach or default of the Assigned Contracts on or prior to the Closing Date or arising out of any event that occurs on or prior to the Closing Date which with the passage of time or after giving notice, or both, would constitute or give rise to such breach or default);

(b) all Determined Cure Costs with respect to any Assigned Contract;

(c) the sponsorship of and all Liabilities arising under or otherwise in respect of the Assumed Seller Plans arising after the Closing Date (excluding any Liabilities not expressly assumed in this Agreement arising out of any breach or default of the Assumed Seller Plans on or prior to the Closing Date or arising out of any event that occurs on or prior to the Closing Date which with the passage of time or after giving notice, or both, would constitute or give rise to such a breach or default);

(d) Liabilities of any of the Sellers with respect to Specified Accrued Liabilities incurred prior to the Closing (but only to the extent any such Specified Accrued Liability is not paid by the Sellers at or prior to the Closing) not in excess (on a line item basis for each type of Liability set forth on Annex I) of the amounts set forth on Annex I;

(e) all Liabilities arising from the operation of the Purchased Assets by Purchaser from and after the Closing Date, but solely to the extent that such Liabilities relate to events occurring after the Closing Date;

(f) all labor- and employment-related Liabilities with respect to Transferred Employees arising on or following the Closing;

(g) all Liabilities related to Purchaser's selection of employees, including any decisions not to extend offers of employment, pursuant to Section 6.1 and any Liabilities for severance or under the WARN Act, in each case, that (i) constitute bankruptcy administrative expenses of the Sellers and (ii) result directly from or arise out of Purchaser's determination not to make an offer of employment to any employees and Sellers' subsequent termination of such

employee's employment in connection therewith, but expressly excluding (x) any Liabilities, including for severance, under employment agreements or other arrangements entered into or established by any Affiliate of the Sellers (other than the Sellers) or (y) termination for any reason other than as specified in clause (ii) of this paragraph;

(h) Liabilities in respect of administrative claims arising under section 503(b)(9) of the Bankruptcy Code (but only to the extent any such administrative claims are not paid by the Sellers at or prior to the Closing) not in excess of an amount equal to (i) \$7,600,000, less (ii) any amounts paid by Sellers on or after July 2, 2020 and at or prior to the Closing with respect to administrative claims arising under section 503(b)(9) of the Bankruptcy Code, less (iii) any administrative claims arising under section 503(b)(9) of the Bankruptcy Code included in any Determined Cure Costs paid by or on behalf of Purchaser;

(i) all Liabilities with respect to (i) earned and accrued wages, salaries and Seller 401(k) match (per terms as in effect as of the Execution Date), in the aggregate not in excess of an amount equal to \$5,900,000, (ii) IBNR claims under Seller Plans not in excess of an amount equal to \$1,600,000, and (iii) workers' compensation not in excess of an amount equal to \$500,000, in each case with respect to the items described in this Section 1.3(i), that are either or both earned and accrued in the Ordinary Course of Business from the Petition Date until the Closing with respect to the Transferred Employees as of the Closing Date, but expressly excluding any Liabilities of each Seller for any and all claims by or on behalf of such Seller's current or former employees arising under or relating to employment practices, labor relations, union organizing, employee safety and health, fair labor standards, child labor, employee leaves of absence, unemployment insurance, disability rights or benefits, immigration, plant closings and layoffs, equal employment opportunity, discrimination, harassment, affirmative action (to the extent applicable), breach of contract and wrongful discharge, employee grievances and liability for any pension, profit sharing, deferred compensation (and the funding of any such benefits relating to all income earned by such Seller's current or former employees relating to periods ending on or prior to the Closing Date), or any other employee health, welfare or other benefit plans, other than as contemplated by Section 1.3(c); and

(j) Assumed Taxes in the aggregate not in excess of an amount equal to \$4,800,000 (the "Assumed Taxes Cap").

Notwithstanding anything to the contrary herein, the Purchaser's assumption of the Assumed Liabilities shall in no way expand the rights or remedies of third parties against the Purchaser as compared to the rights and remedies that such parties would have had against Sellers had this Agreement not been consummated.

1.4 Excluded Liabilities. Except for the Assumed Liabilities expressly set forth in Section 1.3, the Purchaser shall not assume, or become liable for the payment or performance of, any Liabilities of any Seller of any nature whatsoever, whether accrued or unaccrued, known or unknown, asserted or unasserted, absolute or contingent, direct or indirect, liquidated or unliquidated, or due or to become due (collectively, the "Excluded Liabilities"), including the following Liabilities, all of which shall remain Liabilities of the Sellers for which the Sellers shall remain solely and exclusively liable:

(a) all Liabilities of any of the Sellers relating to any of the Excluded Assets (including the Non-Assigned Contracts);

(b) all Liabilities relating to any environmental, health or safety matters (including any Liability under any Environmental Law), arising out of or relating to any Seller's operation of its business or its leasing, ownership, use or operation of real property prior to the Closing Date, no matter when raised;

(c) all Liabilities of any Seller in respect of Indebtedness, whether or not relating to the Business, except for the Liabilities expressly set forth in Section 1.3(e);

(d) all Liabilities of any Seller to any current, former or prospective shareholder or other holder of equity securities or equity-linked securities of such Seller, including all Liabilities of such Seller related to the right to or issuance of any capital stock or other equity securities or the payment of any dividend or other distribution on or in respect of any capital stock or other equity securities;

(e) all Liabilities arising out of any breach or default of the Assigned Contracts on or prior to the Closing Date or arising out of any event that occurs on or prior to the Closing Date which with the passage of time or giving of notice, or both, would constitute or give rise to such a breach or default, other than any Determined Cure Costs;

(f) all Liabilities of any Seller for Taxes, other than Assumed Taxes;

(g) all Liabilities of any Seller with respect to current or former employees that are not Transferred Employees, regardless of when arising;

(h) all Liabilities (other than with respect to Assumed Taxes) of any Seller for pending or threatened Actions against such Seller or any of its assets or properties, the Business, or such Seller's operations or activities arising out of or relating to any matter, occurrence, action, omission or circumstance that occurred or existed on or prior to the Closing Date;

(i) all Liabilities (whether civil or criminal) occurring, arising out of or relating to acts or omissions of such Seller or its Affiliates, or any of their respective current or former directors, officers, employees, agents or independent contractors, in respect of any claimed violation of any Law at any time;

(j) except to the extent that any such Liabilities are specifically assumed by the Purchaser pursuant to Section 1.3(i), all Liabilities of such Seller for any and all claims by or on behalf of such Seller's current or former employees relating to periods ending on or prior to the Closing Date, including employment practices, terms and conditions of employment, labor relations, union organizing, employee safety and health, wages and hours, fair labor standards, child labor, employee leaves of absence, unemployment insurance, disability rights or benefits, immigration, plant closings and layoffs, equal employment opportunity, discrimination, harassment, affirmative action (to the extent applicable), breach of contract and wrongful discharge, employee grievances and liability for any pension, profit sharing, deferred compensation (and the funding of any such benefits relating to all income earned by such Seller's

current or former employees relating to periods ending on or prior to the Closing Date), workers' compensation or any other employee health, welfare or other benefit plans;

(k) all Liabilities for any legal, accounting, investment banking, financial advisory, reorganization, restructuring (including bankruptcy administrative expenses), brokerage or similar fees or expenses incurred by such Seller in connection with, resulting from or attributable to, the transactions contemplated by this Agreement, the Chapter 11 Cases or otherwise;

(l) all Liabilities incurred in connection with charitable contributions from customers and amounts owed to charitable organizations; and

(m) all Liabilities relating to or arising under any escheatment, abandoned property, unclaimed property or similar Laws of any jurisdiction;

provided that, in the event of any conflict between the terms of this Section 1.4 and the terms of Section 1.3, the terms of Section 1.3 will control.

1.5 Cure Costs; Schedule Updates Designation Rights.

(a) On or prior to the Execution Date, the Sellers have provided the Purchaser with the "Original Contract & Cure Schedule", which contains a list of each Contract to which any Seller is party and the Sellers' good faith estimate of the amount of Cure Costs applicable to each such Contract. From the Execution Date through (and including) the applicable Designation Deadline, within three (3) Business Days following Purchaser's request from time to time, the Sellers shall provide the Purchaser with a schedule (as such schedule may be amended, supplemented or otherwise modified from time to time prior to the applicable Designation Deadline in accordance with the terms of this Agreement, the "Contract & Cure Update Schedule") that updates such information or Sellers shall advise Purchaser that there are no material updates, if applicable. Without limiting the foregoing, if, following the Closing, it is discovered by any Seller that a Contract that should have been listed on the Original Contract & Cure Schedule or any Contract & Cure Update Schedule was not so listed, the Sellers shall, promptly following the discovery thereof, notify the Purchaser in writing of any such Contract and the Sellers' good faith estimate of the amount of Cure Costs applicable to each such Contract.

(b) Any Contract not designated by the Purchaser in writing as either an Assigned Contract or a Non-Assigned Contract, and any Permits and other assets designated in writing by the Purchaser, in each case at least one (1) Business Day prior to the Closing, shall constitute "Designation Rights Assets." No later than June 5, 2020, the Sellers shall obtain an order of the Bankruptcy Court, in form and substance acceptable to the Purchaser, extending the deadline under section 365(d)(4) of the Bankruptcy Code for the assumption of all unexpired leases of nonresidential real property to the date that is the two hundred tenth (210th) day following the Petition Date.

(c) The Purchaser may, at any time and from time to time through (and including) one (1) Business Day prior to the Closing (or, in the case of any Contract that is a Designation Rights Asset, the applicable Designation Deadline), include in the definition of Assigned Contracts and exclude from the definition of Non-Assigned Contracts any Contract of any of the Sellers not otherwise included in the definition of Assigned Contracts and require such

Seller to give not less than five (5) Business Days' notice to the non-Seller parties to any such Contract of the Sellers' proposed assumption and assignment thereof to the Purchaser and the amount of Cure Costs associated with such Contract; provided that no such change of the definitions of Assigned Contracts or Non-Assigned Contracts referred to in this sentence shall reduce or increase the amount of the Purchase Price, except to the extent of any increase in the assumption of the Assumed Liabilities as a result of Contracts being added to the Assigned Contracts by the Purchaser pursuant to this Section 1.5(c).

(d) The Purchaser may, at any time and from time to time through (and including) (i) one (1) Business Day prior to the Closing, exclude from the definition of Assigned Contracts or (ii) in the case of any Contract that is a Designation Rights Asset, the applicable Designation Deadline, exclude from the definition of Designation Rights Assets and, in either case, include in the definition of Non-Assigned Contracts, any Contract of any of the Sellers otherwise included in the definition of Assigned Contracts or Designation Rights Assets, as applicable; provided that no such change of the definitions of Assigned Contracts, Designation Rights Assets, or Non-Assigned Contracts referred to in this sentence shall reduce or increase the amount of the Purchase Price, except to the extent of any reduction in the assumption of the Assumed Liabilities as a result of Contracts being excluded from the Assigned Contracts by the Purchaser pursuant to this Section 1.5(d).

(e) To exercise its rights under Section 1.5(c) or Section 1.5(d) to include Contracts in, exclude Contracts from, the Assigned Contracts and the Non-Assigned Contracts, as applicable, the Purchaser shall deliver one or more written notices to the Sellers specifying the Contract(s) to be so included or excluded. If any Contract is added to (or excluded from) the Assigned Contracts and the Non-Assigned Contracts as permitted by this Section 1.5(a), then either or both Schedule 1.1(c) and Schedule 1.1(g) shall be deemed amended to reflect such addition, deletion or other change automatically (without any further action on the part of, or notice to, any Person) upon the delivery by the Purchaser of the notice referred to in the immediately preceding sentence and, as an administrative matter only, the Purchaser and the Sellers shall make appropriate additions, deletions or other changes to either or both Schedule 1.1(c) and Schedule 1.1(g), as applicable, to reflect such addition or exclusion. In addition, if any Contract is added to (or excluded from) the Assigned Contracts and the Non-Assigned Contracts as permitted by this Section 1.5(a), the Sellers and Purchaser shall promptly take such steps as are reasonably necessary, including, if applicable, prompt delivery of notice by Sellers to the non-Seller counterparty to such Contract, to cause such Contract to be assumed by the applicable Seller, and assigned to the Purchaser, or excluded and rejected, as applicable. As to each Designation Rights Asset that is not a Contract, promptly after receiving written notice from the Purchaser at any time between Closing and the applicable Designation Deadline requesting assumption, assignment and sale of any Designation Rights Asset to the Purchaser, Sellers and Purchaser shall take all steps reasonably necessary to assume, assign and sell to the Purchaser the applicable Designation Rights Asset.

(f) With respect to any Designation Rights Asset, (i) the Purchaser shall have sole and complete authority, and the Seller shall use commercially reasonable efforts to comply with Purchaser's instruction (if any) with respect to, the management and control of such Designation Rights Asset for the period from the Closing until the earlier of (A) the applicable Designation Deadline and (B) the date such Designation Rights Asset is assumed by the applicable

Seller and assigned to the Purchaser or excluded and rejected, as applicable, (ii) the Purchaser shall, at its option, directly pay or pre-fund Seller to pay for (or, if applicable, reasonably cooperate with Sellers in pursuing any claims under any Insurance Policy that relates to such Designation Rights Asset and is transferred to the Purchaser at the Closing in respect of) any costs, expenses and any other Liabilities incurred by Sellers in the Ordinary Course of Business (or in following Purchaser's direction) in connection with the operation of such Designation Rights Asset (including as a result of, arising out of or in connection with the operation of the facility and operations at any Leased Real Property that is a Designation Rights Asset) for the period from the Closing until the earlier of (A) the applicable Designation Deadline, (B) the date such Designation Rights Asset is assumed by the applicable Seller and assigned to the Purchaser and (C) the earlier of (1) five (5) Business Days after the date Sellers receive written notice from Purchaser designating the exclusion of such Designation Rights Asset and (2) the effective date of rejection of any Designation Rights Asset that is not designated for assumption, in each case other than costs, expenses or liabilities arising from or incurred in connection with (x) the administration of the Chapter 11 Cases themselves (but including, for the avoidance of doubt, bankruptcy administrative costs, expense, and Liabilities (including professional fees) to the extent incurred in the Chapter 11 Cases in connection with the operation (and maintaining the operation and attending to matters in the Chapter 11 Cases relating to such maintaining such operation) of such Designation Rights Asset for such period) or (y) the bad faith or willful misconduct of Sellers or any of their Affiliates or Representatives, (iii) all consideration or proceeds received by Sellers in connection with the operation of, and other benefits deriving from, such Designation Rights Asset during such period shall constitute Purchased Assets and be promptly delivered to the Purchaser (the "Designation Rights Assets Proceeds"), and (iv) the foregoing shall not affect the validity of the transfer to the Purchaser of any other Purchased Asset whether or not related to such Designation Rights Asset. The Purchaser shall provide all cooperation and assistance reasonably required by the Sellers to enable the Sellers to provide, or cause to be provided, the services contemplated by this Section 1.5. Without limiting the generality of the foregoing, to the extent deemed necessary by the Purchaser:

(I) The Purchaser may establish new accounts (the "Purchaser Accounts") for the deposit of the Designation Rights Assets Proceeds and the disbursement of amounts payable to Sellers under this Section 1.5(f), and Sellers shall promptly upon the Purchaser's reasonable request execute and deliver all necessary documents to open and maintain such accounts; provided, however, that the Purchaser may elect to continue to use the Designated Deposit Accounts as the Purchaser Accounts. The Purchaser Accounts shall be dedicated solely to the deposit of the Designation Rights Assets Proceeds and the disbursement of amounts payable under this Section 1.5(f), and the Purchaser shall exercise sole signatory authority and control with respect to the Purchaser Accounts. Sellers shall not be responsible for, and the Purchaser shall pay as an operational expense hereunder, all bank fees and charges, including wire transfer charges, related to the Purchaser Accounts. Upon the Purchaser's designation of the Purchaser Accounts, all Designation Rights Assets Proceeds, including credit card proceeds, shall be deposited into the Purchaser Accounts. During the period between the Closing and the date the Purchaser establishes the Purchaser Accounts, if any, all Designation Rights Assets Proceeds, including credit card proceeds, shall be collected by the Seller and deposited on a daily basis into depository accounts (as determined by the Purchaser) for the Designation Rights Assets, which accounts shall be designated solely for the deposit of Designation Rights Assets Proceeds, including credit

card proceeds, and the disbursement of amounts payable by Purchaser under this Section 1.5(f) (the “Designated Deposit Accounts”). Notwithstanding anything to the contrary contained herein, Sellers shall have no ownership interest in, and shall not be entitled to withdraw any, Designation Rights Assets Proceeds.

(II) The Purchaser shall have the right to use Sellers’ credit card processing solutions, including online portals, software, terminals, processors, credit card processor coding, merchant identification numbers and existing bank accounts, for Designation Rights Assets Proceeds derived from credit card purchases. In the event that the Purchaser elects to use Sellers’ credit card processing solutions, Sellers shall process credit card transactions on behalf of the Purchaser and for the Purchaser’s account, applying customary practices and procedures. Sellers shall not be responsible for, and the Purchaser shall pay as an operational expense hereunder, all bank fees and charges, including wire transfer charges, and any other costs related to the Purchaser’s use of Sellers’ credit card processing solutions. Without limiting the foregoing, Sellers shall reasonably cooperate with the Purchaser to effect daily settlements with Sellers’ credit card processors, and shall take such other actions as are reasonably necessary to process credit card transactions on behalf of the Purchaser under Sellers’ merchant identification numbers. At the Purchaser’s request, Sellers shall reasonably cooperate with the Purchaser to establish Sellers’ merchant identification numbers under the Purchaser’s name to enable the Purchaser to process all Designation Rights Assets Proceeds derived from credit card purchases for the Purchaser’s account.

(g) The Sellers shall, in consultation with and subject to the consent of the Purchaser, use commercially reasonable efforts to establish the Determined Cure Costs, if any, for each Assigned Contract prior to the Closing Date. To the extent that any Assigned Contract requires the payment of Cure Costs in order to be assumed pursuant to section 365 of the Bankruptcy Code, whether determined prior to or after the Closing, the Determined Cure Costs related to such Assigned Contract, or any portion thereof, shall be paid by the Purchaser upon the date such Assigned Contract is assumed by the applicable Seller and assigned to the Purchaser. For the avoidance of doubt, (A) no prepetition Cure Costs with respect to any Designation Rights Asset shall be due until the assumption thereof pursuant to this Section 1.5 and (B) the Purchaser shall not be required to make any payment for Cure Costs for, or otherwise have any Liabilities with respect to, any Non-Assigned Contract.

(h) If any non-Seller counterparty to a Contract proposed Cure Costs in an amount that is different from the amount of Cure Costs proposed by the Sellers and such difference is not resolved prior to the Closing Date (each such Contract, a “Disputed Amount Contract”), then the Sellers shall provide the Purchase, not less than three (3) Business Days prior to the Closing Date, with a schedule that lists each such Disputed Amount Contract and the amount of Cure Costs that has been proposed by each such non-Seller counterparty, and the Sellers, with the consent of the Purchaser, and the non-Seller counterparty with respect to any Disputed Amount Contract, are unable to agree on Determined Cure Costs for such Disputed Amount Contract within five (5) Business Days following the Closing Date, solely upon the Purchaser’s written request, the Sellers shall, at the expense of the Purchaser, seek to have the amount of Cure Costs related to such Disputed Amount Contract determined by the Bankruptcy Court.

(i) Without limiting Section 1.5(f), if any Contract that is a lease or sublease for Leased Real Property is a Designation Rights Asset, the Sellers shall continue to operate the Business in the Ordinary Course of Business at each location that is the subject of any such lease or sublease for Leased Real Property until such lease or sublease for Leased Real Property is assumed by the applicable Seller and assigned to the Purchaser or the Purchaser delivers a notice to the Sellers to exclude from the definition of Assigned Contracts and include in the definition of Non-Assigned Contracts such lease or sublease for Leased Real Property, as applicable, and (i) the Purchaser shall, at its option, directly pay or pre-fund Seller to pay for (or, if applicable, reasonably cooperate with Sellers in pursuing any claims under any Insurance Policy that relates to such Designation Rights Asset and is transferred to the Purchaser at the Closing in respect of) any costs, expenses and any other Liabilities incurred by Sellers in the Ordinary Course of Business in connection with the operation of such location (including as a result of, arising out of or in connection with the operation of the facility and operations at such location) for the period from the Closing until the earlier of (A) the applicable Designation Deadline, (B) the date such Designation Rights Asset is assumed by the applicable Seller and assigned to the Purchaser and (C) the earlier of (1) five (5) Business Days after the date Sellers receive written notice from Purchaser designating the exclusion of such Designation Rights Asset and (2) the effective date of rejection of any Designation Rights Asset that is not designated for assumption, in each case other than costs, expenses or liabilities arising from or incurred in connection with (x) the administration of the Chapter 11 Cases themselves (but including, for the avoidance of doubt, bankruptcy administrative costs expense, and Liabilities (including professional fees) to the extent incurred in the Chapter 11 Cases in connection with the operation (and maintaining the operation and attending to matters in the Chapter 11 Cases relating to such maintaining such operation) of such Designation Rights Asset for such period) or (y) the gross negligence, bad faith or willful misconduct of Sellers or any of their Affiliates or Representatives, and all earnings and proceeds received by Sellers in connection with the operation of such Designation Rights Asset during such period shall constitute Purchased Assets and be promptly delivered to the Purchaser.

(j) The Sellers and Purchaser shall take all actions required to assume and assign the Assigned Contracts to the Purchaser (other than payment of the Determined Cure Costs, which shall be the sole responsibility of the Purchaser), including taking all reasonable actions required to obtain a Bankruptcy Court order containing a finding that the proposed assumption and assignment of the Assigned Contracts to the Purchaser satisfies all applicable requirements of section 365 of the Bankruptcy Code.

(k) Notwithstanding the foregoing, the Purchaser may, in lieu of paying any Determined Cure Costs (or any portion thereof) with respect to any Assigned Contract directly to the applicable non-Seller counterparty, pay such Determined Cure Cost (or portion thereof) to the Sellers who shall promptly deliver such Determined Cure Cost to the applicable non-Seller counterparty. In addition, notwithstanding anything herein to the contrary, in lieu of paying any Determined Cure Costs (or any portion thereof) with respect to any Assigned Contract pursuant to Section 1.5(g), the Sellers, the Purchaser and the applicable non-Seller counterparty to such Assigned Contract may agree in writing to a post-Closing payment schedule pursuant to which the Purchaser will make agreed upon Cure Cost payments to the applicable non-Seller counterparty (any such agreement, a "Post-Closing Cure Payment Arrangement").

(l) Subject in all cases of this Section 1.5(l) to the other provisions of this Agreement, and requirements of the Bankruptcy Code, with respect to the assignment of any related Contracts, the Purchaser may, at any time and from time to time through (and including) one (1) Business Day prior to the Closing Date, include in the definition of Assumed Seller Plans and exclude from the definition of Excluded Assets any Seller Plan not otherwise included in the definition of Assumed Seller Plans; provided that no such change of the definitions of Assumed Seller Plans or Excluded Assets referred to in this sentence shall reduce or increase the amount of the Purchase Price, except to the extent of any increase in the assumption of the Assumed Liabilities (subject to the limitations set forth in Section 1.3) as a result of Seller Plans being added to the Assumed Seller Plans by the Purchaser pursuant to this Section 1.5(l). The Purchaser may, at any time and from time to time through (and including) one (1) Business Day prior to the Closing Date, exclude from the definition of Assumed Seller Plans and include in the definition of Excluded Assets, any Seller Plan otherwise included in the definition of Assumed Seller Plans; provided that no such change of the definitions of Assumed Seller Plans or Excluded Assets referred to in this sentence shall reduce or increase the amount of the Purchase Price, except to the extent of any reduction in the assumption of the Assumed Liabilities as a result of Seller Plans being excluded from the Assumed Seller Plans by the Purchaser pursuant to this Section 1.5(l). To exercise its rights under this Section 1.5(l) to include Seller Plans in, or exclude Seller Plans from, the Assumed Seller Plans and the Excluded Assets, as applicable, the Purchaser shall deliver one or more written notices to the Sellers specifying the Seller Plan(s) to be so included or excluded. If any Seller Plan is added to (or excluded from) the Assumed Seller Plans and the Excluded Assets as permitted by this Section 1.5(l), then Schedule 1.1(n) shall be deemed amended to reflect such addition, deletion or other change automatically (without any further action on the part of, or notice to, any Person) upon the delivery by the Purchaser of the notice referred to in the immediately preceding sentence and, as an administrative matter only, the Purchaser and the Sellers shall make appropriate additions, deletions or other changes to Schedule 1.1(n) to reflect such addition or exclusion.

(m) Subject in all cases of this Section 1.5(m) to the other provisions of this Agreement, and requirements of the Bankruptcy Code, with respect to the assignment of any related Contracts, the Purchaser may, at any time and from time to time through (and including) the Closing Date, include in the definition of Purchased Assets and exclude from the definition of Excluded Assets any Excluded Asset that is included on Schedule 1.2(p); provided that no such change of the definitions of Excluded Assets or Purchased Assets referred to in this sentence shall reduce or increase the amount of the Purchase Price, except to the extent of any increase in the assumption of the Assumed Liabilities as a result of any Excluded Asset being added to the Purchased Assets by the Purchaser pursuant to this Section 1.5(m). The Purchaser may, at any time and from time to time through (and including) the Closing Date, exclude from the definition of Purchased Assets and include in the definition of Excluded Assets, any Purchased Asset otherwise included in the definition of Purchased Assets; provided that no such change of the definitions of Purchased Assets or Excluded Assets referred to in this sentence shall reduce or increase the amount of the Purchase Price, except to the extent of any reduction in the assumption of the Assumed Liabilities as a result of Purchased Assets being excluded from the Purchased Assets by the Purchaser pursuant to this Section 1.5(m). To exercise its rights under this Section 1.5(m) to add or exclude assets to or from the Excluded Assets and the Purchased Assets, as applicable, the Purchaser shall deliver one or more written notices to the Sellers specifying the asset(s) to be so included or excluded. If any Excluded Asset is added to (or excluded from) the

Purchased Assets and the Excluded Assets, or if any Purchased Asset is added to (or excluded from) the Excluded Assets and the Purchased Assets, in any such case as permitted by this Section 1.5(m), then Schedule 1.2(p) and any applicable Schedule referenced in Section 1.1 shall be deemed amended to reflect such addition, deletion or other change automatically (without any further action on the part of, or notice to, any Person) upon the delivery by the Purchaser of the notice referred to in the immediately preceding sentence and, as an administrative matter only, the Purchaser and the Sellers agree to make appropriate additions, deletions or other changes to Schedule 1.2(p) and any other applicable Schedule to reflect such addition or exclusion. In the event the Purchaser elects to designate the asset set forth on Schedule 1.2(p) as a Purchased Asset pursuant to this Section 1.5(m), then Bluestem Fulfillment, Inc. shall no longer be a Seller hereunder and this Agreement shall be deemed to be amended, automatically and without any further action on the part of any Person, to remove Bluestem Fulfillment, Inc. as a Seller hereunder.

(n) At the Closing, the Sellers shall retain the CRO or another outside professional that is reasonably acceptable to the Purchaser to serve as a responsible officer of each Seller during the period from the Closing until one (1) Business Day following the earlier to occur of (x) the Designation Deadline latest in time under this Agreement and (y) the conversion or dismissal of the Chapter 11 Cases or the appointment of a Chapter 11 trustee, and during such period, the Sellers shall pay such responsible officer's remuneration in accordance with the Wind-Down Budget; provided, however, that the first payment shall be paid by the Purchaser on the Closing Date and such amount shall equal a prorated portion of the period on and following the Closing Date through the end of such calendar month.

(o) To the extent the Purchaser does not agree in writing to directly pay for any costs, expenses or other Liabilities pursuant to Section 1.5(f)(ii) or Section 1.5(i)(i) or Section 6.1 (collectively, the "Designation Costs") at least ten (10) Business Days prior to the Closing Date or ten (10) Business Days prior to the end of each calendar month, as applicable, the Sellers shall invoice the Purchaser (i) at least five (5) Business Days prior to the Closing Date, the entire estimated amount of Designation Costs for the remainder of such calendar month and (ii) at least five (5) Business Days prior to the end of each calendar month for the entire estimated amount of Designation Costs for the following calendar month (the aggregate amount set forth on each such invoice, the "Estimated Designation Amount"). Such invoice shall include reasonably detailed documentation supporting the Estimated Designation Amount and shall be paid by the Purchaser on the Closing Date, with respect to the first Estimated Designation Amount, or on the first day of the applicable calendar month, for each subsequent Estimated Designation Amount. As promptly as possible, but in any event within ten (10) calendar days following the end of each month, Sellers shall prepare and deliver to the Purchaser its calculation of the actual amount of Designation Costs during such month (such amount, as it may be modified by mutual agreement of the parties following resolution of any objection as described below, the "Actual Designation Amount"), including reasonably detailed documentation supporting such amount. The Purchaser shall have the right to object to the Actual Designation Amount (or any portion thereof) on the basis that any amount included in the Actual Designation Amount is not a Designation Cost, and, in the event of any such objection, the parties shall meet in good faith to resolve such objection as promptly as practicable and if the parties are unable to agree, Sellers or Purchaser may submit the matter to the Bankruptcy Court for final determination. If the Actual Designation Amount is greater than the Estimated Designation Amount, within five (5) calendar days after the Purchaser's receipt of the Sellers' calculation of the Actual Designation Amount (or, in the event of any objection, the date

of resolution of such objection solely with respect to the amount in dispute), the Purchaser shall pay the Sellers the difference between the Actual Designation Amount and the Estimated Designation Amount. If such Actual Designation Amount is less than the Estimated Designation Amount, within five (5) calendar days after the Purchaser's receipt of the Sellers' calculation of the Actual Designation Amount (or, in the event of any objection, the date of resolution of such objection solely with respect to the amount in dispute), the Sellers shall reduce the next Estimated Designation Amount by (or, in the case of the last period of Designation Costs, pay the Purchaser) the difference between the Estimated Designation Amount and the Actual Designation Amount. The Sellers and Purchaser shall provide each other all invoices and other supporting documentation reasonably requested in connection with the foregoing and afford the each other and its respective Representatives reasonable access to (x) the employees, the properties, offices and other facilities and, (y) to the extent not prohibited by Law, all books and records, Contracts and all financial, operating and other data and information that are in their, in each case, as each may reasonably request.

ARTICLE 2

CONSIDERATION

2.1 Consideration. In consideration for the transfer of the Purchased Assets to the Purchaser and the other undertakings set forth herein, the purchase price (the "Purchase Price") for the Purchased Assets shall be (i) the assumption of the Assumed Liabilities by the Purchaser at Closing, plus (ii) an amount equal to \$250,000,000 (the "Credit Bid Amount"), which such amount will be satisfied by way of an offset against the TLA Obligations held by the TLA Lenders pursuant to section 363(k) of the Bankruptcy Code (the "Credit Bid") (it being understood and agreed that the portion of the TLA Obligations in excess of the Credit Bid Amount (if any) will remain outstanding as an unsecured claim against Sellers), plus (iii) cash in an amount equal to the DIP Repayment Amount, plus, (iv) cash in an amount such that Excluded Cash is not less than the total amount of "Total Disbursements" in the Wind-Down Budget, if any (the "Excluded Cash Deficiency Amount"). Notwithstanding anything to the contrary herein, (a) under no circumstances shall any portion of the Credit Bid Amount be converted into or otherwise require a cash payment and (b) Purchaser, in its sole discretion, may elect at the Closing to designate a portion of the Credit Bid Amount up to an amount equal to \$225,000,000 to, in lieu of being treated as an offset against the TLA Obligations held by the TLA Lenders pursuant to section 363(k) of the Bankruptcy Code, be restructured secured indebtedness of Purchaser (or its designee(s) hereunder) under a financing agreement to be entered into by the Purchaser (or its designee(s) hereunder), the TLA Agent and the TLA Lenders at Closing (the "Restructured Indebtedness"), which such agreement shall be on terms satisfactory to each of the parties thereto (it being understood and agreed that if such designation occurs, the "Credit Bid Amount" shall, for all purposes under this Agreement, be an amount equal to (x) \$250,000,000 minus (y) such designated amount).

2.2 Allocation of Purchase Price. The Purchaser shall, not later than one hundred twenty (120) days after the Closing Date, prepare and deliver to the Sellers a schedule allocating the Purchase Price, including Assumed Liabilities to the extent that such Liabilities are required to be treated as part of the purchase price for Tax purposes, among the Purchased Assets of each Seller (such schedule, the "Allocation"). The Allocation will be prepared in accordance with the

allocation methodology set forth in Section 1060 of the Code, the applicable Treasury regulations promulgated thereunder. Sellers will have thirty (30) days following delivery of the Allocation during which to notify the Purchaser in writing (an “Allocation Notice of Objection”) of any objections to the Allocation, setting forth in reasonable detail the basis of Sellers’ respective objections. If Sellers fail to timely deliver an Allocation Notice of Objection in accordance with this Section 2.2, then the Allocation will be conclusive and binding on all parties. If Sellers timely submit an Allocation Notice of Objection, then for twenty (20) Business Days after the date of Purchaser’s receipt of the Allocation Notice of Objection, Purchaser and Sellers will work in good faith and use their respective commercially reasonable efforts to agree on the Allocation. In the event that the parties are not able to resolve all objections raised in the Allocation Notice of Objection within such twenty (20) Business Day period, then the Allocation will be amended to reflect all undisputed items to which the parties have agreed, and all disputed items will be reported by the parties separately in good faith, and the Allocation as amended to reflect the undisputed items will become the Allocation. Nothing contained herein shall prevent the Sellers or the Purchaser from settling any proposed deficiency or adjustment by any Governmental Body based upon or arising out of the Allocation, and neither the Sellers nor the Purchaser shall be required to litigate before any court any proposed deficiency or adjustment by any Governmental Body challenging the Allocation. The Purchaser and each of the Sellers shall cooperate in the filing of any forms, Tax Returns or other documents with respect to the Allocation, including any amendments to such forms, Tax Returns or other documents required pursuant to this Agreement with respect to any adjustment to the Purchase Price.

ARTICLE 3

CLOSING AND TERMINATION

3.1 Closing. Subject to the satisfaction of the conditions set forth in Section 9.1, Section 9.2 and Section 9.3, or the waiver thereof by the party or parties entitled to waive the applicable condition, the closing of the transactions contemplated by this Agreement (the “Closing”) will take place by telephone conference and electronic exchange of documents (or, if the parties hereto agree to hold a physical closing, at the offices of KTBS Law LLP, located at 1999 Avenue of the Stars, Thirty-Ninth Floor, Los Angeles, CA 90067 (or at such other place as the parties may mutually designate in writing)) on a date that is no later than the second (2nd) Business Day following the date on which all of the conditions set forth in Section 9.1, Section 9.2 and Section 9.3 are satisfied or waived by the party entitled to waive the applicable condition (other than conditions that by their nature are to be satisfied at the Closing). The date on which the Closing is held is referred to in this Agreement as the “Closing Date.”

3.2 Closing Deliveries by Sellers. At the Closing, the Sellers shall deliver to the Purchaser:

(a) a duly executed bill of sale and assignment and assumption agreement with respect to Purchased Assets and the Assumed Liabilities, in substantially the form attached hereto as Exhibit A (the “Assignment and Assumption Agreement”);

(b) a duly executed patent assignment, in substantially the form attached hereto as Exhibit B (the “Patent Assignment Agreement”);

(c) a duly executed copyright assignment, in substantially the form attached hereto as Exhibit C (the “Copyright Assignment Agreement”);

(d) a duly executed trademark assignment, in substantially the form attached hereto as Exhibit D (the “Trademark Assignment Agreement”);

(e) a duly executed domain name assignment, in substantially the form attached hereto as Exhibit E (the “Domain Name Assignment Agreement” and together with the Patent Assignment Agreement, Trademark Assignment Agreement, the “IP Assignment Agreements”);

(f) duly executed quitclaim deeds (or other customary documents or instruments to transfer real property in the applicable jurisdictions, but which documents or instruments will not include any representations, warranties or covenants beyond those contemplated herein or expand Purchaser’s remedies with respect thereto) with respect to the real property listed on Schedule 1.1(w), in form and substance reasonably satisfactory to the Purchaser and the Sellers (each, a “Quitclaim Deed”);

(g) duly executed equity transfer documents (or other customary documents or instruments to transfer equity in the applicable jurisdictions, but which documents or instruments will not include any representations, warranties or covenants beyond those contemplated herein or expand Purchaser’s remedies with respect thereto) with respect to the equity of Bluestem Global Sourcing India Private Limited and Bluestem Global Sourcing Limited, in form and substance reasonably satisfactory to the Purchaser and the Sellers;

(h) a true and correct copy of the Sale Order;

(i) a duly executed non-foreign person affidavit of each Seller dated as of the Closing Date, sworn under penalty of perjury, and in form and substance required under the Treasury Regulations or IRS published guidance pursuant to Section 1445 of the Code, stating that such Seller is not a “foreign person” as defined in Section 1445 of the Code;

(j) the officer’s certificates required to be delivered pursuant to Section 9.3(a), Section 9.3(b), and Section 9.3(c); and

(k) such documentation as may be necessary to change the authorized signatories on any bank accounts or powers of attorney relating (directly or indirectly) to the Purchased Assets as directed in writing no later than three (3) Business Days prior to the Closing Date.

3.3 Closing Deliveries by the Purchaser. At the Closing, the Purchaser shall deliver to:

(a) the Sellers evidence of a credit against the TLA Obligations pursuant to section 363(k) of the Bankruptcy Code equal to the Credit Bid Amount;

(b) the Sellers a duly executed Assignment and Assumption Agreement;

(c) the Sellers duly executed IP Assignment Agreements

(d) the Sellers the officer's certificates required to be delivered pursuant to Section 9.2(a) and Section 9.2(b);

(e) the Sellers all other previously undelivered Ancillary Agreements required by this Agreement to be either or both executed and delivered by the Purchaser at or prior to the Closing in connection with the transactions contemplated by this Agreement;

(f) the Sellers, by wire transfer of immediately available funds, an amount equal to the Excluded Cash Deficiency Amount, if any; and

(g) the DIP Agent, by wire transfer of immediately available funds, an amount equal to the DIP Repayment Amount in accordance with the DIP Credit Agreement.

3.4 Termination of Agreement.

This Agreement may be terminated as follows:

(a) by the mutual written consent of the Sellers and the Purchaser at any time prior to the Closing;

(b) by either the Purchaser or the Sellers, if the Closing shall not have been consummated on or prior to August 31, 2020 (the "Outside Date"); provided, further, that the right to terminate this Agreement under this Section 3.4(b) shall not be available to the Purchaser or the Sellers, as applicable, if the Purchaser or any Seller, as applicable, is then in material breach or violation of any of their respective representations, warranties, covenants or agreements under this Agreement;

(c) by either the Purchaser or the Sellers, if there shall be a permanent injunction, restraining order or decree of any nature of any Governmental Body that is in effect that prevents or prohibits the consummation of the transactions contemplated hereby;

(d) by the Purchaser, if any of the Sellers seek an order of the Bankruptcy Court dismissing the Chapter 11 Cases or converting the Chapter 11 Cases to a case or cases under Chapter 7 of the Bankruptcy Code, or the Bankruptcy Court enters such an order for any reason (except with the Purchaser's prior written consent), or if any of the Sellers seek an order of the Bankruptcy Court appointing a trustee or examiner with expanded powers to operate or manage the financial affairs, the business or the reorganization of any Seller in the Chapter 11 Cases, or if any such appointment occurs for any reason;

(e) by written notice of either Purchaser or Sellers, if (i) any Seller enters into any agreement in principle, letter of intent, memorandum of understanding, definitive agreement or other arrangement, with any Person with respect to one or more Alternative Transactions with one or more Persons other than Purchaser or, subject to the terms of the Bid Procedures, the Successful Bidder and the Purchaser is the Back-Up Bidder or (ii) the Bankruptcy Court approves an Alternative Transaction and the Purchaser is not the Back-Up Bidder;

(f) automatically, upon consummation of an Alternative Transaction;

(g) by the Purchaser, (i) if any Seller shall have breached or failed to perform any of its representations, warranties, covenants or other obligations contained in this Agreement, or if any representation or warranty of any Seller in this Agreement shall have become untrue, and (ii) any such breach, failure to perform or occurrence referred to in clause (i) (A) would result in a failure of any condition set forth in Section 9.3(a) or 9.3(c) and (B) is not curable or able to be performed, or, if curable or able to be performed, is not cured or performed prior to the earlier of (x) the Outside Date and (y) fifteen (15) days after written notice of such breach, failure or occurrence is given to the Sellers by the Purchaser;

(h) by the Sellers, (i) if the Purchaser shall have breached or failed to perform any of its representations, warranties, covenants or other obligations contained in this Agreement, or if any representation or warranty of the Purchaser in this Agreement shall have become untrue, and (ii) any such breach, failure to perform or occurrence referred to in clause (i) (A) would result in a failure of a condition set forth in Section 9.2(a) or 9.2(b) and (B) is not curable or able to be performed, or, if curable or able to be performed, is not cured or performed prior to the earlier of (x) the Outside Date and (y) fifteen (15) days after written notice of such breach, failure or occurrence is given to the Purchaser by the Sellers;

(i) by the Purchaser, if all the conditions set forth in Section 9.1, Section 9.2 and Section 9.3 have been satisfied (other than conditions that by their nature are to be satisfied at the Closing) or waived in writing and the Sellers fail to consummate the transactions contemplated hereby at the Closing;

(j) by the Sellers, if all of the conditions set forth in Section 9.1, Section 9.2 and Section 9.3 have been satisfied (other than conditions that by their nature are to be satisfied at the Closing) or waived and the Purchaser fails to complete the Closing at the time required by Section 3.1;

(k) by either the Purchaser or the Sellers, if, following the Sale Hearing, the Purchaser is not the Successful Bidder or the Back-Up Bidder;

(l) by the Purchaser, if (i) following entry by the Bankruptcy Court of the Bid Procedures Order, such order is (A) amended, modified or supplemented in any way without the Purchaser's prior written consent or (B) voided, reversed or vacated or is subject to a stay or (ii) following entry by the Bankruptcy Court of the Sale Order, the Sale Order is (A) amended, modified or supplemented in any way without the Purchaser's prior written consent or (B) voided, reversed or vacated or is subject to a stay;

(m) by the Purchaser or Sellers if for any reason the Purchaser is unable, pursuant to section 363(k) of the Bankruptcy Code, to credit bid the Credit Bid Amount in payment of the Purchase Price as set forth in Section 2.1;

(n) by the Purchaser if, prior to the Bid Deadline, Purchaser or the TLA Agent in their sole discretion shall have determined that the results of their legal, tax, accounting and business due diligence of the Sellers are not satisfactory;

(o) by the Purchaser, if an “Event of Default” under the DIP Credit Agreement shall have occurred and not have been waived in accordance with the terms of the DIP Credit Agreement, subject to any applicable cure period; or

(p) by the Purchaser, if any of the Bankruptcy Milestones are not met.

3.5 Procedure Upon Termination. In the event of a termination of this Agreement by the Purchaser or the Sellers, or both, pursuant to Section 3.4, (a) written notice of such termination shall be given promptly by the terminating party to the other parties hereto, specifying the provision hereof pursuant to which such termination is made, (b) except as set forth in Section 3.6, this Agreement shall thereupon terminate and become void and of no further force or effect and (c) the consummation of the transactions contemplated by this Agreement shall be abandoned without further action of the parties hereto. Any termination of this Agreement by the Purchaser or the Sellers, or both, pursuant to Section 3.4 shall be effective on the date that written notice of such termination is given by the terminating party to the other parties hereto, and any automatic termination of this Agreement pursuant to Section 3.4(f) shall be effective on the date that an Alternative Transaction is consummated.

3.6 Effect of Termination. In the event that this Agreement is validly terminated in accordance with Section 3.4, then this Agreement shall become null and void and of no further force or effect, and there shall be no Liability hereunder on the part of the Sellers, any of the Seller Parties, the Purchaser or any of the Purchaser Parties, except that the provisions of this Section 3.6 and ARTICLE 11, and any defined terms used in such Section or Article, shall survive the termination of this Agreement for any reason indefinitely; provided, however, that if such termination shall have been caused by, or shall have resulted from, the material breach by a party of any of its representations, warranties, covenants or obligations set forth in this Agreement (which, for the avoidance of doubt, will be deemed to include any failure by Purchaser or Sellers to consummate the Closing if and when each is respectively obligated to do so hereunder), then any such termination shall not relieve any such breaching or failing party for damages incurred or suffered by any other party as a result of any such breach or failure. For the avoidance of doubt, if this Agreement is terminated in accordance with Section 3.4, the Purchaser shall not be obligated to (a) pay or assume any portion of the Purchase Price or (b) pay or make any other payments described herein that would be required to be paid or made if the transactions contemplated herein were consummated.

ARTICLE 4

REPRESENTATIONS AND WARRANTIES OF THE SELLERS

Except as set forth in the Schedules, the Sellers hereby, jointly and severally, make the representations and warranties in this ARTICLE 4 to the Purchaser as of the Execution Date and as of the Closing Date (except with respect to representations and warranties made as of a particular date, which shall be deemed to be made only as of such date).

4.1 Organization and Qualification. Each Seller is a corporation or limited liability company (as applicable) duly incorporated or organized (as applicable), validly existing and in good standing under the Laws of its jurisdiction of incorporation or organization (as applicable).

Each Seller is qualified and in good standing as a foreign corporation or limited liability company (as applicable) in each jurisdiction where the properties owned, leased or operated or the conduct of its Business require such qualification, except where the failure to be so qualified or in good standing would not have a Material Adverse Effect. Each Seller has all requisite power and authority to own, lease and operate its properties and to carry on its Business as it is now being conducted, subject to the provisions of the Bankruptcy Code.

4.2 Subsidiaries. Schedule 4.2 sets forth each corporation, association or other entity in which Holdings owns, of record or beneficially, any direct or indirect equity interest or any right (contingent or otherwise) to acquire any equity interest, in each case that is not a Seller.

4.3 Authority Relative to This Agreement. Except for such authorization as is required from the Bankruptcy Court, each Seller has all requisite power and authority to (a) execute and deliver this Agreement, (b) execute and deliver each of the Ancillary Agreements to be executed and delivered by such Seller, and (c) perform its obligations hereunder and under each of the Ancillary Agreements to be executed and delivered by such Seller, and to consummate the transactions contemplated hereby and thereby. The execution and delivery by each Seller of this Agreement and each of the Ancillary Agreements to be executed and delivered by such Seller, and the consummation of the transactions contemplated hereby and thereby, have been duly authorized by all requisite action on the part of such Seller subject to the approval of the Bankruptcy Court. This Agreement has been, and at or prior to the Closing each of the Ancillary Agreements will be, duly and validly executed and delivered by each Seller and (assuming the due authorization, execution and delivery by the other parties hereto and thereto, and the entry of the Sale Order) this Agreement constitutes, and each of the Ancillary Agreements when so executed and delivered will constitute, legal, valid and binding obligations of each Seller, enforceable against such Seller in accordance with their respective terms, subject to applicable bankruptcy, insolvency, reorganization, moratorium and similar laws affecting creditors' rights and remedies generally, and subject to general principles of equity, including principles of commercial reasonableness, good faith and fair dealing (regardless of whether enforcement is sought in a proceeding at Law or in equity) (the "Bankruptcy Exceptions").

4.4 Conflicts; Consents and Approvals.

(a) Except as set forth on Schedule 4.4(a), none of the execution and delivery by any Seller of this Agreement or any of the Ancillary Agreements, the consummation of the transactions contemplated hereby or thereby, or compliance by any Seller with any of the provisions hereof or thereof will conflict with or result in a breach of any provision of (i) the Seller Organizational Documents, (ii) subject to and assuming entry of the Bid Procedures Order and the Sale Order, any Material Contract to which such Seller is a party or by which such Seller or any of the Purchased Assets is bound, or (iii) subject to and assuming entry of the Bid Procedures and the Sale Order, any applicable Law, other than, in the case of clauses (ii) and (iii) such conflicts or breaches that would not, individually or in the aggregate, reasonably be expected to be adverse in any material respect to the Purchased Assets or such Seller's or the Purchaser's ability to conduct the Business in the Ordinary Course of Business, in each case, taken as a whole.

(b) Except as set forth on Schedule 4.4(b), no approval, order or Permit from, consent by, or registration, declaration, notification or filing with, any Governmental Body is

required on the part of any Seller in connection with the execution and delivery by any Seller of this Agreement or any of the Ancillary Agreements, or the consummation by any Seller of the transactions contemplated hereby or thereby (including the assumption by the Sellers of the Assigned Contracts and the assignment thereof to the Purchaser, but excluding the transfer of any Permit from a Seller to the Purchaser pursuant to this Agreement to the extent such transfer is prohibited by the terms of any such Permit or the Law governing the issuance of such Permit to such Seller and such prohibition cannot be overridden by the Sale Order or other related order of the Bankruptcy Court), except for (i) the entry of the Bid Procedures Order and the Sale Order and (ii) such other approvals, orders, Permits, consents, registrations, declarations, notifications or filings, the failure of which to obtain or make would not, individually or in the aggregate, reasonably be expected to be adverse in any material respect to the Purchased Assets or to such Seller's or the Purchaser's ability to conduct the Business in the Ordinary Course of Business, in each case, taken as a whole.

4.5 Ordinary Course of Business. Except (a) as required by the Bankruptcy Court, (b) relates to the preparation, commencement, and pendency of the Chapter 11 Cases, (c) for the negotiation, drafting, and execution of this Agreement or as contemplated or expressly required or permitted by this Agreement, (d) as disclosed in the Unaudited Financial Statements, or (e) as set forth on Schedule 4.5, since the Balance Sheet Date, (i) the Business has been conducted in the Ordinary Course of Business, and (ii) other than the Chapter 11 Cases, no Material Adverse Effect has occurred, and (iii) none of the Sellers has taken any action that, if taken after the Execution Date, would violate Section 8.1 in any material respect.

4.6 Litigation. Except for the Chapter 11 Cases, or as set forth on Schedule 4.6, there is no material litigation, action, claim, suit, proceeding, investigation, examination, hearing, arbitration, inquiry, subpoena or audit, whether in law or equity, or whether civil, criminal, regulatory, arbitral or administrative (collectively, "Actions"), pending or, to the Knowledge of the Sellers, threatened against any Seller or any property or asset of any Seller or that could give rise to or increase an Assumed Liability or that seeks to or is reasonably likely to have the effect of preventing the Sellers from consummating the transactions contemplated by this Agreement. Except with respect to orders issued in the Chapter 11 Cases or as set forth on Schedule 4.6, no Seller is subject to any judgment, decree, injunction, subpoena, order, ruling, writ, assessment or award of any court, arbitration panel or other Governmental Body that relates to the Business, the Purchased Assets or the Assumed Liabilities and for which such Seller has continuing obligations or Liabilities.

4.7 Intellectual Property.

(a) Schedule 4.7(a) sets forth a true, complete and correct list of (i) all of the patents, registered trademarks, registered copyrights, Internet domain names, and applications for any of the foregoing, in each case that constitute the Owned Intellectual Property, (ii) a list of all other material Owned Intellectual Property and (iii) a list of all Licensed Intellectual Property (except for Intellectual Property licensed pursuant to off the shelf software and licenses implied in the sale of such software).

(b) Except as set forth on Schedule 4.7(b), (i) the Sellers own all right, title and interest in and to the Owned Intellectual Property, free and clear from any Encumbrances (other

than Permitted Encumbrances) and free from any requirement of any present or future royalty payments, license fees, charges or other payments, or conditions or restrictions whatsoever; and (ii) no Action is pending, or, to the Knowledge of the Sellers, threatened challenging the validity, enforceability, registration, ownership or use of any Seller Intellectual Property.

(c) To the Knowledge of Sellers, none of the Sellers nor any of their respective products or services is infringing upon, misappropriating, diluting or otherwise violating, the Intellectual Property of any third party and no Person is infringing upon, misappropriating, diluting or otherwise violating, any Seller Intellectual Property. Except as set forth on Schedule 4.7(c), there is no pending Action alleging that any Seller or any of its products or services is infringing, misappropriating, diluting or otherwise violating the Intellectual Property rights of any Person and, to the Knowledge of the Sellers, no such Actions are threatened.

(d) All Seller Intellectual Property is valid and enforceable and has not been adjudged invalid or unenforceable, in whole or in part, and the Sellers have paid all renewal, maintenance, and other fees and taxes when due as required to maintain each and every registration and application of any applicable Seller Intellectual Property in full force and effect. Except as set forth on Schedule 4.7(d), the Sellers have the right to use the Licensed Intellectual Property as used in the conduct of the Business as currently conducted, free and clear of any Encumbrances (other than Permitted Encumbrances). To the Knowledge of the Sellers, the Seller Intellectual Property together with the other Purchased Assets comprises all the Intellectual Property used by the Sellers to conduct and operate the Business in the Ordinary Course of Business.

(e) The Sellers have taken all necessary and desirable actions to maintain and protect all of the Seller Intellectual Property and IT Assets and to protect and preserve the confidentiality of all trade secrets and other confidential information included in the Seller Intellectual Property, including requiring all Persons having access thereto to execute written non-disclosure agreements. The Sellers have obtained from all employees and consultants who provide or provided services to the Sellers related to the creation, development, modification or ownership of trade secrets used in the Business, executed agreements under which such employees or consultants are or were required to convey to the Sellers ownership of all inventions and developments conceived or created by them in the course of their work for any of the Sellers.

(f) The IT Assets are adequate for their intended use and for the operation of the Business as currently operated and are in good working condition (normal wear and tear excepted). There has not been any material malfunction with respect to any of the IT Assets in the last three (3) years that has not been remedied or replaced in all material respects. The IT Assets include all of the information technology equipment necessary to operate the Business as presently conducted or proposed to be conducted. The consummation of the transactions contemplated hereby will not result in the loss or impairment of or payment of additional amounts with respect to, nor require the consent of any other Person in respect of, the Purchaser's right to own, use or hold for use any of the IT Assets as owned, used or held for use in the conduct of the Business as currently conducted or proposed to be conducted.

(g) In connection with its collection, retention, storage, transfer (including any transfer across national borders) and use of any personally identifiable information from any individuals, including any customers, prospective customers, employees and other third parties

(collectively, “Personal Information”), the Sellers have been in compliance in all material respects with all Laws in all relevant jurisdictions, all applicable privacy policies and the requirements of any Contract or codes of conduct to which a Seller is a party or to which a Seller is bound or subject. Each Seller has commercially reasonable physical, technical, organizational and administrative security measures and policies in place to protect all Personal Information that is either or both collected and stored by it or on its behalf in connection with the Business from and against unauthorized access, use and disclosure. In connection with the operation of the Business, each Seller is and has been in compliance in all material respects with all Laws relating to data loss, theft and breach of security notification obligations. No Person (including any Governmental Body) has made any claim or commenced any Action relating to the Sellers’ information privacy or data security practices, including with respect to the access, disclosure or use of Personal Information maintained by or on behalf of any Seller in connection with operation of the Business or threatened any such Action or conducted investigation or inquiry thereof. The execution, delivery, or performance of this Agreement or the Ancillary Agreements or the consummation of the transactions contemplated hereby will not violate any Laws or applicable privacy policy as it currently exists or as it existed at any time during that any Personal Information was collected or obtained by or on behalf of the Sellers. The Sellers have not, in the past five (5) years, experienced any loss, damage, or unauthorized access, disclosure, use or breach of security of any Personal Information in its possession, custody or control, or otherwise held or processed on its behalf.

4.8 Material Contracts.

(a) Schedule 4.8(a) sets forth the following types of Contracts that are unexpired as of the Execution Date to which a Seller is a party or a beneficiary or by which any of the Purchased Assets are bound (such Contracts set forth below are collectively referred to as the “Material Contracts”):

(i) all Contracts requiring payments by or to a Seller in excess of \$5,000,000 during (A) any twelve (12)-month period or (B) during the term of the Contract, if such term is less than twelve (12) months, in each case, which Contract is not set forth in the following clauses (ii) through (xvii); provided that for purposes of Section 4.8(b) and Section 4.8(c), “Material Contracts” shall be deemed to be defined as if the threshold in this clause (i) is \$1,000,000;

(ii) all collective bargaining agreements (and any other Contract with any labor organization, labor union or labor association, including the CBA);

(iii) each written employment agreement;

(iv) Each consulting agreement, severance agreement, change of control agreement and retention agreement, in each case requiring payments by a Seller in excess of \$250,000 in any twelve (12) month period (other than any “at-will” contract that may be terminated by Seller upon 30 days or less advance notice without any severance or other termination payments);

(v) Contracts to which any officer, director or equity holder of a Seller, or any Affiliate of any such Person is a party;

(vi) each Contract for the lease, sublease, license or use of any real property or any material Furniture and Equipment used or held for use in the Business, in each case requiring payments by a Seller in excess of \$250,000 in any twelve (12)-month period;

(vii) Contracts that (A) limit or restrict a Seller from engaging in any business or other activity in any jurisdiction or (B) create any exclusive relationship or arrangement;

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

(ix) Contracts for the granting or receiving of a license, sublicense or franchise or under which any Person is obligated to pay or has the right to receive a royalty, license fee, franchise fee or similar payment, in each case requiring payments by a Seller in excess of \$250,000 in any twelve (12)-month period;

(x) Contracts (other than for commercially available off the shelf software) where a Seller is a licensor or licensee of Intellectual Property used in the operation of the Business, in each case requiring payments by a Seller in excess of \$250,000 in any twelve (12)-month period;

(xi) joint venture or partnership Contracts;

(xii) each Contract for capital expenditures or the acquisition or construction of fixed assets relating to the Business, the performance of which involves consideration in excess of \$250,000;

(xiii) each Contract that provides for an increased payment or benefit, or accelerated vesting of any benefit, to any current or former employee of a Seller upon the execution of this Agreement or the consummation of the transactions contemplated hereby;

(xiv) Contracts relating to the acquisition (by merger, consolidation or acquisition of stock or assets) of any Person or division thereof or collection of assets constituting all or substantially all of a business or business unit entered into at any time during the three (3) years prior to the Execution Date pursuant to which any Seller has any material outstanding obligation or Liability;

(xv) each Contract that is a requirements contract or other arrangement pursuant to which a Seller is obligated or otherwise required to obtain any products or services exclusively from any Person, in each case requiring payments by a Seller in excess of \$250,000 in any twelve (12)-month period;

(xvi) each Contract that contains minimum purchase obligations (e.g., take-or-pay) or that contains penalties or repricing provisions if certain minimum quantities of products or services are not purchased, in each case requiring payments by a Seller in excess of \$250,000 in any twelve (12)-month period; and

(xvii) Contracts with any Governmental Body.

(b) Assuming entry of the Bid Procedures Order and the Sale Order and that all consents, approvals, notices and disclosures described on Schedule 4.4(a) and Schedule 4.4(b) are obtained or made (as applicable) and assumption by the applicable Seller of the applicable Contract in accordance with applicable Law (including satisfaction by Purchaser of any applicable Cure Costs), (i) each Material Contract (other than any Material Contract that has expired or terminated in accordance with its terms after the Execution Date or that has been terminated not in violation of this Agreement) (x) constitutes a valid and binding obligation of the Seller party thereto and, to the Knowledge of the Sellers, each other party thereto and (y) is in full force and effect, except in each of the preceding clauses (x) and (y) as limited by Bankruptcy Exceptions, (ii) no Seller is in, or is alleged to be in, any material breach or material default under any Material Contract, except for payment defaults for which estimated Cure Costs have been set forth on the Original Contract & Cure Schedule in accordance with Section 1.5(a) and such other breaches or defaults arising as a consequence of the commencement of the Chapter 11 Cases and (iii) assuming entry of the Sale Order, upon consummation of the transactions contemplated by this Agreement, each Material Contract shall continue in full force and effect without penalty or any adverse consequence to the Purchaser, except for any Material Contracts that expired in accordance with the terms thereof after the Execution Date and prior to the Closing Date.

(c) The Sellers have heretofore delivered or made available to the Purchaser true, correct and complete copies of all Material Contracts that are in writing, including all amendments, modifications, schedules and supplements thereto and all waivers (including descriptions of oral waivers) with respect thereto.

4.9 Permits.

(a) Except as set forth on Schedule 4.9(a)(i), all of the material Permits that are used by Sellers in the operation of the Business and the ownership or use of the Purchased Assets (collectively, the “Material Permits”) are held by the Sellers and, assuming entry of the Bid Procedures Order and the Sale Order and that all consents, approvals, notices and disclosures described on Schedule 4.4(a) and Schedule 4.4(b) are obtained or made (as applicable), are in full force and effect. Schedule 4.9(a)(ii) sets forth a true, complete and correct list of all Material Permits held the Sellers as of the Execution Date.

(b) Each Seller is in compliance in all material respects with its obligations under each of the Material Permits, and no condition exists that with notice or lapse of time or both would constitute a material default under, or a material violation of, any Material Permit.

(c) There is no Action, notice of violation, order of forfeiture or written complaint or investigation against any Seller relating to any of the Material Permits pending or, to the Knowledge of the Sellers, threatened before any Governmental Body.

4.10 Brokers and Finders. Except as set forth on Schedule 4.10, no Seller has employed any investment banker, broker, finder, consultant or intermediary in connection with the transactions contemplated by this Agreement that would be entitled to any investment banking,

brokerage, finder's or similar fee or commission in connection with this Agreement or the transactions contemplated hereby.

4.11 Title to Assets. Upon the entry and effectiveness of the Sale Order, the Sellers will have the power and right to sell, assign, transfer, convey and deliver to the Purchaser good and valid title to (or, in the case of leased Purchased Assets, a valid and subsisting leasehold interest in), free and clear of any Encumbrances (except for Permitted Encumbrances), all of Sellers' right, title, and interest in and to the Purchased Assets, subject to the terms of Section 8.3. Other than any assets that Purchaser designates as Excluded Assets after the date hereof, the Purchased Assets (including solely for purposes of this Section 4.11 all Contracts on the Original Contract & Cure Schedule) constitute all of the properties, assets and rights used by the Sellers and necessary for the Purchaser to conduct and operate the Business as currently conducted by Sellers. All of the Purchased Assets are in good order and repair for assets of comparable age and past use.

4.12 Real Property.

(a) Except as set forth on Schedule 4.12(a), none of the Sellers owns any real property.

(b) Schedule 4.12(b)(i) sets forth a complete and correct list of all Leased Real Property specifying the address or other information sufficient to identify all such Leased Real Property and a legal caption of the underlying Assumed Real Property Leases. Each Assumed Real Property Lease grants the Seller party thereto the sole and exclusive right to use and occupy the applicable Assumed Leased Real Property, in accordance with the terms thereof, subject to Permitted Encumbrances. Except as set forth on Schedule 4.12(b)(ii), no Seller has assigned, subleased, mortgaged, pledged or otherwise encumbered its interest under any Assumed Real Property Lease and no Seller has leased, subleased or granted to any Person the right to access, enter upon, use, occupy, lease, manage, operate, maintain, broker or purchase any portion of such Seller's interest in the Leased Real Property, in each case, that is not otherwise a Permitted Encumbrance or that will not otherwise be terminated on or prior to the Closing Date.

(c) Except as a result of the filing of the Chapter 11 Cases or as set forth on Schedule 4.12(c), Sellers and, to the Knowledge of the Sellers, each of the other parties thereto has performed in all material respects all material obligations required to be performed by it under each Assumed Real Property Lease and, assuming entry of the Bid Procedures Order and the Sale Order and that all consents, approvals, notices and disclosures described on Schedule 4.4(a) and Schedule 4.4(b) are obtained or made (as applicable) and assumption by the applicable Seller of the applicable Contract in accordance with applicable Law (including satisfaction by Purchaser of any applicable Cure Costs), each Assumed Real Property Lease is in full force and effect, not subject to any uncured defaults and has not been amended, except as set forth on Schedule 4.12(b)(i). Since January 1, 2018, no Seller has received any written notice of, or to the Knowledge of the Sellers, oral notice of, condemnation or eminent domain proceedings pending or threatened that affect any of the Assumed Leased Real Property. Since January 1, 2018, no Seller has received any written notice of, or to the Knowledge of the Sellers, any oral notice of, any zoning, ordinance, building, fire or health code or other legal violation affecting any of the Assumed Leased Real Property, except where any such violations would not, individually or in the aggregate, reasonably be expected to be adverse in any material respect to the Purchased

Assets, taken as a whole, or to such Seller's ability to conduct the Business in the Ordinary Course of Business, taken as a whole.

4.13 Compliance with Law. Except as set forth on Schedule 4.13, each Seller is in compliance in all material respects with all applicable Laws. Since January 1, 2018, no Seller has received any written notice or, to the Knowledge of the Sellers, oral notice of any alleged violation of any Law applicable to it from any Governmental Body or third party. No Seller is subject to, or in default in any respect with, any order of any Governmental Body applicable to the Business, the Purchased Assets or the transactions contemplated under this Agreement. Except as set forth on Schedule 4.13, no investigations, inquiries, reviews or Actions by any Governmental Body with respect to the Business is pending nor, to the Knowledge of the Sellers, are any threatened, in each case, that would impose any Liability on any Seller (other than an Excluded Liability) or, from and after the Closing Date, the Purchaser, the Purchased Assets or the Business.

4.14 Tax Returns; Taxes. Except as would not be material to the Business or the Purchased Assets, or (y) as set forth on Schedule 4.14:

(a) All Tax Returns required to have been filed by the Sellers have been duly and timely filed and are true, correct and complete in all material respects, and no material fact has been omitted therefrom. No extension of time in which to file any such Tax Returns is in effect other than intra-year extensions obtained in the ordinary course of business.

(b) All Taxes due and payable by the Sellers (whether or not shown on any Tax Return) have been paid in full.

(c) No claims have been asserted in writing, no Taxes have been assessed and no proposals or deficiencies for any material amount of Taxes of the Sellers are being asserted or proposed in writing and no audit or investigation of any Tax Return of any Seller is currently underway, pending or, to the Knowledge of the Sellers, threatened in writing. No claim has ever been made in writing against any Seller by any Governmental Body in a jurisdiction where such Seller does not file Tax Returns that such Seller is or may be subject to taxation in such jurisdiction.

(d) No Seller has executed or filed with any Governmental Body any agreement or waiver extending the period for assessment, reassessment or collection of any material Taxes that remains in effect.

(e) The Sellers have withheld and paid all Taxes required to have been withheld and paid by them to the appropriate Governmental Body in connection with amounts paid or owing to any current or former employee, independent contractor, creditor or shareholder thereof or other third party, and all Forms W-2 and 1099 required with respect thereto have been properly completed and timely filed. There are no Encumbrances for Taxes with respect to the Sellers or their respective assets or the Business, nor is there any such Encumbrance that is pending or, to the Knowledge of the Sellers, threatened in writing, other than Permitted Encumbrances.

(f) No Seller is or has been a party to any "listed transaction," as defined in Code §6707A(c)(2) and Reg. §1.6011-4(b)(2).

4.15 Benefit Plans.

(a) Schedule 4.15(a) contains a list of each Seller Plan. “Seller Plans” means (i) all “employee benefit plans” (as defined in Section 3(3) of ERISA), including all employee benefit plans that are “pension plans” (as defined in Section 3(2) of ERISA) and any other written employee benefit arrangements or payroll practices (including severance pay, vacation pay, company awards, salary continuation for disability, sick leave, death benefit, hospitalization, welfare benefit, group or individual health, dental, medical, life, insurance, survivor benefit, deferred compensation, profit sharing, retirement, retiree medical, supplemental retirement, bonus or other incentive compensation, stock purchase, stock option, stock appreciation rights, restricted stock and phantom stock arrangements or policies) and (ii) all written employment, termination, bonus, severance, change in control or other similar contracts or agreements, in each case to which any Seller is a party, with respect to which any Seller has any Liability or obligation or that are maintained by any Seller and to which any Seller contributes or is obligated to contribute with respect to current or former directors, officers, consultants and employees of any Seller.

(b) The Sellers have delivered or made available to the Purchaser true, correct and complete copies of all Assumed Seller Plans and related trust agreements, annuity contracts or other funding instruments and summary plan descriptions, if applicable.

(c) Except as listed on Schedule 4.15(c), none of the Seller Plans is a “multiemployer plan” (as defined in Section 3(37) of ERISA), is or has been subject to Sections 4063 or 4064 of ERISA, or is or has been subject to Title IV of ERISA or Section 412 or 430 of the Code. None of the Seller Plans is subject to any Laws outside of the United States.

(d) Each Assumed Seller Plan has been established, administered and invested in accordance with its terms and in material compliance with all applicable Laws, include ERISA and the Code. Each Seller has performed and complied in all material respects with all of its obligations under or with respect to the Assumed Seller Plans. Each Assumed Seller Plan that is intended to be a “qualified plan” within the meaning of Section 401(a) of the Code (“Qualified Plan”) has received a determination or opinion letter from the Internal Revenue Service to the effect that such Qualified Plan is so qualified, and, to the Knowledge of the Sellers, nothing has occurred since the date of the most recent Internal Revenue Service determination or opinion letter, as applicable, that would adversely affect the tax-qualified status of any Qualified Plan.

(e) There is no Action relating to, or seeking benefits under, any Assumed Seller Plan that is pending or, to the Knowledge of the Sellers, threatened against any Seller (other than any claims for benefits under the Assumed Seller Plans in the Ordinary Course of Business).

(f) No Assumed Seller Plan provides post-retirement or post-termination employee benefits (including death, medical or health benefits) to or in respect of any current or former employees of any Seller or their beneficiaries, and no Seller has any obligation to provide such benefits other than COBRA continuation coverage. All contributions or premiums required to be made by any Seller to or under each Assumed Seller Plan have been made in a timely fashion in all material respects in accordance with applicable Law, and the terms of the applicable Assumed Seller Plan.

(g) Neither the execution and delivery of this Agreement nor the consummation of the transactions contemplated hereby (whether alone or in conjunction with any other event) will limit the ability of Purchaser to amend or terminate any Assumed Seller Plan.

4.16 Labor Matters.

(a) A true and correct list of all of the employees of the Sellers as of the Execution Date, specifying their position, date of hire, hourly wage rate or annual base salary, 2020 bonus opportunity, and accrued but unused vacation, sick leave time and other paid time off, earned and accrued wages, salaries, commissions and bonuses, has been provided to the Purchaser on the Execution Date.

(b) Except as provided on Schedule 4.16(b), no Seller is a party to or bound by, either directly or by operation of Law, any collective bargaining agreement, labor contract, letter of understanding, letter of intent, voluntary recognition agreement or legally binding commitment to any labor union, trade union or employee organization or group that may qualify as a trade union covering employees of any Seller, nor to the Knowledge of Sellers is any Seller subject to any union organization effort, nor is any Seller engaged in any labor negotiation. Except as set forth on Schedule 4.16(b), there are no, and within the prior three (3) years there have not been, any (i) strikes, concerted work stoppages, concerted work slowdowns or lockouts pending or, to the Knowledge of the Sellers, threatened against any Seller, or (ii) unfair labor practice charges or material labor grievances or complaints pending or, to the Knowledge of the Sellers, threatened by or on behalf of any current or former employee or group of employees of any Seller, that if adversely determined, would reasonably be expected to be adverse in any material respect to the Purchased Assets or to such Seller's or the Purchaser's ability to conduct the Business in the Ordinary Course of Business. Except as provided on Schedule 4.16(b), no Seller has any obligation to make any severance or termination payment to any current or former employees in excess of any amount required to be paid under applicable Law.

4.17 Insurance Policies. Schedule 4.17 lists all insurance policies owned or held by any Seller or otherwise applicable to the Business, the Purchased Assets or the Assumed Liabilities (the "Insurance Policies") are in full force and effect, all premiums with respect thereto covering all periods up to and including the Execution Date have been paid (to the extent any such premium is due and payable), and no written notice of cancellation or termination (or any other threatened termination) has been received with respect to any such policy. Sellers maintain sufficient insurance with reputable insurers for the Business, properties and assets of Sellers materially consistent with the industry in which the Business operates.

4.18 Environmental Matters. Except as set forth on Schedule 4.18, (a) each Seller is in material compliance with all Environmental Laws, (b) there is no material investigation, suit, claim, judicial or administrative proceeding or other Action relating to or arising under Environmental Laws that is pending or, to the Knowledge of the Sellers, threatened against any Seller or any real property operated or leased by any Seller, (c) none of the Leased Real Property has been listed on the federal Comprehensive Environmental Response, Compensation Liability Information System (CERCLIS) database or any other similar federal, provincial or state list of known or suspected contaminated sites, (d) no Hazardous Materials have been treated, stored or Released by any Seller at the Leased Real Property in any manner or concentration that requires

investigation, removal or remediation under Environmental Laws, and (e) no Seller has received any notice of or entered into any order, settlement, judgment, injunction or decree involving uncompleted, outstanding or unresolved material obligations, Liabilities or requirements relating to or arising under Environmental Laws.

4.19 Inventory. Except (a) as required by the Bankruptcy Court, the Bankruptcy Code or other applicable Law, (b) for any limitations on operations imposed by the DIP Credit Agreement, and (c) as otherwise expressly contemplated by this Agreement the Sellers have managed their Inventory in the Ordinary Course of Business in light of the present and anticipated volume of the Business, including with respect to the usability, salability and merchantability thereof. None of the Inventory has been part of a current or past product recall.

4.20 Financial Statements. Attached to Schedule 4.19, the Sellers have delivered or made available to the Purchaser copies of the following financial statements: (a) the audited consolidated balance sheet of BBI as of February 1, 2019, and the related consolidated statement of operations, consolidated statements of shareholder's deficit, and cash flows for the fiscal year then ended (the "Audited Financial Statements"), and (b) the unaudited consolidated balance sheet of BBI as of January 31, 2020 (the "Balance Sheet Date"), and the related unaudited consolidated statements of operations and consolidated statement of cash flows for the 12-month period then ended (the "Unaudited Financial Statements" and, together with the Audited Financial Statements, the "Financial Statements"). Each of the Financial Statements (i) has been prepared in all material respects in accordance with GAAP applied on a consistent basis throughout the periods covered thereby (subject, in the case of the Unaudited Financial Statements, to normal recurring year-end adjustments and the absence of all footnotes thereto); and (ii) fairly present, in all material respects, the consolidated financial position, results of operations and cash flows of BBI and its subsidiaries as of the respective dates thereof and for the periods referred to therein.

4.21 Gift Cards. As of the Execution Date, the amount of all Liabilities of the Sellers in respect of gift cards, merchandise credits, coupons and any other similar arrangement or program, in each case, related to the Purchased Assets is no greater than \$14,400,000.

4.22 Affiliate Transactions. Except as set forth on Schedule 4.21, to the Knowledge of the Sellers, no Affiliate of the Sellers (other than any other Seller or any of their respective subsidiaries), or any officer or director of the Sellers or any of their subsidiaries or any member of their immediate family (a) has any material interest in any of the Purchased Assets, (b) owns any material interest in, or is an officer, director, employee or consultant of, any Person which is, or is engaged in business as, a material supplier or customer of the Business, (c) has any cause of action or other claim whatsoever against or related to the Business or the Purchased Assets, or (d) is party to any agreement or transaction with the Sellers or their subsidiaries, other than employment arrangements in the Ordinary Course of Business.

4.23 Bluestem India. Bluestem Global Sourcing India Private Limited ("Bluestem India"), a direct or indirect Subsidiary of the Sellers, undertakes business and activities which qualify under 100% (one hundred per cent.) automatic route under the Foreign Exchange Management Act, 1999, and the rules, regulations, press notes, circulars and directions issued under or pursuant to the Foreign Exchange Management Act, 1999 including the Non-Debt Instruments Rules, 2019, Foreign Exchange and Management (Mode of Payment and Reporting

of Non-Debt Instruments) Regulations, 2019, extant foreign direct investment policy of the Government of India issued by the Department of Industrial Policy and Promotion, Ministry of Commerce and Industry, Government of India. No prior consent of any regulatory authority or third party is required for transfer of securities of Bluestem India.

ARTICLE 5

REPRESENTATIONS AND WARRANTIES OF THE PURCHASER

The Purchaser hereby makes the representations and warranties in this ARTICLE 5 to the Sellers as of the Execution Date and as of the Closing Date (except with respect to representations and warranties made as of a particular date, which shall be deemed to be made only as of such date).

5.1 Organization and Qualification. The Purchaser is a limited liability company, duly organized, validly existing and in good standing under the Laws of its jurisdiction of organization. The Purchaser is qualified and in good standing as a foreign entity in each jurisdiction where the properties owned, leased or operated, or the business conducted by it require such qualification, except where the failure to be so qualified or in good standing would not, individually or in the aggregate, reasonably be expected to be adverse in any material respect to the Purchaser's ability to consummate the transactions contemplated by this Agreement. The Purchaser has all requisite power and authority to own, lease and operate its properties and to carry on its business as it is now being conducted.

5.2 Authority Relative to This Agreement. The Purchaser has the requisite limited liability company power and authority to (a) execute and deliver this Agreement, (b) execute and deliver each of the Ancillary Agreements, and (c) perform its obligations hereunder and under each of the Ancillary Agreements, and to consummate the transactions contemplated hereby and thereby. The execution and delivery by the Purchaser of this Agreement and each of the Ancillary Agreements, and the consummation of the transactions contemplated hereby and thereby, have been duly authorized by all requisite limited liability company action on behalf of the Purchaser. This Agreement has been, and at or prior to the Closing each of the Ancillary Agreements will be, duly and validly executed and delivered by the Purchaser and (assuming the due authorization, execution and delivery by the other parties hereto and thereto, and the entry of the Sale Order) this Agreement constitutes, and each of the Ancillary Agreements when so executed and delivered will constitute, legal, valid and binding obligations of the Purchaser, enforceable against the Purchaser in accordance with their respective terms, subject to the Bankruptcy Exceptions.

5.3 Conflicts; Consents and Approvals.

(a) None of the execution and delivery by the Purchaser of this Agreement or any of the Ancillary Agreements, the consummation of the transactions contemplated hereby or thereby, or the compliance by the Purchaser with any of the provisions hereof or thereof will conflict with or result in a breach of any provision of (i) the limited liability company agreement (or similar organizational or governing documents) of the Purchaser, (ii) any Contract to which the Purchaser is a party or by which the Purchaser or any of its properties or assets is bound, or (iii) any applicable Law, other than, in the case of clauses (ii) and (iii), such conflicts or breaches that

would not, individually or in the aggregate, reasonably be expected to be adverse in any material respect to the Purchaser's ability to consummate the transactions contemplated by this Agreement.

(b) No approval, order or Permit from, consent by, or registration, declaration, notification or filing with, any Governmental Body is required on the part of the Purchaser in connection with the execution and delivery by the Purchaser of this Agreement or the Ancillary Agreements, or the consummation by the Purchaser of the transactions contemplated hereby or thereby, except for such approvals, orders, Permits, consents, registrations, declarations, notifications or filings the failure of which to obtain or make would not, individually or in the aggregate, reasonably be expected to be adverse in any material respect to the Purchaser's ability to consummate the transactions contemplated by this Agreement.

5.4 Litigation. There are no material Actions pending or, to the knowledge of the Purchaser, threatened against the Purchaser which, if adversely determined, would reasonably be expected to be adverse in any material respect to the Purchaser's ability to consummate the transactions contemplated by this Agreement. The Purchaser is not subject to any judgment, decree, injunction, subpoena, order, ruling, writ, assessment or award of any court, arbitration panel or other Governmental Body which would reasonably be expected to be adverse in any material respect to the Purchaser's ability to consummate the transactions contemplated by this Agreement.

5.5 Brokers and Finders. The Purchaser has not employed any investment banker, broker, finder, consultant or intermediary in connection with the transactions contemplated by this Agreement which would be entitled to any investment banking, brokerage, finder's or similar fee or commission in connection with this Agreement or the transactions contemplated hereby.

5.6 Financing and Adequate Assurance. Purchaser presently has or will have at Closing and at all other relevant times all funds or financing in place necessary to pay and deliver to the Sellers the Purchase Price as contemplated hereby and to perform and satisfy any Assumed Liabilities as such Assumed Liabilities come due. In no event shall the receipt or availability of any funds or financing by Purchaser or any other financing or other transactions be a condition to Purchaser's obligations hereunder.

(a) Purchaser has all right and authority to deliver the Credit Bid at Closing on behalf of the TLA Lenders without any further authorization or direction from the TLA Lenders.

(b) The Purchaser is capable of satisfying the conditions contained in Sections 365(b)(1)(C) and 365(f)(2)(B) of the Bankruptcy Code in connection with the assignment of the Assigned Contracts to the Purchaser.

5.7 Certain Arrangements. As of the Execution Date, there are no Contracts, undertakings, commitments, agreements or obligations, whether written or oral, between any Purchaser Party, on the one hand, and any member of the management of any Seller or any of its Affiliates or board of directors (or applicable governing body of any Affiliate), any holder of equity or debt securities of any Seller or its Subsidiaries, or any lender or creditor of an Seller or its Affiliates, on the other hand, (a) relating in any way to the acquisition of the Purchased Assets or the transactions contemplated by this Agreement or (b) that would be reasonably likely to prevent,

restrict, impede or affect adversely the ability of the Sellers to entertain, negotiate or participate in any such transactions; in each case, other than the TLA Agreement and the other Loan Documents (as defined in the TLA Agreement) and as between the TLA Lenders and Purchaser with respect to the Credit Bid and/or customary confidentiality agreements.

5.8 Investigation.

(a) In entering into this Agreement, the Purchaser has relied upon its own investigation and analysis as well as the representations and warranties made by the Sellers in ARTICLE 4, and the Purchaser acknowledges that neither the Sellers nor any of their respective Affiliates makes or has made any representation or warranty, either express or implied, as to the accuracy or completeness of any of the information provided or made available to the Purchaser or any of its Affiliates, except as and only to the extent expressly set forth in ARTICLE 4.

(b) Notwithstanding anything contained in any provision of this Agreement to the contrary, Purchaser acknowledges and agrees, on its own behalf and on behalf of the Purchaser Parties, that the representations and warranties expressly contained in ARTICLE 4 (as qualified by the Schedules and in accordance with the express terms and conditions (including limitations and exclusions) of this Agreement) (the “Express Representations”) are the sole and exclusive representations, warranties and statements of any kind made to Purchaser or any Purchaser Party and on which Purchaser and the Purchaser Parties may rely in connection with the transactions contemplated by this Agreement. Purchaser acknowledges and agrees, on its own behalf and on behalf of the Purchaser Parties, that all other representations, warranties and statements of any kind or nature expressed or implied, whether in written, electronic or oral form, including (i) the completeness or accuracy of, or any omission to state or to disclose, any information (other than solely to the extent expressly set forth in the Express Representations), including in any “CIM,” any “management presentation,” any dataroom, any Projections (whether in written, electronic, or oral form, and including in any information presentation, dataroom, management meetings, etc.), or in any meetings, calls or correspondence with management of any Sellers or any other Person on behalf of any Seller or any of their respective Affiliates or Representatives and (ii) any other statement relating to the historical, current or future business, financial condition, results of operations, assets, Liabilities, properties, Contracts, environmental compliance, employee matters, regulatory compliance, business risks and prospects of any Seller or any of its Subsidiaries, or the quality, quantity or condition of the Purchased Assets, the Excluded Assets, the Assumed Liabilities, the Excluded Liabilities, or any Seller or any of its Subsidiaries, are, in each case specifically disclaimed by Sellers and that neither Purchaser nor any Purchaser Party has relied on any such representations, warranties or statements. Purchaser acknowledges, on its own behalf and on behalf of the Purchaser Parties, that it has conducted to its full satisfaction (subject to Section 9.3(g)) an independent investigation and verification of the business including its financial condition, results of operations, assets, Liabilities, properties, Contracts, environmental compliance, employee matters, regulatory compliance, business risks and prospects of the Sellers and their Subsidiaries, and, in making its determination to proceed with the transactions contemplated by this Agreement, Purchaser has relied solely on the results of the Purchaser Parties’ own independent investigation and verification, and has not relied on, is not relying on, and will not rely on, any Seller, any Subsidiary, any Projections, or any information, statements, disclosures, documents, projections, forecasts or other material made available to Purchaser or any of its Affiliates or Representatives in any dataroom or otherwise, in each case, whether written or

oral, made or provided by, or as part of, any of the foregoing or any Seller, any of its Subsidiaries or any of their respective Affiliates or Representatives, or any failure of any of the foregoing to disclose or contain any information, except for the Express Representations (it being understood that Purchaser and the Purchaser Parties have relied only on the Express Representations).

(c) Without limiting the generality of the foregoing, in connection with the investigation by the Purchaser Parties of the Sellers and their Subsidiaries, Purchaser and the other Purchaser Parties, and the Representatives of each of the foregoing, have received or may receive, from or on behalf of Sellers, certain projections, forward-looking statements and other forecasts (whether in written, electronic, or oral form, and including in any information presentation, dataroom, management meetings, etc.) (collectively, “Projections”). Purchaser acknowledges and agrees, on its own behalf and on behalf of the Purchaser Parties, that (i) such Projections are being provided solely for the convenience of Purchaser to facilitate its own independent investigation of Sellers and their Subsidiaries, (ii) there are uncertainties inherent in attempting to make such Projections, (iii) Purchaser is familiar with such uncertainties, and (iv) Purchaser is taking full responsibility for making their own evaluation of the adequacy and accuracy of all Projections (including the reasonableness of the assumptions underlying such Projections).

(d) Purchaser acknowledges and agrees, on its own behalf and on behalf of the other Purchaser Parties, that the covenants and agreements contained in this Section 5.8 are an integral part of the transactions contemplated by this Agreement and that, without these agreements set forth in this Section 5.8, Sellers would not enter into this Agreement.

ARTICLE 6

EMPLOYEES

6.1 Employee Offers.

(a) On or prior to the Closing Date (or, solely with respect to any employee employed on-site at any Leased Real Property that constitutes a Designation Rights Asset (each, a “Selected Employee”), the date on which the lease or sublease for such Leased Real Property is assumed by the applicable Seller and assigned to the Purchaser in accordance with Section 1.5) the Purchaser shall offer employment (on an “at-will” basis) with the Purchaser or one of its Affiliates to such employees of the Sellers or its Affiliates as determined by the Purchaser in its sole and absolute discretion. For each individual who is not a Union Employee, each such offer of employment shall be for a substantially comparable position and at the substantially same hourly wage rate or salary level (excluding performance-based or incentive compensation, bonuses and equity-based compensation, as applicable) in effect immediately prior to the Execution Date; provided, however, that with respect to Transferred Employees who enter into written employment Contracts with the Purchaser at the Closing (the “New Employment Contracts”), the terms of such New Employment Contracts shall govern such Transferred Employee’s employment. In addition, any offer of employment to any such employee of the Sellers who is a party to a written employment Contract with a Seller that entitles such employee to severance upon a termination of employment by such Seller will require, as a condition to the acceptance of such offer of employment, that such employee waive in writing such employee’s right to receive such severance from the Sellers and the Purchaser; provided, however, that the Purchaser shall be entitled to waive

such condition if such employee does not agree to provide such waiver. Notwithstanding the foregoing, subject to the CBA, nothing in this Agreement will, after the Closing Date, impose on the Purchaser any obligation to retain any Transferred Employee in its employment or the employment of any of its Affiliates.

(b) Except as described in this Section 6.1, the employment of each Transferred Employee with the Purchaser or any of its Affiliates will commence immediately upon the Closing or, in the case of any Transferred Employee employed on-site at any Leased Real Property that becomes an Assumed Leased Real Property after the Closing Date, the date the lease or sublease for such Leased Real Property is assumed by the applicable Seller and assigned to the Purchaser in accordance with Section 1.5 (but, in each case only if the Closing occurs). In the case of any Transferred Employee who is absent from active employment and receiving short-term disability or workers' compensation benefits, or is otherwise out of work on an approved leave of absence as set forth above, the employment of such Transferred Employee with the Purchaser or its designated Affiliate will commence upon such employee's return to active work, and such individual will become a Transferred Employee as of such date (but only if the Closing occurs). Each employee of a Seller to whom the Purchaser has made an offer of employment pursuant to this Section 6.1 and that has accepted such offer and commences employment with the Purchaser or any of its Affiliates on or following the Closing Date is hereinafter referred to as a "Transferred Employee".

(c) The Sellers shall not and shall not authorize or direct any of their Affiliates, officers, directors or employees to (i) intentionally interfere with the Purchaser's right to make offers pursuant to this Section 6.1, (ii) solicit or encourage any employees of the Sellers who receive an offer from the Purchaser pursuant to this Section 6.1 to not accept or otherwise reject any such offer or (iii) voluntarily terminate any employee of Sellers (other than those employees who are employed on-site at any Leased Real Property the lease or sublease for which is designated by the Purchaser as a Non-Assigned Contract on or after the Closing Date and those employees the Purchaser determines not to make an offer to (in its sole and absolute discretion) (collectively, the "Rejected Employees")) without the prior written consent of the Purchaser, except in the case of termination for cause. The Sellers shall provide cooperation and information to the Purchaser as reasonably requested by the Purchaser regarding its determination of appropriate terms and conditions of employment for any potential Transferred Employees.

(d) Notwithstanding anything to the contrary herein, except as expressly provided in Section 1.3 or Section 6.2 (but subject to the limitations set forth therein), the Purchaser shall have no Liability with respect to any past, present or future employee of any Seller; provided, however, that:

(i) the Purchaser shall, at its option, directly pay (or cause to be paid) or reimburse Sellers for (A) all earned and accrued wages, salaries, health and welfare benefits (including 401(k) match) in accordance with the Sellers' existing employee benefit plans, commissions and reimbursable employee travel expenses, in each case that are either or both earned and accrued in the Ordinary Course of Business from the Petition Date until the Closing by any employee of any Seller who is a Rejected Employee or a Selected Employee as of the Closing, and (B) solely to the extent required to be paid in cash under applicable Law, policy or Contract all accrued vacation or sick leave time, in each case

accrued in the Ordinary Course of Business as of the Closing by any employee of any Seller who is a Rejected Employee as of the Closing; provided, that Purchaser's aggregate payment and reimbursement obligations and amount honored pursuant to this Section 6.1(d)(i)(B) and Section 6.1(d)(ii)(B) and 6.1(d)(iii) shall not exceed \$1,000,000;

(ii) solely with respect to any employee of any Seller who is a Selected Employee as of the Closing, from the Closing until the date such Selected Employee becomes a Transferred Employee or a Rejected Employee (it being understood that for purposes of this Section 6.1(d)(ii) such Selected Employee will become a Rejected Employee on the earlier to occur of (I) five (5) Business Days after the date the Purchaser notifies the Sellers that it has determined not to make an offer to such Selected Employee pursuant to this Section 6.1(a)(i) (provided that if such notice is given prior to the Closing Date then the date for this clause (I) shall be deemed to be the Closing Date) and (II) five (5) Business Days after the date on which the lease or sublease for the Leased Real Property at which such Selected Employee is employed on-site is designated by the Purchaser as a Non-Assigned Contract) (such date, the "Selection Date"), the Purchaser shall, at its option, directly pay (or cause to be paid) or prefund Seller for (A) all earned and accrued wages, salaries, health and welfare benefits (including 401(k) match) in accordance with the Sellers' existing employee benefit plans, commissions and reimbursable employee travel expenses, in each case that are either or both earned and accrued in the Ordinary Course of Business from the Closing until the Selection Date by such Selected Employee, and, (B) subject to Section 6.1(d)(i)(B), solely to the extent required to be paid in cash under applicable Law, policy or Contract, all accrued vacation or sick leave time, in each case accrued in the Ordinary Course of Business as of the Selection Date by such Selected Employee (except to the extent such Selected Employee becomes a Transferred Employee and such accrued vacation or sick leave time is assumed by the Purchaser in accordance with applicable Law, policy or Contract); and

(iii) subject to Section 6.1(d)(i)(B), Purchaser shall honor all accrued vacation or sick leave time, in each case accrued in the Ordinary Course of Business as of the Closing (or, if later, the date on which such employee becomes a Transferred Employee) by any employee of any Seller who becomes a Transferred Employee; provided that in the event that any such employee is entitled in accordance with applicable Law, policy or Contract, notwithstanding such employee becoming a Transferred Employee, to be paid in cash for such time in connection with the termination of such employee's employment with Sellers, then the Purchaser shall, at its option, directly pay (or cause to be paid) or prefund Sellers all such accrued vacation or sick leave time.

(e) The Purchaser or its Affiliates shall recognize the Chicago and Midwest Regional Joint Board Workers United/SEIU Local 978 as the collective bargaining representative for the employees covered by the CBA.

6.2 Assumed Seller Plans. Except as otherwise set forth in this Section 6.2, the Purchaser shall adopt and assume, as of the Closing Date, each of the Assumed Seller Plans with respect to all benefits to be provided under the provisions of such Assumed Seller Plans that are Assumed Liabilities. With respect to each Assumed Seller Plan, the Purchaser or any Person designated by the Purchaser, will be substituted for the applicable Seller as the plan sponsor under

each such Assumed Seller Plan and the Purchaser shall have all rights of such Seller thereunder, including full authority to maintain, amend or terminate any such Assumed Seller Plan at any time, in the Purchaser's sole discretion. The Sellers agree to cooperate with the Purchaser in adopting and effectuating any plan amendments to the Assumed Seller Plans reasonably desired by the Purchaser, so long as such amendments are effective as of, or after, the Closing Date and are consistent with applicable Law. The parties agree to cooperate in all reasonable and material respects and take any actions reasonably necessary to implement the assumption by the Purchaser of the Assumed Seller Plans. Without limiting the obligations of the Sellers under Section 1.1, before, or as soon as administratively practicable after, the Closing, the Sellers will supply the Purchaser with (a) all records concerning participation, vesting, accrual of benefits, payment of benefits, and election forms of benefits under each Assumed Seller Plan, and (b) any other information reasonably requested by the Purchaser as necessary or appropriate for the administration of each Assumed Seller Plan. Notwithstanding the foregoing, the Purchaser shall not assume any Liabilities arising out of any acts or omissions of any of the Sellers or any fiduciaries or trustees of any Assumed Seller Plan occurring on or prior to the Closing Date in connection with the operation or administration of such Assumed Seller Plan. Sellers shall retain all Liabilities for (i) the payment or provision of severance or similar benefits in connection with the termination of employment of any Transferred Employee as of the Closing Date, the termination of employment of any current or former employee of a Seller who is not a Transferred Employee (whether before, as of, or after the Closing Date) and (ii) the payment or provision of any change in control payment, transaction bonus or similar benefits arising as a result of the transactions described herein, and no such Liabilities shall be assumed by the Purchaser under this Section 6.2, Section 1.3 or otherwise.

6.3 WARN Act Liability. Except as set forth on Schedule 6.3, no Seller has, within ninety (90) days prior to the date of this Agreement, terminated any employees without cause, closed any plant or facility, effectuated any layoffs of employees or implemented any early retirement, separation or similar program (regardless of whether such termination would trigger any obligations under the WARN Act), nor has any Seller announced any such action or program for the future. The Sellers shall be solely responsible, on a joint and several basis, for any obligations or other Liabilities under the WARN Act that might arise prior to the Closing Date, including providing any notice of layoff or plant closing, or maintaining the employees of any Seller on such Seller's payroll for any period of notice required by the WARN Act. The Sellers shall retain all Liabilities, if any, for any severance or termination costs relating to employees of any Seller who, prior to the Closing Date, experience a termination of employment by any Seller as a result of the transactions contemplated by this Agreement. Purchaser shall be solely responsible for any obligations or other Liabilities under the WARN Act on or following the Closing Date. For a period of ninety (90) after the Closing, Purchaser shall not engage in any conduct that would result in an employment loss for a sufficient number of employees which if aggregated with any such conduct on the part of Seller prior to the Closing, would trigger the WARN Act.

6.4 No Third-Party Beneficiaries.

(a) Notwithstanding anything set forth in this ARTICLE 6, nothing contained herein, whether express or implied, (i) shall be treated as an amendment or other modification of any Seller Plan or (ii) shall limit the right of the Purchaser or any of its Affiliates to amend,

terminate or otherwise modify any Seller Plan or any of the Purchaser's or any of its Affiliate's employee benefit plans or programs following the Closing Date.

(b) Without limiting the generality of Section 11.12, the Sellers and the Purchaser acknowledge and agree that all provisions contained in this ARTICLE 6 with respect to current and former employees of the Sellers are included for the sole benefit of the Sellers and the Purchaser, and that nothing herein, whether express or implied, shall create any third party beneficiary or other rights (i) in any other Person, including any current or former employees, directors, officers or consultants of any Seller, any participant in any Seller Plan, or any dependent or beneficiary thereof, or (ii) to employment or continued employment with the Purchaser or any of its Affiliates.

ARTICLE 7

BANKRUPTCY COURT MATTERS

7.1 Competing Bids. This Agreement and the transactions contemplated hereby are subject to the Sellers' right and ability to consider higher or better competing bids with respect to the Business and the Purchased Assets pursuant to the Bid Procedures, as approved by the Bid Procedures Order. In accordance with the Bid Procedures, until the conclusion of the Auction, the Sellers shall have the right to, and may cause their Representatives and Affiliates to, (a) initiate contact with, solicit or encourage submission of any inquiries, proposals, offers or bids by, and negotiate with, any Person (in addition to the Purchaser and its Affiliates and Representatives) in connection with any sale or other disposition of the Purchased Assets or any Alternative Transaction; (b) respond to any request for information or due diligence inquiry, or make management available for such purposes, to any such Person; and (c) furnish any information with respect to, or assist or participate in, or facilitate in any other manner, any effort or attempt by any Person to do or seek to do any of the foregoing.

7.2 Bankruptcy Court Filings. The Sellers shall use reasonable best efforts to obtain entry of the Bid Procedures Order and the Sale Order. The Purchaser agrees that it will promptly take such actions as are reasonably requested by the Sellers to assist in obtaining entry of the Bid Procedures Order and the Sale Order and a finding of adequate assurance of future performance by the Purchaser of the Assigned Contracts, including furnishing affidavits or other documents or information for filing with the Bankruptcy Court for the purposes, among others, of providing necessary assurances of performance by the Purchaser under this Agreement and demonstrating that the Purchaser is a "good faith" purchaser under section 363(m) of the Bankruptcy Code. Sellers shall consult with the Purchaser and its representatives concerning any order of the Bankruptcy Court relating to this Agreement or the Chapter 11 Cases and use reasonable best efforts to provide the Purchaser with copies of all applications, pleadings, proposed orders and other material documents relating to such proceedings as soon as reasonably practicable prior to any submission thereof to the Bankruptcy Court. If any order of the Bankruptcy Court relating to this Agreement shall be appealed by any Person (or a petition for certiorari or motion for reconsideration, amendment, clarification, modification, vacation, stay, rehearing or re-argument shall be filed with respect to any such order), Sellers shall diligently defend against such appeal, petition or motion and shall use commercially reasonable efforts to obtain an expedited resolution of any such appeal, petition or motions; provided, that Sellers shall consult with the Purchaser

regarding the status of any such actions. Any changes to the form of the Bid Procedures Order or the Sale Order must be approved by the Purchaser. Sellers further covenant and agree that, after the Closing, the terms of any reorganization plan submitted to the Bankruptcy Court or any other court by or with the support of Sellers for confirmation shall not conflict with, supersede, abrogate, nullify or restrict the terms of this Agreement, or in any way prevent or interfere with the consummation or performance of the transactions contemplated by this Agreement. Without in any way limiting the foregoing, from and after the date hereof until the date that is six (6) months after the Closing Date, no Seller shall voluntarily convert its Chapter 11 Case to a Chapter 7 bankruptcy case, or the appointment of a trustee or examiner with expanded powers to operate or manage the financial affairs, the business or the reorganization of any Seller in any of the Chapter 11 Cases, without the Purchaser's prior written consent.

7.3 Bankruptcy Court Milestones. Sellers shall comply with the following timeline ("Bankruptcy Court Milestones"):

(a) within two (2) Business Days after the Execution Date, commence the Chapter 11 Cases;

(b) within two (2) Business Days after the Petition Date, the Sellers shall have filed the Sale Motion, including this Agreement;

(c) no later than June 5, 2020, the Bankruptcy Court shall have (x) approved the (i) Bid Procedures and (ii) the form and manner of notice of the sale of the Purchased Assets hereunder and assumption and assignment of executory contracts and unexpired leases, in form and substance reasonably acceptable to the Sellers, the Purchaser, the DIP Agent and the TLA Agent, and (y) scheduled the Auction and Sale Hearing;

(d) the final date for submitting a qualified bid, as set forth in the approved Bid Procedures, shall be no later than June 22, 2020 (the "Bid Deadline");

(e) so long as at least one qualified bid has been received (other than from Purchaser) the Auction shall be a date within five (5) Business Days after the Bid Deadline; and

(f) within ten (10) days after consummation of the Auction (or if the Auction is not necessary, within ten (10) days after the Bid Deadline), but subject to availability of the Bankruptcy Court, the Sale Hearing shall have occurred and the Bankruptcy Court shall have approved the transaction contemplated by this Agreement.

ARTICLE 8

COVENANTS AND AGREEMENTS

8.1 Conduct of Business of the Sellers.

(a) During the period from the Execution Date and continuing until the earlier of the termination of this Agreement in accordance with Section 3.4 and the Closing Date, except (1) as required by the Bankruptcy Court, the Bankruptcy Code or other applicable Law, (2) for any limitations on operations imposed by the DIP Credit Agreement, (3) as otherwise expressly

contemplated by this Agreement or as set forth on Schedule 8.1(a) or (4) with the prior written consent of the Purchaser (not to be unreasonably withheld, conditioned, or delayed), each Seller shall:

(i) conduct and operate the Business in the Ordinary Course of Business (including performing its obligations under the Material Contracts) in all material respects (taking into account such Seller's status as a debtor in possession);

(ii) maintain in full force and effect the Insurance Policies;

(iii) use its commercially reasonable efforts to (x) preserve the goodwill of and relationships with Governmental Bodies, customers, suppliers, vendors, lessors, licensors, licensees, contractors, distributors, insurers, agents, employees and others having business dealings with such Seller in connection with the Business; and (y) comply with all applicable Laws (including Environmental Laws) and Permits and, to the extent consistent therewith, preserve its assets (tangible and intangible); and

(iv) comply with the terms and conditions of the DIP Credit Agreement.

(b) During the period from the Execution Date and continuing until the earlier of the termination of this Agreement in accordance with Section 3.4 and the Closing Date, except (1) as required by the Bankruptcy Court, the Bankruptcy Code or other applicable Law, (2) for any limitations on operations imposed by the DIP Credit Agreement, (3) as otherwise expressly contemplated by this Agreement or as set forth on Schedule 8.1(b), or (4) with the prior written consent of the Purchaser (not to be unreasonably withheld, conditioned, or delayed), no Seller shall:

(i) acquire any material assets, tangible or intangible, other than in the Ordinary Course of Business;

(ii) sell, lease, transfer or assign any material assets or properties, tangible or intangible, other than (x) sales of Inventory in the Ordinary Course of Business, (y) the disposition of obsolete or immaterial assets not necessary for the conduct of the Business by the Sellers in the Ordinary Course of Business, or (z) the sale or financing of Accounts Receivable in the Ordinary Course of Business;

(iii) accelerate, terminate (other than at its stated expiry date), extend, modify or amend in any material respect or cancel any Material Contract, any leases or subleases for Leased Real Property or any Contract that would be a Material Contract if in effect on the Execution Date; waive, release or assign any material rights or claims under any Material Contract, any leases or subleases for Leased Real Property or any Contract that would be a Material Contract if in effect on the Execution Date; or enter into any lease or sublease or any Contract that would have been a Material Contract or lease or sublease for Leased Real Property had it been entered into prior to the Execution Date;

(iv) impose, suffer or create any Encumbrance (other than Permitted Encumbrances) upon any of the Purchased Assets;

(v) incur or make any capital expenditures, except to the extent permitted by the DIP Credit Agreement;

(vi) (A) transfer, assign, abandon, dispose, permit to lapse or grant any license or sublicense of, or any rights to use, any rights under or with respect to any Seller Intellectual Property, other than pursuant to license agreements entered into in the Ordinary Course of Business; (B) take any action or knowingly fail to take any action that would reasonably be expected to result in the abandonment, cancellation or unenforceability of any material Seller Intellectual Property; or (C) enter into any settlement regarding breach or infringement of any Seller Intellectual Property that would be material to the Business, taken as a whole, or would result in an Assumed Liability;

(vii) agree to any change in the rate of compensation, commission, bonus or other direct or indirect remuneration payable, or pay any bonus, incentive, retention or other compensation, retirement, welfare, fringe or severance benefit or vacation pay, to or in respect of, any executive officers or employees of such Seller, in each case, other than promotions and increases in base compensation or wage rate made in the Ordinary Course of Business or as required by the CBA or the terms of any Seller Plan in effect on the Execution Date or adopted, established, amended, or entered into after the Execution Date not in violation of this Agreement;

(viii) adopt, make or agree to (x) any welfare, pension, retirement, profit sharing, incentive compensation or similar plan, program, payment or arrangement for any current or former director, employee or consultant, except pursuant to the existing Seller Plans, or (y) any new employment, severance or change of control agreement, other than making available to newly hired employees in the Ordinary Course of Business, plans, agreements, benefits and compensation arrangements that have a value that is consistent with the past practice of making compensation and benefits available to newly hired employees in similar positions;

(ix) make any material addition to, or modification of, any Seller Plan, other than (x) contributions to any Seller Plan made in the Ordinary Course of Business or (y) the extension of coverage to employees of such Seller who became eligible after the Execution Date;

(x) in each case, to the extent relating to Taxes that are Assumed Liabilities, (A) materially change any Tax accounting elections, methods, principles or practices, except insofar as may be required by GAAP or Law (or any interpretation thereof); or (B) settle or otherwise finally resolve any material audit or other proceeding with respect to such Taxes; or (C) amend any Tax Return with respect to a material amount of such Taxes;

(xi) make any distributions or dividends of any Cash and Cash Equivalents, assets or properties of the Sellers (other than Excluded Assets) in respect of outstanding securities of the Sellers, other than to any other Seller;

(xii) institute, settle or agree to settle any material litigation, proceeding or other Action before any court or other Governmental Body that would reasonably be expected to result in an Assumed Liability; provided that the foregoing will not limit Sellers' ability to settle matters for \$10,000 or less in each instance relating to Sellers' obligations pursuant to Contracts with WebBank in the Ordinary Course of Business;

(xiii) agree to any limitations on such Seller or any of its subsidiaries from engaging or competing in any line of business or in any geographic area or location or otherwise with any Person or from soliciting or hiring any Person;

(xiv) make any material change in the nature of the Business;

(xv) cancel or terminate any insurance policy naming any Seller as a beneficiary or a loss payable payee;

(xvi) assume or enter into any labor or collective bargaining agreement;

(xvii) modify any privacy policies, notices or statements in a manner that limits the ability or right of any Seller to sell and transfer the Personal Information or other customer data to Purchaser as contemplated herein, or limits the use of the Personal Information or other customer data by Purchaser after the Closing;

(xviii) amend or change, as applicable, any of the Seller organizational documents or organizational documents of any Subsidiary of Holdings that is not a Seller; or

(xix) enter into any Contract to take any of the actions prohibited by the foregoing clauses (i) through (xviii).

8.2 Access to Information.

(a) From the Execution Date until the earlier of the Closing and the termination of this Agreement in accordance with Section 3.4, each of the Sellers shall afford the officers, directors, employees, auditors and other agents and representatives of the Purchaser (such people, with respect to any Seller or the Purchaser, as applicable, the "Representatives") access, during normal business hours and upon advance written notice to (a) the employees, the properties, offices and other facilities of the Sellers and, (b) to the extent not prohibited by Law, all books and records, facilities, Contracts and all financial, operating and other data and information, with respect to the Business that are in the possession of the Sellers, in each case, as the Purchaser may reasonably request in order for Purchaser and its Representatives to access such information regarding Sellers as is reasonably necessary in order to consummate the transactions contemplated by this Agreement. In exercising its rights hereunder, the Purchaser shall conduct itself so as not to interfere in the conduct of the business of the Sellers prior to the Closing, nothing in this Section 8.2 will require Sellers to provide access, or to disclose any information, if such access or disclosure (w) would cause significant competitive harm to the Sellers or any of their Subsidiaries if the transactions contemplated by this Agreement are not consummated, (x) would require the Sellers or any of its Subsidiaries to disclose any financial or proprietary information of or regarding their Affiliates (other than the Sellers and their Subsidiaries) or otherwise disclose information

regarding the Affiliates of Sellers (other than their Subsidiaries) that Sellers deem to be commercially sensitive, (y) would waive any legal privilege, or (z) would be in violation of applicable Laws (including the HSR Act and foreign competition laws) or the provisions of any agreement to which any Seller or any of its Subsidiaries is bound or would violate any fiduciary duty.

(b) The information provided pursuant to this Section 8.2 will be used solely for the purpose of consummating the transactions contemplated hereby, and will be governed by all the terms and conditions of the confidentiality provisions of the DIP Credit Agreement and the TLA Credit Agreement. None of the Sellers makes any representation or warranty as to the accuracy of any information, if any, provided pursuant to this Section 8.2, and Purchaser may not rely on the accuracy of any such information, in each case, other than the Express Representations.

8.3 Assignability of Certain Purchased Assets.

(a) To the extent that the assignment to the Purchaser of any Purchased Asset (including any Assigned Contracts or any Permits included in the Purchased Assets) pursuant to this Agreement is not permitted without the consent, waiver, confirmation or other approval of a third party or is prohibited by applicable Law and such consent, waiver, confirmation or other approval or waiver of such prohibition in compliance with Law cannot be obtained prior to the Closing or overridden or canceled by the Sale Order or other order of the Bankruptcy Court (such Purchased Assets, the “Nonassignable Assets”), then this Agreement will not be deemed to constitute an assignment of or an undertaking or attempt to assign such Nonassignable Asset or any right or interest therein unless and until such consent, waiver, confirmation or other approval is obtained or such prohibition is waived in compliance with Law. If any such consent, waiver, confirmation or other approval or waiver of such prohibition is not obtained prior to the Closing Date in respect of a Nonassignable Asset, then, solely to the extent not prohibited under applicable Law (including the Bankruptcy Code) or the terms of such Nonassignable Asset, the Purchaser and the Sellers shall reasonably cooperate with each other, as of and after the Closing Date, in any lawful and feasible arrangement (until not later than the closing of the Chapter 11 Cases) designed to provide the Purchaser with the benefits of, or under, the applicable Nonassignable Asset, including enforcement for the benefit (and at the expense) of the Purchaser of any and all rights of the Sellers against any party to the applicable Nonassignable Asset arising out of the breach or cancellation thereof by such party (an “Interim Arrangement”). The Purchaser shall be responsible for performing all obligations (including payment obligations) under each such Nonassignable Asset required to be performed by the Sellers after the Closing Date to the extent that if such Nonassignable Asset were transferred and assigned to the Purchaser as of the Closing Date, the obligations thereunder would have constituted Assumed Liabilities. Unless the Purchaser elects that it does not desire assignment of a Nonassignable Asset, following the Closing, the Sellers and the Purchaser shall cooperate using their respective commercially reasonable efforts to obtain as expeditiously as possible either or both (i) the applicable consent, waiver, confirmation or other approval with respect to each Nonassignable Asset and (ii) a waiver of any prohibition under applicable Law necessary for the assignment thereof to the Purchaser. Nothing in this Section 8.3(a) shall obligate the Purchaser to waive any right or condition under this Agreement.

(b) The Sellers shall, prior to and after the Closing and to the extent not in violation of applicable Law, take all steps necessary and shall cooperate and comply with all

reasonable requests of the Purchaser to do any one or more of the following (at the Purchaser's election in its sole discretion and at Purchaser's expense) with respect to any or all of the Permits that are held by the Sellers or that are advisable, necessary, or required by Law to own, lease and operate the Purchased Assets and to own, operate and conduct the Business in the Ordinary Course of Business: (i) transfer or assign such Permits to the Purchaser; (ii) allow the Purchaser to obtain or acquire such Permits; and (iii) enter into Interim Arrangements on terms and conditions reasonably satisfactory to the Purchaser and Sellers to allow the Purchaser to operate the Business under or with respect to the Permits held by or on behalf of any Seller (in which case the Sellers shall keep and maintain the corresponding Permits in accordance therewith).

8.4 Contracts and Permits.

(a) From the Execution Date until the applicable Designation Deadline, without the prior written consent of the Purchaser, (i) no Seller shall reject any Contract (other than any Contract that is on the Closing, or becomes after the Closing Date in accordance with Section 1.5, a Non-Assigned Contract) in the Chapter 11 Cases or any other bankruptcy proceeding or terminate, amend, supplement, modify or waive any rights under, or create any Encumbrance with respect to any such Contract, and (ii) Sellers shall hold all Permits and other assets (other than any Permit or other asset that is on the Closing Date, or becomes after the Closing Date in accordance with Section 1.5, an Excluded Asset) specified by the Purchaser as a Designation Rights Asset Section 1.5; provided, however, that during such period Purchaser shall reimburse Sellers for all costs and expenses incurred by Sellers to continue any such Contract or Permit in accordance with Section 1.5.

(b) Sellers will notify Purchaser promptly upon discovery thereof, any variances from, or the existence or occurrence of any event, fact or circumstance arising after the execution of this Agreement that would reasonably be expected to cause, any of the representations and warranties contained in ARTICLE 4 to be untrue or inaccurate such that the condition set forth in Section 9.3(a) not to be satisfied; provided that in no event will any such notification serve to amend, supplement or modify the Schedules for purposes of Section 9.3(a); provided further that the delivery of any such notice will not limit the remedies available to Purchaser under or with respect to this Agreement.

(c) Purchaser will notify Sellers promptly upon discovery thereof any variances from, or the existence or occurrence of any event, fact or circumstance arising after the execution of this Agreement that would reasonably be expected to cause, any of the representations and warranties contained in ARTICLE 5 to be untrue or inaccurate such that the condition set forth in Section 9.2(a) not to be satisfied; provided that the delivery of any such notice will not limit the remedies available to Sellers under or with respect to this Agreement.

8.5 Further Agreements. Each Seller shall (a) promptly deliver to the Purchaser any mail or other communication received by such Seller after the Closing Date and relating to the Business, the Purchased Assets or the Assumed Liabilities, (b) promptly transfer in immediately available funds to the Purchaser any cash, electronic credits or deposits received by such Seller to the extent that such cash, electronic credits or deposits are Purchased Assets and (c) promptly forward to the Purchaser any checks or other instruments of payment that it receives to the extent that such checks or other instruments are Purchased Assets. The Purchaser shall (i) promptly

deliver to the Sellers any mail or other communication received by it after the Closing Date and solely relating to the Excluded Assets or the Excluded Liabilities, (ii) promptly wire transfer in immediately available funds to the Sellers, any cash, electronic credits or deposits received by the Purchaser but solely to the extent that such cash, electronic credits or deposits are Excluded Assets and (iii) promptly forward to the Sellers any checks or other instruments of payment that it receives but solely to the extent that such checks or other instruments are Excluded Assets.

8.6 Preservation of Records. The Sellers and the Purchaser agree that each of them shall preserve and keep the records held by them or their Affiliates relating to the Business, the Purchased Assets, the Excluded Assets, the Assumed Liabilities, and the Excluded Liabilities until (a) in the case of Sellers, the later of the closing of the Chapter 11 Cases and the liquidation and winding up of the Sellers' estates and (b) in the case of Purchaser, three (3) years after the Closing Date except, in the case of Tax matters, until thirty (30) days following the expiration of the period of any applicable statute of limitations and shall make such records available to the other party as may be reasonably required by such other party in connection with, among other things, administration of the Chapter 11 Cases and winding up of the Sellers' estates, Tax Returns, any insurance claims by, Actions or tax audits against or governmental investigations of the Sellers or the Purchaser or any of their respective Affiliates or in order to enable the Sellers or the Purchaser to comply with their respective obligations under this Agreement or any of the Ancillary Agreements and each other agreement, document or instrument contemplated hereby or thereby. In the event the Sellers or the Purchaser wishes to destroy such records at the end of such preservation period, such party shall first give sixty (60) days' prior written notice to the other party and such other party shall have the right at its option and expense, upon prior written notice given to such party within such sixty (60) day period, to take possession of the records within one hundred and twenty (120) days after the date of such notice, or such shorter period as the liquidation and winding up of the Sellers' estates shall permit. Without limiting the foregoing, Purchaser will provide Sellers and their Advisors with reasonable access, during normal business hours, and upon reasonable advance notice, to employees, officers, Advisors, accountants, offices and properties of Purchaser, including the assistance of such Persons with tasks related to the finalization of the Chapter 11 Cases and the wind-down of the Sellers' estates; provided, such access shall not materially interfere with the regular responsibilities of any of Purchaser's employees, officers, Advisors or accountants.

8.7 Publicity. The Sellers or the Purchaser may issue a press release or public announcement concerning this Agreement or the transactions contemplated hereby only with the prior written approval of the other parties hereto, which approval will not be unreasonably withheld, conditioned or delayed, unless, in the sole judgment of the disclosing party, such disclosure is otherwise required to comply with applicable Law or by the Bankruptcy Court with respect to filings to be made with the Bankruptcy Court in connection with this Agreement or the Chapter 11 Cases; provided that the party intending to make any such required release shall use its commercially reasonable efforts, consistent with such applicable Law or Bankruptcy Court requirement, to consult with the other parties with respect to the text thereof.

8.8 Prohibition on Use of Purchased Names. Each Seller hereby agrees that, as promptly as reasonably practicable, but in no event later than fifteen (15) days, after the Closing Date, it shall not use and shall cease using, and shall cause its respective Affiliates not to use and to cease using, directly or indirectly, the Purchased Names, any trademarks included in the Owned

Intellectual Property and any like names or combinations of words or derivations thereof or any names or marks confusingly similar thereto; provided, however, that each Seller may continue to use as company names the Purchased Names solely for purposes of conducting and administering the Chapter 11 Cases and winding up of the Sellers' estates; provided that, prior to, on or as promptly as practicable after the Closing Date, the Sellers use reasonable best efforts to change the caption of the Chapter 11 Cases to names that are not similar to any of the Purchased Names. As promptly as reasonably practicable, but in no event later than fifteen (15) days, after the Closing Date, each Seller shall, at its expense, undertake and promptly pursue all necessary action to change its business and corporate names to new names bearing no resemblance to any of its present names so as to permit the use of the Purchased Names by the Purchaser or any of its Subsidiaries following Closing. In furtherance of the foregoing, as promptly as reasonably practicable, but in no event later than fifteen (15) days, after the Closing, each Seller will (a) revoke any filing that it may have made heretofore with any Governmental Body relating to its use of the Purchased Names and of any like names or combinations of words or derivations thereof and (b) prepare and file with the appropriate Governmental Bodies appropriate documents, including articles of amendment, changing its name so as to effectuate the same and promptly deliver evidence of such name change to the Purchaser.

8.9 Taxes.

(a) Any sales, use, purchase, transfer, franchise, deed, fixed asset, stamp, documentary stamp, use or other Taxes and recording charges that may be payable by reason of the sale of the Purchased Assets or the assumption of the Assumed Liabilities under this Agreement or the transactions contemplated herein (all of the foregoing, "Transfer Taxes") shall be borne and timely paid by (i) Purchaser up to the Assumed Taxes Cap (taking into account all Assumed Taxes incurred at any applicable time of determination), and the Purchaser shall indemnify, defend (with counsel reasonably satisfactory to the Sellers), protect, and save and hold the Sellers harmless from and against any and all claims, charges, interest or penalties assessed, imposed or asserted in relation to any such Transfer Taxes and (ii) Sellers for amounts in excess of the Assumed Taxes Cap (taking into account all Assumed Taxes incurred at any applicable time of determination), and the Sellers shall indemnify, defend (with counsel reasonably satisfactory to the Purchasers), protect, and save and hold the Sellers harmless from and against any and all claims, charges, interest or penalties assessed, imposed or asserted in relation to any such Transfer Taxes. Purchaser and Seller shall use commercially reasonable efforts to minimize any Transfer Taxes, including in connection with determining the allocation of the purchase price under this Agreement, to the extent permitted by applicable Law; provided that the foregoing will not require Purchaser to consent to any plan of reorganization of any Seller.

(b) From and after the Closing, Seller shall reasonably cooperate with Purchaser in connection with the filing by Purchaser of any Tax Returns or in connection with any Tax contest to which Purchaser is subject, in each case, relating to Transferred Assets. From and after the Closing, Purchaser shall reasonably cooperate with Sellers in connection with the filing by Sellers of any Tax Returns or in connection with any Tax contest to which any Seller is subject, in each case, relating to Excluded Assets or Excluded Liabilities. Such cooperation shall include the provision of records and information reasonably requested by the other parties that are with such other party's possession or control and reasonably relevant to any such Tax Return or Tax

contest and making employees available on a mutually convenient basis to provide assistance, additional information, and explanation of any material provided hereunder.

8.10 Further Assurances.

(a) Subject to the terms and conditions of this Agreement and applicable Law, each Seller and the Purchaser shall, and shall cause their respective Representatives to, use their respective commercially reasonable efforts to take, or cause to be taken, all actions, and to do, or cause to be done, all things necessary, proper or advisable to ensure that the conditions precedent to the other parties' obligations hereunder set forth in this Agreement are satisfied and to consummate and make effective the transactions contemplated by this Agreement as soon as practicable, but in any event prior to the Outside Date. The "reasonable best efforts" or the "commercially reasonable efforts" of Sellers will not require any Seller or any of its Subsidiaries, Affiliates or Representatives to expend any money to remedy any breach of any representation or warranty, to commence any Action, to waive or surrender any right, to modify any Contract or to waive or forego any right, remedy or condition hereunder.

(b) Subject to the terms and conditions of this Agreement, neither the Sellers nor the Purchaser shall take any action or refrain from taking any action the effect of which would be to delay or impede the ability of the Sellers or the Purchaser to consummate the transactions contemplated by this Agreement unless taking such action or refraining from taking such action is required by applicable Law.

(c) Following the Execution Date and until the earlier of the Closing Date and the date on which this Agreement is terminated in accordance with Section 3.4, the Sellers, on the one hand, and the Purchaser, on the other hand, shall keep each other reasonably informed as to the status of matters relating to the completion of the transactions contemplated hereby, including promptly furnishing the other with copies of notices or other communications received by the Sellers or the Purchaser or by any of their respective Representatives (as the case may be), from any third party and/or any Governmental Body with respect to the transactions contemplated by this Agreement.

(d) Subject to the terms and conditions of this Agreement, at and following the Closing, each of the parties shall execute, acknowledge and deliver all such further conveyances, notices, assumptions, releases and acquaintances and such other instruments, and cooperate and take such further actions, as may be reasonably necessary or appropriate to transfer and assign fully to the Purchaser and its successors and assigns, all of the Purchased Assets, and for the Purchaser and its successors and assigns to assume the Assumed Liabilities, and to otherwise make effective the transactions contemplated hereby. Nothing in this Section 8.10(d) shall obligate any party hereto to waive any right or condition under this Agreement.

(e) Subject to Sections 8.10(g), Sellers will (i) make or cause to be made all filings and submissions required to be made by Sellers or their Subsidiaries under any applicable Laws for the consummation of the transactions contemplated by this Agreement set forth on Schedule 8.10(e), if any, (ii) reasonably cooperate with Purchaser in exchanging such information and providing such assistance as Purchaser may reasonably request in connection with any filings made by the Purchaser Parties pursuant to Section 8.10(f), and (iii) (A) supply promptly any

additional information and documentary material that may be requested in connection with the filings made pursuant to this Section 8.10(e) or Section 8.10(f) and (B) use reasonable best efforts to take all actions necessary to obtain all required clearances in connection with such filings.

(f) Subject to Sections 8.10(g), Purchaser will, and will cause its Affiliates and Representatives to, (i) make or cause to be made all filings and submissions required to be made by any Purchaser Party under any applicable Laws for the consummation of the transactions contemplated by this Agreement, if any, (ii) reasonably cooperate with Sellers in exchanging such information and providing such assistance as Sellers may reasonably request in connection with any filings made by Sellers pursuant to Section 8.10(e), and (iii) (A) supply promptly any additional information and documentary material that may be requested in connection with the filings made pursuant to this Section 8.10(f) or Section 8.10(e) and (B) use reasonable best efforts to take all actions necessary to obtain all required clearances.

(g) Without limiting the generality of this Section 8.10, the Sellers and the Purchaser shall make all premerger notification and report form filings required by the HSR Act as promptly as practicable, but in any event no later than June 1, 2020, after the Execution Date, which form will specifically request early termination of the waiting period prescribed by the HSR Act, and promptly file any additional information requested as soon as practicable after receipt of such request therefor. In connection with any filing under the HSR Act, the Sellers and the Purchaser shall (i) cooperate with each other, (ii) furnish, and cause their respective Affiliates and Representatives to furnish, to the other party all information necessary or desirable in connection with making such filing and in connection with resolving any investigation or other inquiry by any Governmental Body under the HSR Act with respect to the transactions contemplated by this Agreement, and (iii) supply such commercially reasonable assistance as may be requested by any other party in connection with the foregoing; provided, however, that notwithstanding anything to the contrary contained herein, neither the Sellers nor the Purchaser (nor their respective ultimate parent entities, as such term is used in the HSR Act) shall be required to disclose to any other party, any information contained in its HSR Notification and Report Form that such party, in its sole and reasonable discretion, deems confidential. Each of the Sellers and the Purchaser shall use commercially reasonable efforts to take such action as may be required to cause the termination or expiration of the waiting periods under the HSR Act as promptly as possible after the date that the filings required by the HSR Act are first made (including specifically requesting early termination of the waiting period prescribed by the HSR Act). Notwithstanding the foregoing, the Purchaser is not required to, and the Sellers shall not without the prior written consent of the Purchaser, consent to any divestiture or other structural or conduct relief in order to obtain clearance from any Governmental Body. Each party shall bear its own costs in connection with the preparation or the making of any filing under the HSR Act or resolving any investigation or other inquiry by any Governmental Body under the HSR Act with respect to the transactions contemplated by this Agreement; provided, however, that the Sellers be solely responsible for the payment of any applicable filing fees under the HSR Act.

8.11 Delivery of Certain Financial Information. At least two (2) Business Days (but no more than four (4) Business Days) before the anticipated Closing Date (the “Closing Payments Schedule Delivery Date”), the Sellers shall deliver, or cause to be delivered, to the Purchaser (a) a then current post-Closing cash forecast through the date that is 210 days after the Petition Date, which such forecast shall be prepared in good faith, based on assumptions believed by the Sellers

to be reasonable at the time made and based on the best information then available to the Sellers; and (b) a schedule setting forth the Sellers' good faith estimate of (i) all Assumed Liabilities that are due and payable in cash at or as of the Closing, (ii) the aggregate amount of obligations reasonably anticipated to be outstanding under the DIP Credit Agreement as of the Closing (after giving effect to any disbursements that are to be made pursuant to this Agreement or in accordance with the Approved Budget), (iii) the Excluded Cash Deficiency Amount and (iv) all Cure Costs of the Assigned Contracts (the "Closing Payments Schedule"), which Closing Payments Schedule shall be prepared in good faith based on assumptions believed by the Sellers to be reasonable at the time made and based on the best information then available to the Sellers (provided that any Cure Cost with respect to any Assigned Contract that is an Undetermined Cure Cost as of the Closing Payments Schedule Delivery Date shall be calculated based on the most recent amount asserted with respect to such Assigned Contract by the applicable non-Seller counterparty to such Assigned Contract (if the most recent amount asserted by any such non-Seller counterparty is a range of amounts, then such amount shall be the greatest amount in such range), excluding any indemnity claims and other contingent amounts except to the extent such amounts are reasonably likely to be paid at the Closing).

8.12 Personally Identifiable Information. The Purchaser hereby agrees to maintain all personally identifiable information obtained by the Purchaser in connection with the transactions contemplated by this Agreement in accordance with the Sellers' existing privacy policies (true and correct copies of which have been provided to the Purchaser by the Sellers as of the Execution Date); provided, however, that nothing in this Agreement shall be construed to prevent the Purchaser from modifying any such privacy policies following the Closing Date to the extent permitted under such privacy policies and applicable Law. Sellers will reasonably cooperate with Purchaser in the transfer of Personal Information to Purchaser in connection with the transactions contemplated by this Agreement consistent with such privacy policies.

8.13 Confidential Information. Following the Closing, Sellers agree to maintain, unless disclosure is required by applicable Law, the confidentiality of any confidential information regarding the Business that is in Sellers' possession. Sellers hereby further agree, unless disclosure is required by applicable Law, to take all appropriate steps, consistent with Sellers' past practice, to safeguard such confidential information and to protect it against disclosure, misuse, espionage, loss and theft. In furtherance and not in limitation of the foregoing, following the Closing, Sellers shall not, unless required by applicable Law, disclose to any Person (a) any confidential information regarding the Business; provided that confidential information shall not include information that becomes generally available to the public other than as a result of the breach of this Section 8.13 or information not otherwise known by the Sellers that becomes available to any Seller from a Person other than the Purchaser, a current or former employee of any Seller, or a Person known by any Seller to be bound by an obligation of confidentiality to any Seller, or (b) any of the discussions or negotiations conducted with the Purchaser in connection with this Agreement, provided that Sellers shall be entitled to disclose (i) any information required to be disclosed by Sellers to the Bankruptcy Court in the Chapter 11 Cases, (ii) any information required to be disclosed by Sellers pursuant to any applicable Law (including the Bankruptcy Code) or (iii) any information to Sellers' counsel and financial advisor and other Representatives; provided that, in each case, such disclosure shall be limited to the information that is so required to be disclosed and the Person(s) to whom such disclosure is required. Notwithstanding anything in this Section 8.13 to the contrary, unless disclosure is required by applicable Law, the confidentiality

of any trade secrets of the Business or the Purchaser shall be maintained for so long as such trade secrets continue to be entitled to protection as trade secrets of the Business and the Purchaser, respectively.

8.14 Gift Cards. From and after the Closing Date, Purchaser shall honor all outstanding gift cards, merchandise credits, coupons and any other similar arrangement or program related to the Business, in each case that was validly issued in the Ordinary Course of Business and has not, as of the Closing Date, either or both expired and become subject to a limit or other provision that could cause the same to be subject to escheatment or any similar provision or condition under any applicable Law.

8.15 Transition Services. If requested by Purchaser prior to the Designation Deadline latest in time under this Agreement, Purchaser and the Sellers agree to negotiate in good faith the terms of, and enter into effective as of the Closing (or, if such request is made by Purchaser after the Closing, promptly following such request), a transition services agreement (the “TSA”) acceptable to Purchaser, the TLA Agent and the CRO; provided, the TSA, if any, shall (a) contain customary terms for transactions of the type contemplated by this Agreement with respect to the provision of services reasonably requested by Purchaser or the TLA Agent for a reasonable period of time post-Closing (not to exceed 180 days following the Closing); and (b) provide that Purchaser shall pay Sellers the Sellers’ actual costs for such transition services and actual and direct out-of-pocket expenses incurred by the Sellers in connection with the provision of such transition services; provided, that all actual and direct out-of-pocket expenses for third party advisors must be approved in advance by Purchaser or the TLA Agent; provided, further, that Purchaser shall not be responsible, without Purchaser’s or the TLA Agent’s prior consent, for any severance, retention, bonus, deferred compensation or other non-ordinary course employee compensation.

ARTICLE 9

CONDITIONS TO CLOSING

9.1 Conditions Precedent to the Obligations of the Purchaser and the Sellers. The respective obligations of each party to this Agreement to consummate the Closing are subject to the satisfaction or written waiver, on or prior to the Closing Date, of each of the following conditions (any or all of which may be waived in writing by the Sellers and the Purchaser, in whole or in part, to the extent permitted by applicable Law and Section 11.3):

(a) no temporary restraining order, preliminary or permanent injunction or other order issued by any court of competent jurisdiction or other legal restraint or prohibition preventing the consummation of the transactions contemplated hereby shall have been issued, nor shall there be any action taken, or any Law promulgated, enacted, entered, enforced or deemed applicable to the parties hereto that makes the consummation of the transactions contemplated by this Agreement illegal, void or rescinded;

(b) (i) the Bankruptcy Court shall have entered the Bid Procedures Order and the Sale Order, and each such order shall not have been stayed or vacated, (ii) no order of any Governmental Body staying, reversing, modifying or amending the Sale Order shall be in effect

on the Closing Date and (iii) the Sale Order shall not be subject to any challenge under section 363(m) of the Bankruptcy Code; and

(c) any required filings under the HSR Act shall have been made and any waiting periods thereunder (and any extensions thereof) shall have expired or been terminated.

9.2 Conditions Precedent to the Obligations of the Sellers. The obligations of the Sellers to consummate the Closing are subject to the satisfaction, on or prior to the Closing Date, of each of the following conditions (any or all of which may be waived in writing by the Sellers, in whole or in part, to the extent permitted by applicable Law and Section 11.3):

(a) the representations and warranties of the Purchaser contained in this Agreement shall be true and correct in all material respects (without giving effect to any limitation as to “materiality” set forth therein) as of the Closing Date as if made on and as of the Closing Date (other than for such representations and warranties that are made as of a specific date which shall be so true and correct in all material respects as of such date), and the Sellers shall have received a certificate signed by an authorized person of the Purchaser, dated the Closing Date, to the foregoing effect;

(b) the Purchaser shall have performed and complied in all material respects with all obligations and agreements required by this Agreement to be performed or complied with by the Purchaser on or prior to the Closing Date, and the Sellers shall have received a certificate signed by an authorized person of the Purchaser, dated the Closing Date, to the foregoing effect;

(c) the Purchaser shall have delivered, or caused to be delivered, to the Sellers (or at the direction of the Sellers) or the applicable third party, as applicable, all of the items set forth in Section 3.3;

(d) the Purchaser shall have delivered the Credit Bid Amount in accordance with Sections 2.1 and 3.3(a); and

(e) the Purchaser shall have delivered the Excluded Cash Deficiency Amount, if any, and the DIP Repayment Amount in accordance with Sections 2.1, 3.3(f), and 3.3(g).

9.3 Conditions Precedent to the Obligations of the Purchaser. The obligations of the Purchaser to consummate the Closing are subject to the satisfaction, on or prior to the Closing Date, of each of the following conditions (any or all of which may be waived in writing by the Purchaser, in whole or in part, to the extent permitted by applicable Law and Section 11.3):

(a) (i) except as set forth in clause (ii) below, the representations and warranties of each Seller contained in this Agreement shall be true and correct (without giving effect to any limitation as to “materiality” or “Material Adverse Effect” set forth therein) as of the Closing Date as if made on and as of the Closing Date (other than for such representations and warranties that are made as of a specific date which shall be so true and correct as of such date), except for such failures to be true and correct as would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect, and (ii) the representations and warranties of each Seller contained in Section 4.1, Section 4.3, and Section 4.10 shall be true and correct in all material respects (without giving effect to any limitation as to “materiality” set forth therein) as of the

Closing Date as if made on and as of the Closing Date (other than for any such representations and warranties that are made as of a specific date which shall be so true and correct in all material respects as of such date) and, in each case, the Purchaser shall have received a certificate signed by an authorized officer of each Seller, dated the Closing Date, to the foregoing effect;

(b) Since the Execution Date, there shall not have occurred any event, circumstance, change, occurrence or state of facts that, individually or together with all other event, circumstance, change, occurrence or state of facts, has had, or would reasonably be expected to have, a Material Adverse Effect, and the Purchaser shall have received a certificate signed by an authorized officer of each Seller, dated the Closing Date, to the foregoing effect;

(c) each Seller shall have performed and complied in all material respects with all obligations and agreements required in this Agreement to be performed or complied with by the Sellers on or prior to the Closing Date, and the Purchaser shall have received a certificate signed by an authorized officer of each Seller, dated the Closing Date, to the foregoing effect;

(d) the Sellers shall have delivered, or caused to be delivered, to the Purchaser or the other applicable parties all of the items set forth in Section 3.2;

(e) no “Default” under the DIP Credit Agreement or “Event of Default” under the DIP Credit Agreement shall have occurred and be continuing;

(f) Sellers, Santander Consumer USA Inc. and Webbank shall have agreed on the terms of the amendment, assumption and assignment of the Program Agreement and Related Agreements (each as defined in the DIP Credit Agreement) effective as of the Closing Date, in each case satisfactory to the Purchaser and the TLA Agent in their sole discretion;

(g) Purchaser and TLA Agent shall have completed their legal, tax, accounting and business due diligence of the Sellers and the results thereof shall be satisfactory to Purchaser and the TLA Agent in their sole discretion; provided, the condition in this Section 9.3(g) shall be deemed satisfied if Purchaser has not terminated this Agreement pursuant to Section 3.4(n) by the Bid Deadline;

(h) the DIP Agent, the DIP Lenders, the TLA Agent and the TLA Lenders and their respective Related Parties shall have received full and final releases from the Sellers’ estates by virtue of the Sale Order, the Final Order (as defined in the DIP Credit Agreement) or otherwise; and

(i) the period to challenge or contest the validity, amount, perfection, or priority of the claims and liens of the TLA Agent and the TLA Lenders under the TLA Agreement shall have expired with no such challenge or contest having been asserted, or any such challenge or contest having been resolved to the satisfaction of the Purchaser in its sole and absolute discretion.

ARTICLE 10

ADDITIONAL DEFINITIONS

10.1 Certain Definitions. As used herein:

(a) “Accounts Receivable” means (i) any and all accounts receivable, trade accounts and other amounts receivable owed to any Seller and any other rights of any Seller to payment from third parties, including those reflected (or required to be reflected under GAAP) in the books and records of such Seller, and the full benefit of all security for such accounts or rights to payment, including all trade accounts receivable representing amounts receivable in respect of goods shipped, products sold or services rendered, in each case owing to such Seller; (ii) all other accounts or notes receivable of any Seller and the full benefit of all security for such accounts or notes receivable; and (iii) any and all claims, remedies or other rights relating to any of the foregoing, together with any interest or unpaid financing charges accrued thereon.

(b) “Affiliate” means, with respect to any Person, any other Person that, directly or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, such Person, and the term “control” (including the terms “controlled by” and “under common control with”) means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such Person, whether through ownership of voting securities, by Contract or otherwise.

(c) “Alternative Transaction” means a sale or sales of any of the Purchased Assets to a Person other than the Purchaser or an Affiliate of the Purchaser, whether effected pursuant to a merger, consolidation, asset acquisition, share exchange, amalgamation or plan of reorganization, excluding any sales of Inventory in the Ordinary Course of Business.

(d) “Ancillary Agreements” means, collectively, the Assignment and Assumption Agreement and each of the other documents or instruments contemplated by Section 3.2 or Section 3.3.

(e) “Assumed Taxes” shall mean (i) property, ad valorem, and similar Taxes, and any use Taxes, with respect to the Purchased Assets that are not yet due and payable prior to the Closing; (ii) sales, use, or other Taxes of the Sellers with respect to which “responsible person” liability is asserted against any officer, director, employee, or service provider, but solely to the extent the Sellers have insufficient funds to discharge such Taxes; and (iii) Transfer Taxes.

(f) “Auction” has the meaning ascribed to such term in the Bid Procedures Order.

(g) “Avoidance Actions” means all causes of action, lawsuits, claims, rights of recovery and other similar rights of any Seller arising under Chapter 5 of the Bankruptcy Code.

(h) “Back-Up Bidder” has the meaning ascribed to such term in the Bid Procedures Order.

(i) “Bid Procedures” has the meaning ascribed to such term in the Bid Procedures Order.

(j) “Bid Procedures Order” means an order of the Bankruptcy Court in substantially the form attached hereto as Exhibit F.

(k) “Business” means any and all business activities of any kind that are conducted by the Sellers as of the Execution Date or at any time through (and including) the Closing Date, including, among other things, the operation of (i) direct to consumer retail brands through internet websites and catalogs and (ii) online retailing businesses, selling third-party and private-label brands with consumer financing options and all operations incidental thereto.

(l) “Business Day” means any day other than a Saturday, Sunday or other day on which commercial banks in New York City, New York are authorized or required by Law to be closed.

(m) “Cash and Cash Equivalents” means, collectively, all of the Sellers’ cash (including petty cash and checks received prior to the close of business on the Closing Date), checking account balances, marketable securities, certificates of deposits, time deposits, bankers’ acceptances, commercial paper, government securities and other cash equivalents, net of uncleared checks issued by Sellers that are not yet reflected in the applicable bank account of Sellers.

(n) “CBA” means the Collective Bargaining Agreement, dated as of April 1, 2017, between Bluestem Fulfillment, Inc. and Chicago and Midwest Regional Joint Board Workers United/SEIU Local 978.

(o) “Code” means the Internal Revenue Code of 1986, as amended.

(p) “Contract” means any written or oral contract, indenture, note, bond, lease, license, commitment or instrument or other agreement or arrangement.

(q) “CRO” has the meaning given thereto in the DIP Credit Agreement.

(r) “Cure Costs” means the amounts necessary to cure all defaults, if any, and that must be paid in connection with the assumption of any Assigned Contract pursuant to section 365(b)(1)(A) and section 365(b)(1)(B) of the Bankruptcy Code.

(s) “Designation Deadline” means, with respect to any Designation Rights Asset, the earlier of (i) 5:00 p.m. (prevailing Eastern time) on the date that is 210 days after the Petition Date, (ii) the deadline for assumption or rejection of such Designation Rights Asset if it is a Contract under section 365 of the Bankruptcy Code (or such longer period as may be (x) agreed between the Purchaser and the counterparty of the applicable Contract or (y) set forth in an order of the Bankruptcy Court), (iii) a date after the Closing Date specified by the Purchaser (upon three (3) Business Days’ notice to the Sellers), and, (iv) subject to Section 7.2, the effectiveness and consummation of Sellers’ Chapter 11 plan.

(t) “Determined Cure Cost” means, with respect to the Cure Cost of any particular Contract, that such Cure Cost is finally established, by the Bankruptcy Court or by agreement by the parties to such Contract.

(u) “DIP Agent” means Cerberus Business Finance, LLC, in its capacity as the administrative agent under the DIP Credit Agreement.

(v) “DIP Credit Agreement” means that certain Senior Secured, Superpriority Debtor-In-Possession Credit Agreement, dated as of March 8, 2020, by and among Holdings, BBI, the “Guarantors” party thereto, the “DIP Lenders” thereunder and Cerberus Business Finance, LLC, as “Administrative Agent” and “Collateral Agent” thereunder, as amended, supplemented, amended and restated or otherwise modified from time to time.

(w) “DIP Lenders” means the “Lenders” under and as defined in the DIP Credit Agreement.

(x) “DIP Repayment Amount” means, subject in all respects to the relative priorities and funding obligations set forth in the orders approving the DIP Credit Agreement, the aggregate amount of obligations outstanding under the DIP Credit Agreement as of the Closing.

(y) “Documents” means all of the Sellers’ written files, documents, instruments, papers, books, reports, records, tapes, microfilms, photographs, letters, correspondence, budgets, forecasts, plans, operating records, safety and environmental reports, data, studies and documents, ledgers, journals, title policies, customer lists, supplier lists, vendor lists, regulatory filings, operating data and plans, research material, marketing documentation (sales brochures, flyers, pamphlets, web pages, etc.) and other similar materials, in each case whether or not in electronic form.

(z) “Encumbrance” means any encumbrance, claim (as defined in section 101(5) of the Bankruptcy Code), charge, covenant, easement, encumbrance, pledge, security interest, mortgage, deed of trust, hypothecation or lien, whether imposed by Contract or Law.

(aa) “Environmental Laws” means all applicable Laws relating to pollution or protection of natural resources or the environment, or the generation, use, treatment, storage, handling, transportation or Release of, or exposure to, Hazardous Materials, including the Federal Water Pollution Control Act (33 U.S.C. §1251 et seq.), Resource Conservation and Recovery Act (42 U.S.C. §6901 et seq.), Safe Drinking Water Act (42 U.S.C. §3000(f) et seq.), Toxic Substances Control Act (15 U.S.C. §2601 et seq.), Clean Air Act (42 U.S.C. §7401 et seq.), Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. §9601 et seq.) and other similar federal, state, provincial and local statutes.

(bb) “ERISA” means the Employee Retirement Income Security Act of 1974, as amended.

(cc) “Furniture and Equipment” means all furniture, fixtures, furnishings, leasehold improvements, personal property used to display or hold merchandise for retail sale, equipment, machinery, vehicles, storage tanks and other tangible personal property of every kind

and description, owned or used, or held for use, in connection with the operation of the Business by the Sellers, wherever located, including appliances, fittings, lighting fixtures, signs, doors, cabinets, partitions, mantles, motors, pups, screens, plumbing, heating, air conditioning, ovens, refrigerators, freezers, refrigerating and cooling systems, waste disposal and storing, wiring, televisions, monitors, security systems, carpets, floor coverings, wall coverings, office equipment, registers and safes, trash containers, meters and scales, combinations, codes and keys, display cases and tables, artwork, desks, chairs and communications equipment and the IT Assets.

(dd) “GAAP” means United States generally accepted accounting principles as in effect from time to time.

(ee) “Governmental Body” means any applicable federal, state, local or foreign government or any agency, bureau, board, commission, court, department, political subdivision, tribunal or other instrumentality thereof.

(ff) “Hazardous Materials” means petroleum and all derivatives thereof or synthetic substitutes therefor, asbestos and asbestos containing materials, and any and all materials now or hereafter defined, listed, designated or classified as, or otherwise determined to be, “hazardous wastes,” “hazardous substances,” “radioactive,” “solid wastes,” or “toxic” (or words of similar meaning) under or pursuant to or otherwise listed or regulated pursuant to any Environmental Law.

(gg) “HSR Act” means the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended, and the related regulations and published interpretations.

(hh) “Indebtedness” of any Person means, without duplication, (i) the interest in respect of, principal of and premium (if any) in respect of (x) indebtedness of such Person for money borrowed and (y) indebtedness evidenced by notes, debentures, bonds or other similar instruments for the payment of which such Person is responsible or liable; (ii) all obligations of such Person issued or assumed as the deferred purchase price of property (other than for services and goods acquired in the Ordinary Course of Business); (iii) all obligations of such Person under leases required to be capitalized in accordance with GAAP; (iv) all non-contingent obligations of such Person for the reimbursement of any obligor on any letter of credit, banker’s acceptance or similar credit transaction; (v) all obligations of the type referred to in clauses (i) through (iv) of any other Person for the payment of which such Person is responsible or liable, directly or indirectly, as obligor, guarantor, surety or otherwise, including guarantees of such obligations; and (vi) all obligations of the type referred to in clauses (i) through (v) of other Persons secured by any Encumbrance on any property or asset of such Person (whether or not such obligation is assumed by such Person).

(ii) “Intellectual Property” means any and all intellectual property and industrial property rights in any jurisdiction throughout the world (whether or not registered) including: (i) patents, (ii) trademarks, service marks, trade dress, trade names, domain names, logos and corporate names, (iii) copyrights, (iv) registrations and applications for any of the foregoing, (v) trade secrets and confidential information or know-how (including, research and development, formulas, compositions, manufacturing and production processes and techniques,

technical data and designs) and (vi) all applications, registrations, renewals and common-law rights associated in connection with any of the foregoing.

(jj) “Inventory” means all of the Sellers’ inventories (including supplies, merchandise, work in process, raw materials, spare or replacement parts, subassemblies, promotional materials, packaging and shipping materials, manufacturing supplies, samples, prototypes, displays, and finished goods and all of Sellers’ tangible property, materials, supplies, inventories and other related items or that are otherwise included in the Purchased Assets and are permitted to be sold and transferred under applicable Law, together with all rights of Sellers against suppliers thereof) that are used, or held for use, in connection with the operation of the Business.

(kk) “IT Assets” means all of the Sellers’ computers (including point-of-sale terminals and systems), computer software and databases (including source code, object code and all related documentation), firmware, middleware, servers, workstations, routers, hubs, switches, data communications lines, and all other information technology equipment and elements, and all associated documentation that are used, or held for use, in connection with the operation of the Business.

(ll) “Knowledge of the Sellers” means the actual knowledge of Bruce Cazenave, Neil Ayotte, Marc Kermisch, Jackie Punch, Jim Slavik, Mark Williams, Sonali Malhan, Andy Spicher, and Chris Tukua.

(mm) “Laws” means all federal, state, local or foreign laws, statutes, common law, rules, codes, regulations, restrictions, ordinances, orders, decrees, approvals, directives, judgments, rulings, injunctions, writs, requirements, rules of law and awards of, or issued, promulgated, enforced or entered by, any and all Governmental Bodies (including any court of competent jurisdiction).

(nn) “Leased Real Property” means all of the real property leased, subleased, licensed, used or occupied by any of the Sellers, together with all buildings, structures, fixtures and improvements erected thereon, and any and all rights, privileges, easements, licenses, hereditaments and other appurtenances relating thereto, and used, or held for use, in connection with the operation of the Business.

(oo) “Liability” means, as to any Person, any debt, adverse claim, liability, duty, responsibility, obligation, commitment, assessment, cost, expense, loss, expenditure, charge, fee, penalty, fine, contribution or premium of any kind or nature whatsoever, whether known or unknown, asserted or unasserted, absolute or contingent, direct or indirect, accrued or unaccrued, liquidated or unliquidated, or due or to become due, and regardless of when sustained, incurred or asserted or when the relevant events occurred or circumstances existed, including all costs and expenses relating thereto.

(pp) “Licensed Intellectual Property” means any Intellectual Property that is licensed to the Sellers, and used, or held for use, in connection with the operation of the Business.

(qq) “Material Adverse Effect” means any event, circumstance, change, occurrence or state of facts that has had, or would reasonably be expected to have, a material adverse effect on (i) the Purchased Assets and the Business or (ii) the ability of an Seller to

consummate the transactions contemplated by this Agreement or perform its obligations under this Agreement, taken as a whole, except, in each case, for any such effect resulting from or arising out of any of the following: (A) changes in conditions in the U.S. or global economy or capital or financial markets generally, including changes in interest or exchange rates, (including (i) any disruption of any of the foregoing markets, (ii) any decline or rise in the price of any security, commodity, Contract or index and (iii) any increased cost, or decreased availability, of capital or pricing or terms related to any financing for the transactions contemplated by this Agreement), (B) changes in any applicable Law or in GAAP, including any increase (or decrease) in the terms or enforcement of (or negotiations or disputes with respect to) any of the foregoing (such as with respect to immigration, border, tariff, or import, export, or other trade matters), (C) the announcement or pendency of this Agreement or the transactions contemplated hereby, including on relationships, contractual or otherwise, with customers, suppliers, vendors or employees, (D) changes caused by political or social conditions, including acts of war, armed hostilities, sabotage or terrorism, or any escalation or worsening of any such acts of war, armed hostilities, cyberattack, sabotage or terrorism threatened or underway, (E) earthquakes, hurricanes, floods, other natural disasters or other calamity or act of God or any other *force majeure* (F) any action by the Purchaser or any of its Affiliates or the omission of an action that was required to be taken by the Purchaser or any of its Affiliates; provided, however, that the exception in this clause (F) shall not apply to an action or an omission to act at the request or instruction of any Seller, (G) any action taken by the Sellers that is required by this Agreement or is taken at the request of the Purchaser and the failure to take any action if such action is prohibited by this Agreement, (H) changes, events or effects that are generally applicable to Persons engaged in the industry in which the Sellers operate, except to the extent such changes, events or effects disproportionately affect the Sellers relative to other Persons engaged in the industry in which the Sellers operate, (I) any matter set forth in the Schedules, (J) any failure, in and of itself, to achieve any budgets, projections, forecasts, estimates, plans, predictions, performance metrics or operating statistics or the inputs into such items (whether or not shared with Purchaser or its Affiliates or Representatives) (but, for the avoidance of doubt, not the underlying causes of any such failure to the extent such underlying cause is not otherwise excluded from the definition of Material Adverse Effect), or (K)(1) the commencement or pendency of the Chapter 11 Cases, (2) any objections in the Bankruptcy Court to (I) this Agreement or any of the transactions contemplated hereby or thereby, (II) the reorganization of Sellers, any plan of reorganization or any disclosure statement, (III) the Bid Procedures Order or (IV) the assumption or rejection of any Assigned Contract; or (3) any order of the Bankruptcy Court or any actions or omissions of Sellers or their Subsidiaries in compliance therewith; except in the case of clauses (A) or (D), to the extent such matters have a materially disproportionate impact on the Purchased Assets and the Business, taken as a whole as compared to other participants engaged in the industries and geographies in which Sellers operate.

(rr) “Ordinary Course of Business” means the ordinary and usual course of normal day to day operations of the Business consistent with past practice and taking into account the preparation for and commencement and pendency of the Chapter 11 Cases.

(ss) “Owned Intellectual Property” means all Intellectual Property owned by any Seller, and used, or held for use, in connection with the operation of the Business.

(tt) “Permits” means all permits, approvals, concessions, grants, franchises, licenses and other approvals issued by any Governmental Body.

(uu) “Permitted Encumbrances” means (i) Encumbrances for utilities and current Taxes (x) not yet due and payable, (y) that are disputed in good faith in accordance with GAAP, or (z) the nonpayment of which is permitted or required by bankruptcy code; (ii) easements, rights of way, restrictive covenants, encroachments and similar non-monetary encumbrances or non-monetary impediments against any of the Purchased Assets which do not, individually or in the aggregate, adversely affect the operation of the Business and, in the case of the Assumed Leased Real Property, that do not, individually or in the aggregate, adversely affect the use or occupancy of the Assumed Leased Real Property as it relates to the operation of the Business or materially detract from the value of the Assumed Leased Real Property; (iii) applicable zoning Laws, building codes, land use restrictions and other similar restrictions imposed by Law (but not restrictions arising from a violation of any such Law); (iv) materialmans’, mechanics’, artisans’, shippers’, warehousemans’ or other similar common law or statutory liens incurred in the Ordinary Course of Business for sums not yet due and payable or that are due but may not be paid as a result of the commencement of the Chapter 11 Cases and that do not result from a breach, default or violation by a Seller of any Contract or Law; (v) such other Encumbrance, title exceptions or imperfections of title as the Purchaser may approve in writing in its sole discretion; (vi) any Liabilities created by this Agreement or any of the Ancillary Agreements, and (vii) for purposes of ARTICLE 4 and Section 8.1, any Encumbrances that will be eliminated by operation of the Sale Order.

(vv) “Person” means an individual, corporation, partnership, limited liability company, joint venture, association, trust, unincorporated organization, labor union, estate, Governmental Body or other entity or group.

(ww) “Purchaser Parties” means, collectively, the Purchaser and its subsidiaries, and any of their respective former, current or future directors, officers, employees, agents, general or limited partners, managers, members, stockholders, investors, lenders, creditors, representatives, Affiliates or assignees or any former, current or future director, officer, employee, agent, general or limited partner, manager, member, stockholder, investor, lender, creditor, representative, Affiliate or assignee of any of the foregoing.

(xx) “Related Parties” means, with respect to any Person, such Person’s past, present and future subsidiaries, parents, divisions, Affiliates, agents, representatives, insurers, attorneys, successors, assigns, and each of its and their respective directors, managers, officers, employees, shareholders, members, agents, representatives, attorneys, contractors, subcontractors, independent contractors, owners, insurance companies and partners.

(yy) “Release” means, with respect to any Hazardous Material, any releasing, spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, disposing or migrating into or through any surface or ground water, drinking water supply, soil, surface or subsurface strata or medium, or the ambient air.

(zz) “Sale Hearing” means the hearing seeking entry of the Sale Order, which hearing may, with the prior consent of Purchaser which may be withheld in its sole discretion, take the form of a hearing to consider confirmation of the Sellers’ Chapter 11 plan.

(aaa) “Sale Motion” means a motion in form and substance satisfactory to the Sellers and the Purchaser seeking entry of the Sale Order.

(bbb) “Sale Order” means an order in form and substance satisfactory to the Sellers and the Purchaser (it being understood and agreed that if the Sale Order requires the Purchaser to assume, pay or otherwise become responsible for any Liabilities of the Sellers that do not constitute Assumed Liabilities as expressly defined herein, then such Sale Order shall not be satisfactory to the Purchaser). For the avoidance of doubt, the “Sale Order” may, with the prior consent of Purchaser which may be withheld in its sole discretion, also take the form of an order confirming the Sellers’ Chapter 11 plan. In addition, the “Sale Order” will provide that at Closing an escrow shall be established and maintained by Sellers and funded in accordance with and in the amounts contemplated by the “Carve Out” in the order of the Bankruptcy Court approving the DIP Financing Agreement.

(ccc) “Seller Intellectual Property” means, collectively, Owned Intellectual Property and Licensed Intellectual Property.

(ddd) “Seller Organizational Documents” means, with respect to each Seller, its certificate of incorporation or formation, bylaws, operating agreement, or any other similar organizational or governing documents.

(eee) “Seller Parties” means, collectively, the Sellers and their respective subsidiaries, and any of their respective former, current or future directors, officers, employees, agents, general or limited partners, managers, members, stockholders, investors, lenders, creditors, representatives, Affiliates or assignees or any former, current or future director, officer, employee, agent, general or limited partner, manager, member, stockholder, investor, lender, creditor, representative, Affiliate or assignee of any of the foregoing.

(fff) “Specified Accrued Liabilities” means (i) trade accounts payable, (ii) property Taxes with respect to (A) Assumed Leased Real Property, (B) owned real property that is a Purchased Asset, and (C) owned personal property that is a Purchased Asset, (iii) sales Taxes, (iv) utilities, (v) credit card fees payable, (vi) merchandise returns and allowances, (vii) customs and duties, (viii) insurance, (ix) customer deposits and advanced payments, and (x) warranties, in each case, that are incurred by the Sellers in the Ordinary Course of Business after the Petition Date (provided that, for the avoidance of doubt, any Tax for a so called “straddle period” beginning before the Petition Date and ending after the Petition Date shall, for the purpose of this definition, be treated as having been incurred after the Petition Date), in each case not to exceed the amounts set forth on Annex I on a line item basis.

(ggg) “Subsidiary” means, with respect to any Person, any corporation of which a majority of the total voting power of shares of stock entitled (without regard to the occurrence of any contingency) to vote in the election of directors, managers or trustees thereof is at the time owned or controlled, directly or indirectly, by such Person or one or more of the other Subsidiaries of such Person or a combination thereof or any partnership, association or other business entity of which a majority of the partnership or other similar ownership interest is at the time owned or controlled, directly or indirectly, by such Person or one or more Subsidiaries of such Person or a combination thereof.

(hhh) “Successful Bidder” has the meaning ascribed to such term by the Bid Procedures Order.

(iii) “Surplus Cash” means an amount equal to 100% of the Cash and Cash Equivalents remaining of the Excluded Cash for use in connection with the wind-down of the Sellers’ estates pursuant to the Wind-Down Budget which is held by Sellers as of the earlier of (i) the wind-down of the Sellers’ estate is substantially complete and (ii) the date that is 210 days after the Petition Date.

(jjj) “Tax” and “Taxes” means any foreign, federal, state, county, or local income, sales and use, excise, franchise, real and personal property, gross receipt, capital stock, production, business and occupation, disability, employment, payroll, severance, withholding or similar taxes, including all interest, additions, surcharges, fees or penalties related thereto.

(kkk) “Tax Return” means any return, report, information return, declaration, claim for refund or other document (including any schedule or related or supporting information) supplied or required to be supplied to any Governmental Body with respect to Taxes, including amendments thereto.

(lll) “TLA Agent” means Cerberus Business Finance, LLC, in its capacity as the administrative agent under the TLA Agreement.

(mmm)“TLA Agreement” means that certain Term Loan Agreement, dated as of November 7, 2014, as amended by that certain First Amendment and Incremental Agreement, dated as of July 10, 2015, as further amended by that certain Amendment to Credit Agreement, dated as of January 3, 2020, and as further amended by that certain Third Amendment to Term Loan Agreement, dated as of February 19, 2020, by and among Holdings, BBI, the “Borrowers” and “Guarantors” party thereto, the “Lenders” thereunder, and Cerberus Business Finance, LLC as “Collateral Agent” and “Administrative Agent” thereunder, as amended, supplemented, amended and restated or otherwise modified from time to time.

(nnn) “TLA Lenders” means the “Lenders” under and as defined in the TLA Agreement.

(ooo) “TLA Obligations” means all “Obligations” under and as defined in the TLA Agreement, including outstanding principal amount of loans under the TLA Agreement in an amount equal to not less than \$416,652,903.88.

(ppp) “WARN Act” means the federal Worker Adjustment Retraining Notification Act, or any similar provision of any federal, state, provincial, regional, foreign or local Law.

10.2 Additional Defined Terms. The following terms have the meaning set forth on the pages set forth below.

Actions 23

Actual Designation Amount 15

<u>Agreement</u>	1	<u>Excluded Liabilities</u>	7
<u>Allocation</u>	16	<u>Execution Date</u>	1
<u>Allocation Objection Notice</u>	17	<u>Express Representations</u>	35
<u>Assigned Contracts</u>	2	<u>Financial Statements</u>	32
<u>Assignment and Assumption Agreement</u> ..	17	<u>Holdings</u>	1
<u>Assumed Leased Real Property</u>	3	<u>Insurance Policies</u>	31
<u>Assumed Liabilities</u>	6	<u>Interim Arrangement</u>	45
<u>Assumed Real Property Leases</u>	3	<u>IP Assignment Agreements</u>	18
<u>Assumed Seller Plans</u>	4	<u>Material Contracts</u>	25
<u>Assumed Taxes Cap</u>	7	<u>Material Permits</u>	27
<u>Audited Financial Statements</u>	32	<u>New Employment Contracts</u>	36
<u>Balance Sheet Date</u>	32	<u>Nonassignable Assets</u>	45
<u>Bankruptcy Code</u>	1	<u>Non-Assigned Contracts</u>	4
<u>Bankruptcy Court</u>	1	<u>Original Contract & Cure Schedule</u>	9
<u>Bankruptcy Court Milestones</u>	41	<u>Outside Date</u>	19
<u>Bankruptcy Deposit Accounts</u>	6	<u>Patent Assignment Agreement</u>	17
<u>Bankruptcy Exceptions</u>	22	<u>Personal Information</u>	25
<u>BBI</u>	1	<u>Petition Date</u>	1
<u>Bid Deadline</u>	41	<u>Post-Closing Cure Payment Arrangement</u>	13
<u>Bluestem India</u>	32	<u>Projections</u>	36
<u>Chapter 11 Cases</u>	1	<u>Purchase Price</u>	16
<u>Closing</u>	17	<u>Purchased Assets</u>	2
<u>Closing Date</u>	17	<u>Purchased Names</u>	2
<u>Closing Payments Schedule</u>	51	<u>Purchaser</u>	1
<u>Closing Payments Schedule Delivery Date</u>	50	<u>Purchaser Accounts</u>	11
.....		<u>Qualified Plan</u>	30
<u>Copyright Assignment Agreement</u>	18	<u>Quitclaim Deed</u>	18
<u>Credit Bid</u>	16	<u>Rejected Employees</u>	37
<u>Credit Bid Amount</u>	16	<u>Representatives</u>	44
<u>Designated Deposit Accounts</u>	12	<u>Restructured Indebtedness</u>	16
<u>Designation Costs</u>	15	<u>Selected Employee</u>	36
<u>Designation Rights Assets</u>	9	<u>Selection Date</u>	38
<u>Designation Rights Assets Proceeds</u>	11	<u>Seller</u>	1
<u>Disputed Amount Contract</u>	12	<u>Seller Plans</u>	30
<u>Domain Name Assignment Agreement</u>	18	<u>Trademark Assignment Agreement</u>	18
<u>e-mail</u>	67	<u>Transfer Taxes</u>	48
<u>Estimated Designation Amount</u>	15	<u>Transferred Employee</u>	37
<u>Excluded Assets</u>	4	<u>TSA</u>	52
<u>Excluded Cash</u>	4	<u>Unaudited Financial Statements</u>	32
<u>Excluded Cash Deficiency Amount</u>	16	<u>Wind-Down Budget</u>	4

ARTICLE 11

MISCELLANEOUS

11.1 Payment of Expenses. Except as otherwise provided in this Agreement and whether or not the transactions contemplated hereby are consummated, Sellers will bear their own and Purchaser's, the TLA Agent's and the TLA Lenders' costs and expenses (including investment advisory and legal fees and expenses) incurred in connection with this Agreement and the transactions contemplated hereby.

11.2 Survival of Representations and Warranties; Survival of Post-Closing Covenants. The representations, warranties, covenants and agreements in this Agreement, in the Ancillary Agreements, or in any instrument delivered pursuant to this Agreement or the Ancillary Agreements, shall terminate on the Closing Date, except that each of the covenants set forth in this Agreement or any of the Ancillary Agreements that are to be performed at or after the Closing shall survive in accordance with the terms of the particular covenant or until fully performed. At and at all times after the Closing, in no event shall the Purchaser, on the one hand, or the Sellers, on the other hand, have any recourse against (a) the Sellers or any of the Seller Parties, or (b) the Purchaser or any of the Purchaser Parties, in each such case, with respect to any representation, warranty, covenant or agreement made by the Sellers or the Purchaser in this Agreement or any of the Ancillary Agreements, except, solely in the case of the Purchaser or the Sellers, as applicable, with respect to breaches of covenants set forth in this Agreement or any of the Ancillary Agreements that are to be performed thereby at or after the Closing.

11.3 Entire Agreement; Amendments and Waivers. This Agreement (including the schedules hereto) and the Ancillary Agreements represent the entire understanding and agreement between the parties hereto with respect to the subject matter hereof. Any provision of this Agreement may be amended or waived if, and only if, such amendment or waiver is in writing and signed, in the case of an amendment, by each party hereto, or in the case of a waiver, by the party against whom the waiver is to be effective. The waiver by any party hereto of a breach of any provision of this Agreement shall not operate or be construed as a further or continuing waiver of such breach or as a waiver of any other or subsequent breach. No failure on the part of any party to exercise, and no delay in exercising, any right, power or remedy hereunder shall operate as a waiver thereof nor shall any single or partial exercise of such right, power or remedy by such party preclude any other or further exercise thereof or the exercise of any other right, power or remedy. Notwithstanding the foregoing, (a) any modifications to the Schedules that are made from time to time in accordance with and as contemplated by either or both Section 1.5 and Section 6.1 shall not require the consent of the Sellers (except to the extent expressly set forth in such Sections) and (b) the Purchaser shall be permitted to increase the Credit Bid Amount from time to time in its sole discretion without consent from the Sellers.

11.4 Schedules. The Schedules have been arranged for purposes of convenience in separately numbered sections corresponding to the sections of this Agreement; however, each section of the Schedules will be deemed to incorporate by reference all information disclosed in any other section of the Schedules to the extent the applicability of such disclosure to such other section is reasonably apparent on its face. Capitalized terms used in the Schedules and not otherwise defined therein have the meanings given to them in this Agreement. The specification

of any dollar amount or the inclusion of any item in the representations and warranties contained in this Agreement, the Schedules or the attached exhibits is not intended to imply that the amounts, or higher or lower amounts, or the items so included, or other items, are or are not required to be disclosed (including whether such amounts or items are required to be disclosed as material or threatened) or are within or outside of the Ordinary Course of Business, and no party will use the fact of the setting of the amounts or the fact of the inclusion of any item in this Agreement, the Schedules, or exhibits in any dispute or controversy between the parties as to whether any obligation, item or matter not set forth or included in this Agreement, the Schedules or exhibits is or is not required to be disclosed (including whether the amount or items are required to be disclosed as material or threatened) or are within or outside of the Ordinary Course of Business. In addition, matters reflected in the Schedules are not necessarily limited to matters required by this Agreement to be reflected in the Schedules. Such additional matters are set forth for informational purposes only and do not necessarily include other matters of a similar nature. No information set forth in the Schedules will be deemed to broaden in any way the scope of the parties' representations and warranties. Any description of any agreement, document, instrument, plan, arrangement or other item set forth on any Schedule is a summary only and is qualified in its entirety by the terms of such agreement, document, instrument, plan, arrangement, or item which terms will be deemed disclosed for all purposes of this Agreement. The information contained in this Agreement, in the Schedules and exhibits hereto is disclosed solely for purposes of this Agreement, and no information contained herein or therein will be deemed to be an admission by any party to any third party of any matter whatsoever, including any violation of Law or breach of Contract.

11.5 Counterparts. For the convenience of the parties hereto, this Agreement may be executed and delivered (by facsimile or PDF signature) in any number of counterparts, each such counterpart being deemed to be an original instrument, and all such counterparts shall together constitute the same agreement.

11.6 Governing Law. THIS AGREEMENT IS TO BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH FEDERAL BANKRUPTCY LAW, TO THE EXTENT APPLICABLE, AND WHERE STATE LAW IS IMPLICATED, THE LAWS OF THE STATE OF NEW YORK SHALL GOVERN, WITHOUT GIVING EFFECT TO THE CHOICE OF LAW PRINCIPLES THEREOF (EXCEPT SECTIONS 5-1401 AND 5-1402 OF THE GENERAL OBLIGATIONS LAW OF THE STATE OF NEW YORK), INCLUDING ALL MATTERS OF CONSTRUCTION, VALIDITY AND PERFORMANCE.

11.7 Jurisdiction, Waiver of Jury Trial. (a) THE BANKRUPTCY COURT WILL HAVE JURISDICTION OVER ANY AND ALL DISPUTES BETWEEN OR AMONG THE PARTIES HERETO, WHETHER IN LAW OR EQUITY, ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY AGREEMENT CONTEMPLATED HEREBY; PROVIDED, HOWEVER, THAT IF THE BANKRUPTCY COURT IS UNWILLING OR UNABLE TO HEAR ANY SUCH DISPUTE, THE COURTS OF THE STATE OF NEW YORK LOCATED IN NEW YORK, NEW YORK AND THE FEDERAL COURTS OF THE UNITED STATES OF AMERICA LOCATED IN THE SOUTHERN DISTRICT OF THE STATE OF NEW YORK WILL HAVE SOLE JURISDICTION OVER ANY AND ALL DISPUTES BETWEEN OR AMONG THE PARTIES HERETO, WHETHER IN LAW OR EQUITY, ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY AGREEMENT CONTEMPLATED HEREBY.

(b) EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY WAIVES ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATED TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY.

11.8 Notices. All notices (including any notices contemplated by Section 1.5 or Section 6.1), requests, demands, document deliveries and other communications under this Agreement shall be in writing and shall be deemed to have been duly given, provided, made, received or rescinded (a) on the day of delivery when delivered personally, (b) on the day sent when sent by electronic mail (“e-mail”) or facsimile; provided that any such e-mail or facsimile received after 5:00 PM local time of the recipient thereof or on a non-Business Day will be deemed received on the immediately following Business Day, (c) one (1) Business Day after deposit with an overnight courier service or (d) three (3) Business Days after mailed by certified or registered mail, return receipt requested, with postage prepaid to the parties at the following addresses, facsimile numbers or e-mail addresses (or at such other address, facsimile number or e-mail address for a party as shall be specified by like notice):

If to the Sellers:

Northstar Holdings Inc.
c/o Bluestem Brands Inc.
7075 Flying Cloud Drive
Eden Prairie, MN 55344
Attention: Chief Executive Officer
Email: bruce.cazenave@bluestembrands.com

with a copy (that shall not constitute effective notice) to:

Bluestem Brands, Inc.
7075 Flying Cloud Drive
Eden Prairie, MN 55344
Attention: Executive Vice President, General Counsel & Secretary
Email: neil.ayotte@bluestembrands.com

and

Kirkland & Ellis LLP
300 North LaSalle Street
Chicago, Illinois 60654
Attention: Patrick J. Nash, Jr., P.C.
Steve Toth
Mariska Richards
Email: patrick.nash@kirkland.com
steve.toth@kirkland.com
mariska.richards@kirkland.com

and

Young Conaway Stargatt & Taylor, LLP
Rodney Square
1000 N. King Street
Wilmington, DE 19801
Attn: M. Blake Cleary
Craig D. Grear
Facsimile No.: 302-576-3287
302-576-3296
Email: bcleary@ycst.com
cgrear@ycst.com

If to the Purchaser:

BLST Acquisition Company LLC
c/o Cerberus Business Finance, LLC
875 Third Avenue
New York, NY 10022
Attn: Joseph Naccarato
Facsimile No.: 212-284-7906
Email: jnaccaratp@cerberus.com

With a copy (which shall not constitute effective notice) to:

KTBS Law LLP
1999 Avenue of the Stars
Thirty-Ninth Floor
Los Angeles, CA 90067
Attn: Michael L. Tuchin, Esq.
Facsimile No.: 310-407-9090
Email: mtuchin@ktbslaw.com

11.9 Binding Effect; Assignment. This Agreement shall be binding upon the Purchaser and, subject to entry of the Bid Procedures Order and the Sale Order, the Sellers and any trustee or estate representative appointed in the Chapter 11 Cases or any successor Chapter 7 case, and inure to the benefit of such parties and their respective successors and permitted assigns. No assignment of this Agreement or of any rights or obligations hereunder may be made by the Sellers or the Purchaser (by operation of Law or otherwise) without the prior written consent of the other parties hereto and any attempted assignment without the required consents shall be void; provided, however, that the Purchaser may assign, delegate or transfer, in whole or in part, this Agreement and any one or more of its rights, obligations and interests hereunder, without the consent of the Sellers, to one or more of its Affiliates effective as of the Closing; provided that no such assignment would reasonably be expected to prevent or materially delay the consummation of the Closing (e.g., as a result of any change in analysis by or re-submission to any Governmental Body). No assignment of any obligations hereunder shall relieve the parties hereto of any such obligations.

Upon any such permitted assignment, the references in this Agreement to the Purchaser shall also apply to any such assignee unless the context requires otherwise.

11.10 Severability. Whenever possible, each provision of this Agreement will be interpreted in such manner as to be effective and valid under applicable Law, but if any provision of this Agreement is held to be prohibited by or invalid under applicable Law in any jurisdiction, such provision will be ineffective only to the extent of such prohibition or invalidity in such jurisdiction, without invalidating the remainder of such provision or the remaining provisions of this Agreement or in any other jurisdiction.

11.11 Injunctive Relief. The Sellers and the Purchaser acknowledge and agree that (a) irreparable damage would occur in the event that any of the provisions of this Agreement are not performed in accordance with their specific terms or are otherwise breached or threatened to be breached, and (b) remedies at law would not be adequate to compensate the non-breaching party. Accordingly, each of the Sellers and the Purchaser shall have the right, in addition to any other rights and remedies existing in its favor, to an injunction or injunctions to prevent breaches or threatened breaches of the provisions of this Agreement and to enforce its rights hereunder not only by an action or actions for damages but also by an action or actions for specific performance, injunctive or other equitable relief without the necessity of proving the inadequacy of money damages as a remedy. The right to equitable relief, including specific performance and injunctive relief, shall exist notwithstanding, and shall not be limited by, any other provision of this Agreement. Each of the Sellers and the Purchaser hereby waives any defense that a remedy at law is adequate and any requirement to post bond or other security in connection with actions instituted for injunctive relief, specific performance or other equitable remedies. Each of the Sellers and the Purchaser hereby agrees not to assert that specific performance, injunctive and other equitable remedies are unenforceable, violate public policy, invalid, contrary to Law or inequitable for any reason. The right of specific performance, injunctive and other equitable remedies is an integral part of the transactions contemplated by this Agreement and without that right, neither the Sellers nor the Purchaser would have entered into this Agreement.

11.12 Third Party Beneficiaries. This Agreement is for the sole benefit of the parties hereto and their permitted assigns and nothing herein express or implied shall give or be construed to give to any Person, other than the parties hereto and such permitted assigns (including, for the avoidance of doubt, any plan administrator administering the Chapter 11 Cases), any legal or equitable rights hereunder, except that each of the Seller Parties and the Purchaser Parties shall be a third party beneficiary of Section 3.6.

11.13 Non-Recourse. This Agreement may only be enforced against, and any Action based upon, arising out of or related to this Agreement may only be brought against, the Persons that are expressly named as parties to this Agreement. Except to the extent named as a party to this Agreement, and then only to the extent of the specific obligations of such parties set forth in this Agreement, no past, present or future shareholder, member, partner, manager, director, officer, employee, Affiliate, agent or Representative of any party hereto or any Subsidiary of Sellers will have any liability (whether in Contract, tort, equity or otherwise) for any of the representations, warranties, covenants, agreements or other obligations or Liabilities of any of the parties to this Agreement or for any Action based upon, arising out of or related to this Agreement.

11.14 Time of the Essence. Time is of the essence in the performance of each of the obligations of the parties and with respect to all covenants and conditions to be satisfied by the parties in this Agreement and all documents, acknowledgments and instruments delivered in connection herewith.

11.15 Bulk Sales Laws. The parties hereto intend that pursuant to section 363(f) of the Bankruptcy Code, the transfer of the Purchased Assets shall be free and clear of any Encumbrances in the Purchased Assets, including any liens or claims arising out of the bulk transfer laws, except Permitted Encumbrances, and the parties shall take such steps as may be necessary or appropriate to so provide in the Sale Order. In furtherance of the foregoing, each party hereto hereby waives compliance by the parties with the “bulk sales,” “bulk transfers” or similar Laws and all other similar Laws in all applicable jurisdictions in respect of the transactions contemplated by this Agreement.

11.16 No Right of Set-Off. Purchaser, on its own behalf and on behalf the Purchaser Parties and its and their respective successors and permitted assigns, hereby waives any rights of set-off, netting, offset, recoupment, or similar rights that Purchaser, any Purchaser Party or any of its or their respective successors and permitted assigns has or may have with respect to the payment of the Purchase Price or any other payments to be made by Purchaser pursuant to this Agreement or any other document or instrument delivered by Purchaser in connection herewith; provided, nothing in this Section 11.16 shall be construed to impair, limit, prohibit or otherwise alter or amend the Credit Bid or any of the terms related thereto in this Agreement.

11.17 Fiduciary Obligations. Nothing in this Agreement, or any document related to the transactions contemplated hereby, will require any Seller or any of their respective directors, officers or members, in each case, in their capacity as such, to take any action, or to refrain from taking any action, to the extent inconsistent with their fiduciary obligations. For the avoidance of doubt, Sellers retain the right to pursue any transaction or restructuring strategy that, in Sellers’ business judgment, will maximize the value of their estates.

11.18 Certain Interpretations.

(a) Unless otherwise expressly provided, for purposes of this Agreement, the following rules of interpretation shall apply:

(i) All references in this Agreement to Articles, Sections, clauses, parts and Schedules shall be deemed to refer to Articles, Sections, clauses, parts and Schedules to this Agreement unless otherwise specified.

(ii) All Schedules annexed hereto or referred to herein are hereby incorporated in and made a part of this Agreement as if set forth in full herein. Any capitalized terms used in any Schedule but not otherwise defined therein shall be defined as set forth in this Agreement.

(iii) The Article, Section and paragraph captions herein are for convenience of reference only, do not constitute part of this Agreement and shall not be deemed to limit or otherwise affect any of the provisions hereof.

(iv) The words “include,” “includes” and “including,” when used herein shall be deemed in each case to be followed by the words “without limitation” (regardless of whether such words or similar words actually appear).

(v) When calculating the period of time before which, within which or following which any act is to be done or step taken pursuant to this Agreement, the date that is the reference date in calculating such period shall be excluded. If the last day of such period is not a Business Day, the period in question shall end on the next succeeding Business Day. All references to a day or days will be deemed to refer to a calendar day or calendar days, as applicable, unless otherwise specifically provided.

(vi) Any reference in this Agreement to “\$” or “dollars” shall mean U.S. dollars.

(vii) The words “to the extent” shall mean “the degree by which” and not “if.”

(viii) The word “will” will be construed to have the same meaning and effect as the word “shall”. The words “shall,” “will,” or “agree(s)” are mandatory, and “may” is permissive.

(ix) Any reference in this Agreement to gender shall include all genders, and words imparting the singular number only shall include the plural and vice versa.

(x) The words such as “herein,” “hereinafter,” “hereof” and “hereunder” refer to this Agreement as a whole and not merely to a subdivision in which such words appear unless the context otherwise requires.

(xi) Any reference to any agreement or Contract will be a reference to such agreement or Contract, as amended, modified, supplemented or waived.

(xii) Any reference to any particular Code section or any Law will be interpreted to include any amendment to, revision of or successor to that section or Law regardless of how it is numbered or classified; provided that, for the purposes of the representations and warranties set forth herein, with respect to any violation of or non-compliance with, or alleged violation of or non-compliance, with any Code section or Law, the reference to such Code section or Law means such Code section or Law as in effect at the time of such violation or non-compliance or alleged violation or non-compliance.

(xiii) A reference to any party to this Agreement or any other agreement or document shall include such party’s successors and permitted assigns.

(b) The parties hereto agree that they have been represented by legal counsel during the negotiation and execution of this Agreement and, therefore, waive the application of any Law or rule of construction providing that ambiguities in an agreement or other document shall be construed against the party drafting such agreement or document.

[The remainder of this page is intentionally left blank.]