

## TRADEMARK ASSIGNMENT COVER SHEET

Electronic Version v1.1  
Stylesheet Version v1.2

ETAS ID: TM784449

<b>SUBMISSION TYPE:</b>	RESUBMISSION		
<b>NATURE OF CONVEYANCE:</b>	Asset Purchase Agreement		
<b>RESUBMIT DOCUMENT ID:</b>	900731156		
<b>CONVEYING PARTY DATA</b>			
<b>Name</b>	<b>Formerly</b>	<b>Execution Date</b>	<b>Entity Type</b>
Comfort Matters Heating and Cooling Inc.		10/01/2021	Corporation: MINNESOTA
<b>RECEIVING PARTY DATA</b>			
<b>Name:</b>	Comfort Matters, LLC		
<b>Street Address:</b>	123 E. 70th Street		
<b>City:</b>	New York		
<b>State/Country:</b>	NEW YORK		
<b>Postal Code:</b>	10021		
<b>Entity Type:</b>	Limited Liability Company: DELAWARE		
<b>PROPERTY NUMBERS Total: 1</b>			
<b>Property Type</b>	<b>Number</b>	<b>Word Mark</b>	
<b>Registration Number:</b>	5690792	COMFORT MATTERS HEATING & COOLING	
<b>CORRESPONDENCE DATA</b>			
<b>Fax Number:</b>	3146215065		
<i>Correspondence will be sent to the e-mail address first; if that is unsuccessful, it will be sent using a fax number, if provided; if that is unsuccessful, it will be sent via US Mail.</i>			
<b>Phone:</b>	314-621-5070		
<b>Email:</b>	iptm@atllp.com		
<b>Correspondent Name:</b>	Renee Reuter		
<b>Address Line 1:</b>	7700 Forsyth Blvd., Suite 1800		
<b>Address Line 4:</b>	St. Louis, MISSOURI 63105-1847		
<b>ATTORNEY DOCKET NUMBER:</b>	42102-36		
<b>NAME OF SUBMITTER:</b>	Renee Reuter		
<b>SIGNATURE:</b>	/Renee Reuter/		
<b>DATE SIGNED:</b>	02/03/2023		
<b>Total Attachments: 63</b>			
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**NOTE TO EXAMINING ATTORNEY**

(Not meant to be recorded.)

Please see pages 1, 35, 38, and 43 of the Asset Purchase Agreement which show evidence that all IP, including the mark in the application, were transferred with the associated goodwill.

## ASSET PURCHASE AGREEMENT

This ASSET PURCHASE AGREEMENT (this “**Agreement**”) made effective as of October 1, 2021 (the “**Effective Date**”), by and among Comfort Matters, LLC, a Delaware limited liability company (“**Buyer**”), Comfort Matters Heating and Cooling Inc., a Minnesota corporation (“**Seller**”) and Corey Hickmann (“**Owner**”).

WHEREAS, Seller’s business is operating a commercial heating, and cooling services business, including without limitation, the design, installation, connection, construction, replacement, service, repair, alteration, or modification of the pipes, fixtures, and other apparatus used for heating and air conditioning systems (the “**Business**”) and Owner owns 100% of the outstanding equity interests of Seller; and

WHEREAS, Seller desires to sell, convey, transfer, assign and deliver to Buyer, and Buyer desires to purchase from Seller substantially all of the assets, rights and properties, whether tangible or intangible, real or personal and wherever located and by whomever possessed, arising from, related to or in connection with, or otherwise used or held for use in, the Business, including those assets, rights, and properties set forth on Exhibit B, and excluding any assets, rights and properties comprising the Excluded Assets (the “**Transferred Assets**”); and

WHEREAS, Owner and Buyer will enter into an Employment Agreement (the “**Employment Agreement**”) effective as of the Closing; and

WHEREAS, Seller and Buyer will enter into that certain Rollover Agreement (defined below), effective as of the Closing.

NOW, THEREFORE, in consideration of the premises and the mutual representations, warranties, covenants, and undertakings contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto, intending to be legally bound, agree as follows:

### ARTICLE I: DEFINITIONS

Capitalized terms contained herein will have the meaning herein or as set forth on Exhibit A.

### ARTICLE II: THE TRANSACTION

#### Section 2.1. Purchase and Sale.

(a) *Transferred Assets.* Upon the terms and subject to the conditions set forth in this Agreement, at the Closing, Seller will sell, convey, transfer, assign and deliver to Buyer, and Buyer will purchase from Seller, Seller’s entire right, title, and interest in and to the Transferred Assets, free and clear of any Liens, other than Permitted Liens.

(b) *Assumed Liabilities.* Upon the terms and subject to the conditions set forth in this Agreement, at the Closing, Buyer will assume and agree to pay, perform, and discharge only those liabilities of Seller that arise directly and exclusively from the conduct of the Business after the Closing, other than any Excluded Liabilities (the “**Assumed Liabilities**”), and Buyer does not hereby assume or become obligated to pay or perform any other Liabilities of Seller, Owner, or any of their respective Affiliates, or any other Liabilities that arise out of or in respect of the Transferred Assets.

Buyer shall pay the amount of such Final Surplus to the account of Seller designated in writing by Seller.

(b) *Payment and Treatment.* Any amounts paid under this Section 2.5 will be paid by wire transfer of immediately available funds within two Business Days after the Draft Adjustment Statement becomes the Final Adjustment Statement in accordance with Section 2.4(b), Section 2.4(a) or Section 2.4(b), as the case may be. The parties agree that, for purposes of this Agreement and for Tax purposes, any amounts paid pursuant to this Section 2.5 will be treated as an adjustment to the Purchase Price paid by Buyer to Seller.

Section 2.6. Earn-out.

(a) *Earn-out Payment.* As additional consideration for the Transferred Assets, at such times as provided in Section 2.6(c), Buyer will pay to Seller with respect to the Calculation Period an amount, if any (an “**Earn-out Payment**”), [REDACTED]

(b) *Procedures Application to Determination of Earn-out Payments.* On or before the date which is 90 days following the last day of the Calculation Period, Buyer will prepare and deliver to Owner a written statement (an “**Earn-out Calculation Statement**”) setting forth in reasonable detail its determination of [REDACTED] for the Calculation Period and its calculation of the resulting Earn-out Payment, if any (the “**Earn-out Calculation**”). Owner will have 30 days after receipt of the Earn-out Calculation Statement (the “**Review Period**”) to review the Earn-out Calculation Statement. Prior to the expiration of the Review Period, Owner may object to the Earn-out Calculation by delivering written notice of objection to Buyer it being understood and agreed to that Owner can only raise objections based on mathematical errors or based on the Earn-out Calculation Statement not being prepared in accordance with this Agreement. Any objection must specify the items disputed by Owner and will describe in reasonable detail the basis for such objection, as well as the amount in dispute. If Buyer does not receive a written notice of objection prior to the expiration of the Review Period, then the Earn-out Calculation Statement will be final and binding on the parties. If Buyer receives a written notice of objection prior to the expiration of the Review Period, the parties will negotiate in good faith to resolve the disputed items and agree upon the resulting [REDACTED] and the Earn-out Payment. If the Parties are unable to reach agreement within 30 days of Buyer’s receipt of a written objection to the Earn-out Calculation Statement, all unresolved disputed items will be promptly referred to the Accounting Firm. The Accounting Firm will be directed to render a written report on the unresolved disputed items with respect to the Earn-out Calculation as promptly as practicable, but in no event greater than 30 Business Days after such submission is received by the Accounting Firm, and to resolve only those unresolved disputed items set forth in the written objection notice received by Buyer. The Accounting Firm will resolve the disputed items based solely on the applicable definitions and other terms in this Agreement and the presentations made by Buyer and Owner and not by independent review. The resolution of the dispute by the Accounting Firm will be final and binding on the parties. The fees and expenses of the Accounting Firm will be allocated based upon the percentage which the portion of the contested amount not awarded to each of Buyer and Owner bear to the amount actually contested by such party in the written objection reviewed by the Accounting Firm.

(c) *Timing and Treatment of Earn-out Payment.* Any Earn-out payment Buyer is required to pay pursuant to this Section 2.6, will be paid in full no later than 30 Business Days following the date upon which the determination of the Earn-out Calculation Statement becomes final and binding upon the parties. Buyer will pay the Earn-out Payment in cash by wire transfer of immediately available funds to the bank account set forth in writing by Owner upon request by Buyer. The parties agree that, for purposes of this Agreement and for Tax purposes, any amounts paid pursuant to this Section 2.6 will be treated as an adjustment to the Purchase Price paid by Buyer to Seller.

(d) *No Security.* The Parties understand and agree that: (i) the contingent rights to receive an Earn-out Payment will not be represented by any form of certificate or other instrument, are not transferable except by operation of law relating to descent and distribution, divorce and community property, and do not constitute an equity or ownership interest in Buyer; (ii) Seller and Owner will not have any rights as a securityholder of Buyer as a result of Seller's contingent right to receive any Earn-out Payment hereunder; and (iii) no interest is payable with respect to any Earn-out Payment.

(e) *Subordination.* Notwithstanding anything to the contrary contained in this Section 2.6 or any other term or provision of this Agreement, each Party acknowledges that Buyer may, from time to time, be a Party or otherwise subject to one or more credit agreements or other financing facilities, whether secured or unsecured (each such facility, a "**Credit Facility**"), that impose conditions on, or otherwise restrict, the making of any Earnout Payment hereunder or otherwise restrict Buyer from amending or modifying provisions in this Agreement regarding the making of any Earnout Payment hereunder. At the written request of Seller, Buyer will deliver a summary of any such material conditions or restrictions on the making of any Earnout Payment hereunder that are in effect in any such Credit Facility.

Section 2.7. Closing. The closing of the transfer, sale, assignment, and purchase of the Transferred Assets (the "**Closing**") will take place remotely by the electronic exchange of documents on the Effective Date (the actual date of the Closing, the "**Closing Date**").

Section 2.8. Deliveries by Seller. At the Closing, Seller will deliver or cause to be delivered to Buyer (or such Person as set forth below) the following (each of which will be in form and substance reasonably acceptable to Buyer):

(a) bills of sale, duly executed by Seller, transferring the tangible personal property included in the Transferred Assets to Buyer;

(b) assignment and assumption agreements duly executed by Seller, effecting the assignment to and assumption by Buyer of the Transferred Assets and Assumed Liabilities (an "**Assignment and Assumption Agreement**");

(c) an assignment and assumption of the lease and landlord consent to the assignment of the lease for the property known as 18071 Territorial Road, Dayton, Minnesota 55369, signed by Seller and acknowledged and consented to by the landlord;

(d) assignment agreements duly executed by Seller, transferring all of Seller's and Owner's right, title, and interest in and to any and all Business Intellectual Property Rights to Buyer;

(e) all Books and Records and other materials related to or used in the Business, the Transferred Assets and the Assumed Liabilities;

Section 2.2. Excluded Assets and Excluded Liabilities.

(a) *Excluded Assets.* Notwithstanding anything in Section 2.1(a) to the contrary, the properties, assets, and rights of Seller related to the Business as set forth on Exhibit C are expressly excluded from the purchase and sale contemplated hereby and are not included in the Transferred Assets (the “**Excluded Assets**”), all of which will be retained by Seller.

(b) *Excluded Liabilities.* Notwithstanding anything herein to the contrary, Buyer is only assuming the Assumed Liabilities and neither Buyer nor any of its Affiliates is assuming any other Liabilities or obligations of any nature whatsoever, whether accrued, absolute, contingent or otherwise, whether known or unknown, whether due or to become due and whether related or unrelated to the Business, Seller, Owner, and their respective Affiliates, including, any: (i) environmental Liabilities; (ii) Indebtedness; (iii) Transaction Related Expenses; (iv) Excluded Taxes; (v) any Liabilities arising from, related to, or in connection with, the control of the Business or operation of the Transferred Assets prior to Closing; (vi) any Liabilities arising from a breach or violation of any Contract that is a Transferred Asset; (vii) any Liability of Owner; and (viii) any Liabilities arising from, related to or in connection with the Excluded Assets (collectively, the “**Excluded Liabilities**”).

Section 2.3. Purchase Price.

(a) *Purchase Price.* The purchase price for the Transferred Assets will, subject to adjustment in accordance with the terms of this Agreement, be the sum of (i) [REDACTED] (the “**Base Purchase Price**”) plus (ii) [REDACTED] (the “**Purchase Price**”). At the Closing, Seller will receive aggregate consideration in the form of the Closing Cash Payment and the Rollover Interests. For purposes of this Agreement, the (the “**Closing Cash Payment**”) is an amount equal to (x) the Base Purchase Price plus (y) the amount of the Estimated Working Capital Surplus, if any, minus (z) the amount of Estimated Working Capital Deficit, if any. The Closing Cash Payment, minus Transaction Related Expenses, minus Indebtedness equals the amount of cash consideration Seller will receive at Closing by wire transfer of immediately available funds in accordance with the wire instructions set forth on the funds flow memorandum provided by the Seller prior to the Closing; the Transaction Related Expenses and Indebtedness will be paid by the Buyer on behalf of the Seller in accordance with the same.

(b) *Estimated Closing Statement.* At the Closing, Seller will deliver to Buyer an estimated closing statement (the “**Estimated Closing Statement**”), signed by an authorized officer of Seller, which sets forth with reasonable detail and supporting information its good faith estimates of the Closing Date Net Working Capital (the “**Estimated Closing Date Net Working Capital**”), the Estimated Working Capital Surplus, if any, and the Estimated Working Capital Deficit, if any, resulting therefrom. The calculation of Estimated Closing Date Net Working Capital set forth on the Estimated Closing Statement will be calculated consistent with the example calculation set forth on Schedule Section 2.3(b).

Section 2.4. Preparation of Adjustment Statement.

(a) *Draft Adjustment Statement.* As promptly as reasonably possible after the Closing Date, Buyer will deliver to Owner a closing statement (the “**Draft Adjustment Statement**”), which sets forth its calculations of the Closing Date Net Working Capital, the Working Capital Surplus, if any, and the Working Capital Deficit, if any, resulting therefrom, and the Final Shortfall, if any, and the Final Surplus, if any. Owner will have 30 days to review the Draft Adjustment Statement following receipt of it and Owner must notify Buyer in writing if it has any objections to the Draft



Adjustment Statement within such 30 day period, it being agreed and understood that Owner can only raise objections based on mathematical errors or based on the Draft Adjustment Statement not being prepared in accordance with this Agreement. The notice of objection must contain a statement of the basis of each of Owner's objections and each amount in dispute. Buyer and Owner will reasonably cooperate with each other and their respective representatives and agents for purposes of preparing, reviewing, and finalizing the Draft Adjustment Statement. If Owner does not notify Buyer of any objection within the 30 Business Day period, Owner is deemed to have accepted and approved the Draft Adjustment Statement and such Draft Adjustment Statement will be final, conclusive and binding upon the parties hereto, and will not be subject to appeal. The Draft Adjustment Statement will become the "**Final Adjustment Statement**" on the next Business Day following the end of such 30 Business Day period.

(b) *Objections.* If Owner sends a notice of objection to the Draft Adjustment Statement in accordance with Section 2.4(a), Owner and Buyer will work expeditiously and in good faith in an attempt to resolve such objections within 30 days following receipt of the notice. If Owner sends a notice of objection in accordance with Section 2.4(a) and Owner and Buyer resolve such objections within 20 Business Days following receipt of such notice, Owner and Buyer will revise the Draft Adjustment Statement to reflect the final resolution or final determination of such objections within two Business Days following such final resolution or determination. Such revised Draft Adjustment Statement will be final, conclusive and binding upon the parties hereto, and will not be subject to appeal. The Draft Adjustment Statement will become the "**Final Adjustment Statement**" on the next Business Day following revision of the Draft Adjustment Statement under this Section 2.4(b). Failing resolution of any objection to the Draft Adjustment Statement raised by Owner, the dispute will be submitted for determination to an independent firm of chartered accountants mutually agreed to by Buyer and Owner (the "**Accounting Firm**"). The Accounting Firm, acting as an expert and not as an arbitrator, will be required to determine the items in dispute that have been referred to it, and no other items, as soon as reasonably practicable, but in any event, not later than 30 Business Days after the date of referral of the dispute to it. The determination of the Accounting Firm will be final and binding upon the parties hereto and will not be subject to appeal, and the Draft Adjustment Statement as determined by the Accounting Firm will become the "**Final Adjustment Statement**" on the next Business Day following such determination.

(c) *Expenses.* Buyer and Owner will each bear their own fees and expenses, including the fees and expenses of their respective auditors, in preparing or reviewing, as the case may be, the Draft Adjustment Statement. In the case of a dispute and the retention of an Accounting Firm to determine such dispute, the Accounting Firm will consider only the disputed matters that were referred to it and may not assign a value to any item in dispute greater than the greatest value assigned by Buyer, on the one hand, or Owner, on the other hand, or less than the smallest value for such item assigned by Buyer, on the one hand, or Owner, on the other hand. The fees and expenses of the Accounting Firm will be allocated based upon the percentage which the portion of the contested amount not awarded to each of Buyer and Owner bear to the amount actually contested by such party in the written referral to the Accounting Firm. For example, if Owner submits a notice of disagreement for \$1,000, and if Buyer contests only \$500 of the amount claimed by Owner, and if the Accounting Firm ultimately resolves the dispute by awarding Owner \$300 of the \$500, then the costs and expenses will be allocated 60% to Owner and 40% to Buyer.

#### Section 2.5. Purchase Price Adjustment.

(a) *Final Shortfall or Final Surplus.* To the extent there is a Final Shortfall on the Final Adjustment Statement, Seller will pay the amount of the Final Shortfall to the account designated in writing by Buyer. To the extent there is a Final Surplus on the Final Adjustment Statement,

(f) evidence in form and substance reasonably satisfactory to Buyer of the termination of all Liens of whatever nature relating to the Transferred Assets (other than the Permitted Liens);

(g) executed and effective copies of each of the consents, approvals, or authorizations in respect of the Contracts, Governmental Entities, or Persons set forth on Schedule 4.4;

(h) a properly executed IRS Form W-9 of Seller;

(i) a certificate, dated as of the Closing Date and signed by the secretary or equivalent officer of Seller, attaching: (i) the resolutions duly adopted by its directors and shareholders authorizing the execution, delivery, and performance of this Agreement, each Ancillary Agreement to which such Person is a party and the consummation of the transactions contemplated hereby and thereby; and (ii) a certificate of good standing from the Minnesota Secretary of State dated within five Business Days of the Closing;

(j) all other Ancillary Agreements to be executed and delivered by Seller or Owner under this Agreement, and any other documents reasonably requested by Buyer to transfer and assign to Buyer all of Seller's entire right, title, and interest in and to the Transferred Assets, free and clear of Liens, other than Permitted Liens; and

(k) evidence, in a form acceptable to Buyer, that an amount equal to the PPP Loan Proceeds has been fully repaid in accordance with Section 6.8.

Section 2.9. Deliveries by Buyer. At the Closing, Buyer will deliver to Seller (or to its designee(s)) the following:

(a) the Closing Cash Payment by wire transfer of immediately available funds to an account to be designated by Seller to Buyer prior to the Closing Date;

(b) a certificate, dated as of the Closing Date and signed by the secretary or equivalent officer of Buyer, attaching the resolutions duly adopted by Buyer authorizing the execution, delivery, and performance of this Agreement, each Ancillary Agreement to which Buyer is a party and the consummation of the transactions contemplated hereby and thereby;

(c) counterparts to the Assignment and Assumption Agreements, duly executed by Buyer;

(d) the Retention Bonus Agreements, duly executed by Buyer; and

(e) counterparts to all other Ancillary Agreements to be executed and delivered by Buyer under this Agreement.

Section 2.10. Rollover Transaction. Concurrently with the Closing, upon the terms and subject to the conditions set forth in that certain Rollover Subscription Agreement dated as of the Effective Date (the "Rollover Agreement")

[REDACTED] (the "Rollover Interests")

Section 2.11. Right of Set-off. Notwithstanding anything herein to the contrary, and except as provided in the second sentence of this Section 2.11, until the eighteen (18) month anniversary of the

Effective Date, Buyer will have the right to set off against its obligations to make any payment to Seller, Owner, or otherwise hereunder any amounts that Buyer claims is owed, or is to become due and owing, by Seller or Owner to Buyer, its Affiliates or any other Buyer Indemnified Party under the terms of this Agreement or the Ancillary Agreements (provided that, upon such set off, the associated obligation of Seller or Owner (as applicable), will be deemed satisfied to the extent of the amount so set off). Following the eighteen (18) month anniversary of the Effective Date, Buyer will only have the right to set off against its obligations to make any payment to Seller, Owner, or otherwise hereunder any amounts that Buyer claims is owed, or is to become due and owing, by Seller or Owner to Buyer, its affiliates, or any other Buyer Indemnified Party under the terms of this Agreement or the Ancillary Documents, solely with respect to Losses arising from or in connection with: (i) the breach of any Fundamental Representation made in respect of or by Seller or Owner in this Agreement, any of the Schedules hereto, or any certificate delivered in connection herewith or any Ancillary Agreements; or (ii) claims of fraud.

Section 2.12. Withholding. Buyer will be entitled to deduct and withhold from any payment under this Agreement any Taxes required to be deducted and withheld under applicable Law and will pay such amount to the appropriate Taxing Authority. Any such amounts so withheld and paid will be treated for all purposes of this Agreement as having been paid to the party in respect of which such deduction and withholding was made.

### **ARTICLE III: OWNER REPRESENTATIONS AND WARRANTIES**

Owner represents and warrants, solely as to themselves, to Buyer as of the Effective Date (unless a representation or warranty that is made as of a specific date, then only as of such specific date), as follows:

Section 3.1. Authorization. Owner is an individual who is a resident of the State of Minnesota. Owner has full power and authority, or full legal capacity, as applicable, to execute and deliver this Agreement and each of the Ancillary Agreements to which Owner is a party, and to perform his obligations and consummate the transactions contemplated hereunder and thereunder. No additional consent is required by Owner in connection with the execution, delivery, and performance by Owner of this Agreement and each of the Ancillary Agreements to which he is a party, and the consummation of the transactions contemplated hereunder and thereunder.

Section 3.2. Binding Effect. This Agreement and each of the Ancillary Agreements to which Owner is a party has been, or when entered into by Owner will be, duly executed and delivered by Owner and (assuming this Agreement and each of the Ancillary Agreements constitutes a legal, valid, and binding obligation of the other parties signatory hereto) constitutes a legal, valid, and binding obligation of Owner, enforceable against Owner in accordance with its terms, except as enforceability may be limited by bankruptcy, insolvency, fraudulent conveyance, reorganization, or moratorium Laws, other similar Laws affecting creditors' rights and general principles of equity affecting the availability of specific performance and other equitable remedies.

Section 3.3. Non-Contravention. The execution, delivery, and performance by Owner of this Agreement and each of the Ancillary Agreements to which he is a party, and the consummation of the transactions contemplated hereby and thereby, do not and will not, conflict with, or result in the breach of, or constitute a default under, or result in the termination, cancellation, modification, or acceleration (whether after the filing of notice or the lapse of time or both) of any right or obligation of Owner under, or result in a loss of any benefit to which Owner is entitled under, any Contract to which Owner is a party, or violate or result in a breach of or constitute a default under any Law or Governmental Authorization to which Owner is subject.

Section 3.4. Title. As of the Effective Date, and at the Closing, with respect to Seller, Owner is the direct beneficial and record owners of all of the equity interests of Seller.

Section 3.5. Litigation. There are no material Litigations pending or threatened against Owner, in each case as related to the Business or the Transferred Assets.

Section 3.6. Finders' Fees. Other than the Broker Fee, there is no fee or commission payable by Owner or any of their Affiliates to any investment banker, broker, finder, or other intermediary that has been retained by or is authorized to act on behalf of Owner or any of their Affiliates in connection with the transactions contemplated hereby.

Section 3.7. Accredited Investor. In connection with the issuance of Rollover Interests, Seller hereby represents and warrants to Buyer that, at the time Seller was offered such units (which, for the avoidance of doubt, is the date hereof) is, and as of the date such units are issued to Seller, Seller has no reason to believe that it will not be, an "accredited investor" as defined in Rule 501(a) promulgated under the Securities Act.

#### **ARTICLE IV: SELLER'S REPRESENTATIONS AND WARRANTIES**

Seller hereby represents and warrants to Buyer, in each case as of the Effective Date (unless a representation or warranty that is made as of a specific date, then only as of such specific date), as follows:

Section 4.1. Organization and Qualification. Seller is duly organized and is validly existing and in good standing, under the Laws of its jurisdiction of organization. Seller has all requisite company power and authority to own or lease and operate its properties and assets and to carry on the Business as presently conducted. Seller is duly licensed or qualified to do business in and has obtained and currently maintains all qualifications to do business as a foreign entity, and, to the extent legally applicable, is in good standing in each such jurisdiction. Seller has heretofore made available to Buyer complete and correct copies of all of their Organizational Documents, each as amended to the date hereof, and such Organizational Documents are in full force and effect and no amendments thereto are pending. Seller is not in violation of any provision contained in their applicable Organizational Documents.

Section 4.2. Corporate Authorization. Seller has full company power and authority to execute and deliver this Agreement and each of the Ancillary Agreements to which it is a party, and to perform its obligations and consummate the transactions contemplated hereunder and thereunder. The execution, delivery and performance by Seller of this Agreement and each of the Ancillary Agreements to which it is a party, and the consummation of the transactions contemplated hereunder and thereunder, has been duly and validly authorized by Seller and Owner and no additional entity authorization or consent by any Person is required in connection therewith.

Section 4.3. Binding Effect. This Agreement and each of the Ancillary Agreements to which Seller is a party, when executed and delivered by the applicable Seller (assuming the due authority, execution and delivery by the other parties thereto), constitutes a valid and legally binding obligation of Seller, enforceable against Seller in accordance with their respective terms, except as enforceability may be limited by bankruptcy, insolvency, fraudulent conveyance, reorganization, or moratorium Laws, other similar Laws affecting creditors' rights and general principles of equity affecting the availability of specific performance and other equitable remedies.

Section 4.4. Regulatory Approvals and Non-Governmental Consents. No Governmental Authorization, notice or filing is required to be obtained by Seller or Owner from, or to be given by Seller or Owner to, or made by Seller or Owner with, any Governmental Entity or securities exchange as a result

of the execution, delivery or performance by Seller or Owner of, or performance by Seller or Owner of their respective obligations or consummation of the transactions contemplated under, this Agreement or the Ancillary Agreements. No material consent, notice, approval, waiver, or authorization is required to be obtained by Seller or Owner from, or to be given by Seller or Owner to, or made by Seller or Owner with, any Person other than a Governmental Entity or securities exchange, as a result of the execution, delivery, or performance by Seller or Owner of this Agreement and the Ancillary Agreements or the consummation of the transactions contemplated hereunder or thereunder.

Section 4.5. Non-Contravention. The execution, delivery, and performance by Seller of this Agreement, and the execution, delivery, and performance by Seller of the Ancillary Agreements to which it is a party, and the consummation of the transactions contemplated hereby and thereby, do not and will not: (a) violate any provision of Seller's Organizational Documents; (b) conflict with, or result in the breach of, or constitute a default under, or result in the termination, cancellation, modification, or acceleration (whether after the filing of notice or the lapse of time or both) of any right or obligation of Seller under, or result in a loss of any benefit to which Seller is entitled under, any Contract to which Seller is bound or to which the Transferred Assets or the Business are subject, or result in the creation of any Lien (other than a Permitted Lien) upon any of the Transferred Assets or any other assets of Seller; (c) violate or result in a breach of or constitute a default under any Law or Governmental Authorization to which Seller, or the Transferred Assets, as applicable, are subject; or (d) cause Buyer to become subject to, or to become liable for the payment of, any Liability.

Section 4.6. Assets; Capitalization; Equity Interests.

(a) *Assets*. Seller has good and marketable title to or a valid leasehold interest in or license to all of its assets owned or leased by it or used in the Business as currently conducted, free and clear of all Liens, other than Permitted Liens, and upon the Closing, Buyer will own all of the Transferred Assets, free and clear of all Liens, other than Permitted Liens. The Transferred Assets constitute all of the assets and properties, whether tangible or intangible, real or personal, of the Business, other than the assets comprising the Excluded Assets and Liabilities. The sale of the Transferred Assets to Buyer by Seller pursuant to this Agreement will convey to Buyer at the Closing all of the assets, properties, licenses, permits, contracts, and rights necessary or desirable to allow Buyer immediately after the Closing to conduct the Business in the form and manner conducted by Seller on the date hereof (or as carried on by Seller during the 12 months prior to the date hereof). The buildings, plants, structures, and equipment owned, operated or used by the Business (including the Leased Real Property) are structurally sound, are in good operating condition and repair, subject to normal wear and tear, and are adequate for the uses to which they are being put. Since its incorporation, there has not been any significant interruption of the operations of the Business due to inadequate maintenance of Seller's assets or properties. There are no assets, rights, or properties used or held for use in the operation of the Business and owned or purported to be owned by any Person other than Seller that are not currently leased or licensed to Seller under valid, current leases or license arrangements disclosed to Buyer. Seller is not party to any option, purchase right, or other contract or commitment (other than this Agreement and the Ancillary Agreements to which Seller is a party) obligating Seller to sell, transfer, pledge, or otherwise dispose of any of the Transferred Assets.

(b) *Capitalization*. The authorized equity interests of Seller, and the current ownership of such equity interests that are issued and outstanding is set forth in Schedule 4.6(b). The equity interests shown as issued and outstanding in Schedule 4.6(b) constitute the only issued and outstanding membership interests or other equity interests of Seller, and such equity interests have been all duly authorized and, to the extent the following concepts are applicable thereto, are validly issued and fully paid, and are nonassessable. Seller does not control, directly or indirectly, or have

any equity interests or any direct or indirect equity participation or ownership interest in any Person or any right to acquire the same.

Section 4.7. Financial Statements.

(a) Seller has provided Buyer with correct and complete copies of: (i) the unaudited statement of income and retained earnings for the fiscal years ended December 2018, December 2019, and December 2020 of Seller (collectively, the “**Year-End Financial Statements**”); (ii) the unaudited monthly balance sheet of Seller as at June 30, 2021 (the “**Latest Balance Sheet**”); (iii) the tax returns of Seller for the 2017, 2018, 2019, and 2020 tax years (collectively, the “**Seller Tax Returns**”); and (iv) the operating financials of Seller, including rent payments, add backs, statements of owners compensation, trial balances, and warranty reserves (collectively, the “**Operating Financials**” and, together with the Year-End Financial Statements, Latest Balance Sheet, and Seller Tax Returns, the “**Financial Statements**”).

(b) Each of the balance sheets contained in the Financial Statements fairly presents in all material respects the consolidated financial position of Seller as of the date thereof, and each of the financial summary, statement of income, and retained earnings or profits and loss, as applicable, contained in the Financial Statements fairly presents in all material respects the financial summary, statement of income and retained earnings or profits and loss, as applicable, of Seller for the periods specified in such statement, in each case in accordance with GAAP (subject, in the case of Interim Financial Statements, to changes resulting from normal year-end adjustments (none of which are expected to be material, individually or in the aggregate)). Seller maintains a system of internal controls sufficient to provide assurance that transactions involving such Person are properly authorized and accurately recorded to permit the preparation of the Financial Statements.

(c) All accounts receivable of Seller reflected on the Latest Balance Sheet or which have arisen after the date thereof and on or before the date hereof are reflected properly on its Books and Records and are valid receivables subject to no setoffs or counterclaims. All accounts payable and all payables and other accruals of Seller reflected on the Latest Balance Sheet or which have arisen after the date thereof and on or before the Effective Date are reflected properly on its Books and Records and have arisen from bona fide, arm’s length transactions, in the ordinary course of business.

(d) Schedule 4.7(d) sets forth all bank accounts (and the authorized signatories thereto) of Seller or Owner used in connection with the Business.

(e) Schedule 4.7(e) sets forth all Indebtedness as of the Effective Date (including the maximum available amount under any undrawn credit facility, revolving credit facility, credit card or similar Contract for Indebtedness).

(f) Except for Liabilities of less than \$20,000 individually or \$100,000 in the aggregate, there are no Liabilities of the Business.

Section 4.8. Litigation and Claims. Except as set forth in Schedule 4.8, there are no, and since its formation there have been no, Litigations pending or threatened by or before any Governmental Entity or arbitrator, or by a private party against: (a) Seller, Owner, or any of their respective Affiliates (in each case, with respect to the Transferred Assets, Assumed Liabilities and the Business); or (b) any of Owner, officers, directors, employees, consultants or other service providers of Seller as related to his, her, or its services with Seller or the Business. Except as set forth in Schedule 4.8, there are no Litigations pending or threatened against Seller or Owner that, individually or in the aggregate, would materially impact such

Person's ability to execute, deliver or perform this Agreement or any Ancillary Agreement, or to timely consummate the transactions contemplated hereby or thereby. Except as set forth in Schedule 4.8, none of Seller (with respect to the Transferred Assets, Assumed Liabilities, the Business or otherwise) or any employee, consultant, or other service provider of Seller (as related to his or her employment or services with Seller or the Business) is subject to any order, writ, judgment, award, injunction, or decree of any Governmental Entity of competent jurisdiction or any arbitrator or arbitrators. Schedule 4.8 sets forth all settlement, consent, or similar agreements entered into by Seller since its formation. Seller is fully insured with respect to each of the matters set forth on Schedule 4.8 (except to the extent of any applicable insurance deductibles). To Seller's Knowledge, there is no expected, threatened, or pending Litigation as would be required to be listed in Schedule 4.8.

Section 4.9. Compliance with Law. Except as set forth in Schedule 4.9, each of Seller and Owner (with respect to the Business and the Transferred Assets) is currently in, and since its formation has at all times been in, material compliance with applicable Laws. Except as disclosed on Schedule 4.9, each of Seller and Owner (with respect to the Business and the Transferred Assets) has not: (a) received a notice, claim, or demand since its incorporation from a Governmental Entity or self-regulating body asserting or claiming that any of them has violated or has failed to comply with applicable Payment Card Industry Data Security Standards ("PCI-DSS"); and (b) received a notice, claim or demand since its incorporation from any Person asserting failure to comply with PCI-DSS or seeking compensation for failure to comply with PCI-DSS, and Seller is not aware of any facts or occurrences which would provide a basis for such a notice, claim, or demand.

Section 4.10. Regulatory Matters. Except as set forth in Schedule 4.10, neither Seller nor Owner have, with respect to the Business or the Transferred Assets, received written notice alleging, and no investigation or review of Seller or Owner has been pending or, to Seller's Knowledge, threatened with respect to, any material violation under any applicable Law since its incorporation. Seller has heretofore made available to Buyer complete and correct copies of all written notices received by Seller alleging any material violation under any applicable Law that Seller has received since its formation in connection with the Business or the Transferred Assets. Seller, or any of its directors, officers, or any Person while acting at the direction of Seller, has not: (a) solicited, made, paid, offered, or received any unlawful bribes, kickbacks, or other similar payments to or from any Person; (b) solicited, made, paid, offered, or received any contributions, directly or indirectly, to a domestic or foreign political party or candidate; or (c) solicited, made, paid, offered, or received any remuneration, directly or indirectly, overtly or covertly, in cash or in kind, for any referral in violation of any applicable Law; or (iv) otherwise made or paid any improper foreign payment (as defined in the U.S. Foreign Corrupt Practices Act of 1977, as amended) or violated the U.S. Foreign Corrupt Practices Act of 1977, as amended. The internal accounting controls of Seller are adequate to detect any of the foregoing.

Section 4.11. Permits and Licenses. Schedule 4.11 lists all Governmental Authorizations from any Governmental Entity owned or held by Seller in connection with the Transferred Assets and the Business. Except as set forth in Schedule 4.11, Seller possesses all Governmental Authorizations required to conduct the Business as it is currently conducted, and such Governmental Authorizations are valid, in good standing, and in full force and effect. Seller is (and has been at all times during the past five years) in material compliance with the terms and conditions of such Governmental Authorizations. During the past five years, Seller has not received written notice from any Governmental Entity: (a) revoking or threatening to revoke any such Governmental Authorization; (b) alleging that Seller is in material violation of any such Governmental Authorization; or (c) informing its intention to cancel, terminate, restrict, limit, or otherwise qualify or not renew any such Governmental Authorization.

Section 4.12. Intellectual Property.

(a) Schedule 4.12(a) contains a complete and correct list of all active registrations of, and all pending applications to register any of the Business Intellectual Property Rights (collectively, the “**Business Scheduled IP**”). The Business Intellectual Property Rights are valid and enforceable and together with the Intellectual Property Rights licensed to the Business under the licenses listed in Section 4.15(a)(viii)(A), constitute all of the Intellectual Property Rights used in and necessary to conduct and operate the business as conducted prior to the Closing. The Business Scheduled IP is subsisting and is duly registered in the name of Seller, is in full force and has not been and is not subject to any pending cancellation, opposition, interference, reissue, reexamination proceeding or other similar proceeding. No Affiliate of Seller or Owner owns any of the Business Intellectual Property Rights.

(b) Seller: (i) is the sole legal and beneficial owner of all Business Intellectual Property Rights and such will not at Closing be subject to any Liens; (ii) has obtained from all current and former employees, contractors, and consultants the assignment (by way of an assignment) by such Person to the Business of any Intellectual Property Rights arising out of such Person’s employment by, engagement by, or contract with the Business, and each such agreement is valid and enforceable; and (iii) has taken all commercially reasonable and appropriate steps to protect and maintain all the Business Intellectual Property Rights.

(c) The conduct, products, and services of the Business, as currently provided by the Business, do not infringe, misappropriate, or violate and have not infringed upon, misappropriated, or violated, any Intellectual Property Right owned by any Person, and in the past six years, the Business has not received any written communication stating, alleging, or otherwise suggesting the possibility of any of the foregoing or challenging the ownership, validity, enforceability of any Business Intellectual Property Rights. To Seller’s Knowledge, no Person is infringing, misappropriating, or violating and in the past six years, no Person has infringed upon, misappropriated, or violated, any of the Business Intellectual Property Rights, and the Business have not sent any written communication in the past six years alleging, asserting, or threatening any of the foregoing. None of the Business Intellectual Property Rights nor the Business is subject to any judicial, administrative, or arbitral order, award, decree, injunction, settlement, or stipulation that bars or limits the use of any Intellectual Property Rights.

(d) All material information technology hardware and software used or held for use by Seller in its business (the “**IT Assets**”) are either owned by, licensed or leased to, Seller and the IT Assets are adequate and sufficient in all material respects to meet the processing and other business requirements of the Business as the business is currently conducted. No person has gained unauthorized access to any IT Asset (excluding any external hack or similar attack that did not affect the IT Assets for a prolonged period or pose any material threat to the operations of the IT Assets).

#### Section 4.13. Employee Benefits.

(a) Schedule 4.13(a) sets forth a complete and accurate list of each “employee benefit plan” within the meaning of Section 3(3) of ERISA, and all other benefit or compensation plans, programs, agreements, Contracts, and arrangements, including each equity or equity-based, retirement, deferred compensation, employment, consulting, group insurance, time off, separation, change in control, retention, other welfare or fringe benefit plan, Contract, program, agreement and arrangement, in any case, maintained, contributed or required to be contributed to by the Seller or any ERISA Affiliate for the benefit of any current or former employee, director, officer, member, equityholder, or independent contractor of the Seller, or with respect to which the Seller has any current or contingent Liability (the “**Benefit Plans**”). As applicable with respect to each Benefit



Plan, the Seller has provided to Buyer correct and complete copies of: (i) the current plan documents and all amendments thereto, and in the case of an unwritten Benefit Plan, a written description thereof; (ii) the most recent determination, opinion or advisory letter received from the IRS; (iii) discrimination testing results or safe harbor notices for the last three complete plan years; and (iv) all material funding, insurance, filings, notices and other documents relating to each Benefit Plan. Each Benefit Plan has been operated, maintained, funded and administered in all material respects in accordance with its terms and in accordance with all applicable Laws and each Benefit Plan that is intended to be qualified under Section 401(a) of the Code is so qualified.

(b) There are no pending audits or investigations by any governmental agency involving any Benefit Plan, and there are no Litigations pending, or to Seller's Knowledge, threatened, with respect to any Benefit Plan (other than routine individual claims for benefits in the ordinary course of operating the Benefit Plans).

(c) Neither the Seller nor any ERISA Affiliate sponsors, maintains or contributes to or has any current or contingent Liability or obligation under or with respect to: (i) an "employee pension benefit plan" (within the meaning of Section 3(2) of ERISA) that is subject to Title IV of ERISA or Section 412 of the Code (including any "multiemployer plan" (within the meaning of Section 3(37) of ERISA)); (ii) a "multiple-employer plan" within the meaning of Section 413 of the Code; (iii) or "multiple employer welfare arrangement" within the meaning of Section 3(40) of ERISA; or (iv) any plan or arrangement that provides medical, dental, vision, prescription drug or life insurance benefits beyond termination of service or retirement other than coverage mandated by Law.

(d) Except as set forth in Schedule 4.13(d), neither the execution of this Agreement nor the consummation of the transactions contemplated hereby will, either alone or in combination with any other event: (i) give rise to any Liability under any Benefit Plan; (ii) accelerate the time of payment or vesting or increase the amount or require the funding of compensation or benefits due to any current or former employee, director, member, equityholder or individual consultant of the Seller; or (iii) result in any payment or benefit that could be characterized as a "parachute payment" (within the meaning of Section 280G of the Code).

Section 4.14. Employment Matters.

(a) Except as set forth on Schedule 4.14(a), the Seller is a not party to or bound by a collective bargaining agreement or other Contract with, and none of the employees of the Seller are represented by, any labor union, labor organization or similar Person. There is no, and in the past five years there has been no, unfair labor practice charge or complaint, grievance, labor arbitration, or other Litigation regarding labor or employment matters against the Seller pending, or to Seller's Knowledge, threatened. There are no strikes, lockouts, slowdowns, work stoppages, picketing, union election petitions, demands for recognition or other labor disputes pending or, to Seller's Knowledge, threatened against or affecting the Seller, and there have been no such actions in the past five years. There are, and since January 1, 2015 there have not been, any union organizing activities pending or threatened against the Seller or involving any employees of the Seller.

(b) The Seller's operation of the Business is, for the past five years has been, and Buyer's operation of the Business in substantially the same manner following the Closing will be in compliance in all material respects with all applicable Laws, Contracts, policies, programs and plans relating to labor, employment and employment practices. The Seller is not delinquent in the payment of and have not otherwise failed to pay any wages, salaries, commissions, bonuses, wage premiums, overtime, accrued but unused vacation or other paid time off, fees, or other

compensation due and owing to any current or former employee or independent contractor under applicable Law, Contract or the Seller's practices or policy. The Seller's operation of the Business is and has been, and Buyer's operation of the Business in substantially the same manner following the Closing will be, in compliance with all Laws, and all guidance and recommendations by all Governmental Entities, relating to COVID-19.

(c) Seller has provided Buyer with a correct and complete list setting forth each employee of the Seller. With respect to each employee reflected on such list, Seller has disclosed to Buyer whether such employee is actively at work or on a leave of absence (and, if on a leave of absence, expected return to work date), base salary or base wage rate, commissions and consulting fees, bonus arrangements, job title or position, status as full-time or part-time, location of employment, date of hire, classification as overtime exempt or overtime nonexempt under applicable Law, employer, annual vacation and any other paid time off entitlement in days, accrued and unused vacation and any other paid time off in days, and whether he or she is subject to a written Contract (including any collective bargaining agreement or other Contract with any labor union, labor organization or similar Person).

(d) No employee or consultant of the Seller: (i) has, to Seller's Knowledge, any present intention to terminate or materially alter the terms or nature of his or her employment or services with the Seller within the first 12 months immediately following the Closing Date; or (ii) is party to or bound by any confidentiality, non-disclosure, proprietary rights, non-solicitation, non-competition or other Contract or obligation that restricts such Person in the performance of his or her employment or service duties, or the Seller in the conduct of its business, and the Seller has not received any notice of such an obligation. Except as set forth on Schedule 4.14(d), each employee of the Seller is employed at will and may be terminated at any time for any reason by the Seller without any Liability.

Section 4.15. Material Contracts.

(a) Schedule 4.15(a) sets forth an accurate and complete list of each and every material Contract (including any supplements, waivers, amendments or modifications thereto) by which any of the Transferred Assets or the Seller are bound or affected; or to which Seller is a party or by which it is bound (the Contracts listed in or required to be listed in Schedule 4.15(a), whether or not actually so listed, together with any Contracts of the following types entered into by Seller after the Effective Date, the "**Material Contracts**"), including the following:

(i) Contracts which restrict or limit the ability of the Seller, or to Seller's Knowledge any service provider of the Seller, to compete in any line of business or otherwise freely conduct the Business anywhere in the world, including provisions relating to non-solicitation, exclusivity, most favored customer or vendor, right of first refusal, or any similar rights to any Person;

(ii) Contracts with an Affiliate of Seller and Contracts of the type described in Section 4.20;

(iii) Contract concerning the establishment of a joint venture, partnership, joint development arrangements, or other Contract for the sharing of profits or intellectual property or proprietary information;

(iv) Contracts which relate to Indebtedness, the guarantee thereof, any advances or loans by Seller to another Person, or any mortgages, pledges, or security

agreements or similar arrangements constituting a Lien upon a Transferred Asset or any other assets or properties of Seller;

(v) Contracts under which Seller is bound to make or receive annual payments in excess of \$50,000 or aggregate payments in excess of \$150,000, or otherwise any Contracts with any Top Suppliers;

(vi) lease or agreement under which Seller is lessor of or permits any third party to hold or operate the Transferred Assets;

(vii) settlement, conciliation and similar agreements with any Governmental Entity or with any other Person or Contracts with any Governmental Entity;

(viii) all licenses, sublicenses, and other agreements: (A) granting a right to use Intellectual Property Rights (other than non-exclusive licenses entered in the ordinary course of business in connection with the sale, license, or provisions of products or services of Seller or agreements for unmodified, commercial, off-the-shelf software), and (B) concerning Intellectual Property Rights used in the Business which is or has been developed by or for Seller, assigned to Seller by any other Person, or assigned by Seller to any other Person;

(ix) all Leases;

(x) Contracts for the employment or engagement of any director, officer, employee, consultant, independent contractor, or other service provider;

(xi) each power of attorney of Seller; and

(xii) Contracts that (A) contain or provide for an express undertaking by Seller to be responsible for consequential damages, and (B) contain continuing indemnification obligations with respect to the Business that could result in payment in excess of \$50,000.

(b) Except for expirations of Material Contracts in accordance with their terms after the Effective Date, all Material Contracts are legal, valid, binding, enforceable and in full force and effect against Seller and in each case in accordance with the express terms thereof, except as enforceability may be limited by bankruptcy, insolvency, fraudulent conveyance, reorganization, or moratorium Laws, other similar Laws affecting creditors' rights and general principles of equity affecting the availability of specific performance and other equitable remedies. Except as set forth in Schedule 4.15(b), there does not exist under any Material Contract any material violation, breach or event of default, or alleged material violation, breach or event of default, or event or condition that, after notice or lapse of time or both, would constitute a material violation, breach, or event of default thereunder on the part of Seller, or, to Seller's Knowledge, any other party thereto, and, to Seller's Knowledge, no such violation, breach, or event of default by any party is anticipated. Except as set forth on Schedule 4.15(b), Seller has not assigned, delegated, or otherwise transferred to any Person any of its rights, title, or interest under any Material Contract. Seller has made available to Buyer a complete and correct copy of each written Material Contract, along with all amendments and modifications thereto, and a description of the material terms of each Material Contract that is not written.

Section 4.16. Real Property.

(a) The Seller does not own nor has the Seller ever owned any real property.

(b) Schedule 4.16(b) sets forth a correct and complete list of: (i) all real property that is leased, subleased, or licensed to the Seller or which the Seller otherwise has a right or option to use or occupy, together with all structures, facilities, fixtures, systems, improvements, and items of property previously or hereafter located thereon, or attached or appurtenant thereto, and all easements, rights and appurtenances relating to the foregoing (the “**Leased Real Property**”); and (ii) all leases, subleases, licenses, or other occupancy agreements of real property (together with all amendments, modifications, extensions, renewals, guarantees, and other agreements with respect thereto) to which the Seller is a party (as lessee, sublessee, licensee, sublessor, licensor, or lessor) (the “**Leases**”). The Seller holds a valid and binding leasehold interest to all Leased Real Property purported to be leased, sublet, licensed, or otherwise occupied by the Seller, free of any Liens other than Permitted Liens.

(c) Except as provided in Schedule 4.17(c): (i) the Seller’s possession and quiet enjoyment of the Leased Real Property under such Lease has not been disturbed, and there are no disputes with respect to such Lease and the business and operations conducted by the Seller at the Leased Real Property comply in all material respects with Law; (ii) the other party to such Lease is not Seller or any officer, director, stockholder or Affiliate of Seller or the Seller, and to Seller’s Knowledge, otherwise does not have any economic interest in the Seller; (iii) the Seller has not assigned, subleased, licensed, or otherwise granted any Person the right to use or occupy such Leased Real Property or portion thereof; (iv) the Seller has not collaterally assigned, mortgaged, deeded in trust, or granted any other security interest in such Lease or any interest therein; (v) no security deposit or portion thereof deposited with respect to such Lease has been applied in respect of a breach or default under such Lease which has not been redeposited in full; (vi) all work required to be performed under such Lease by the landlord thereunder or by the Seller or any other party thereto has been performed, and to the extent that the Seller is responsible for the payment of such work, has been fully paid; (vii) no profit sharing, recapture, or other obligation, restriction or cancellation of any option under such Lease will arise as a result of the transactions contemplated by this Agreement; (viii) the Seller has not received notice that the occupancy, use, and operation of the Leased Real Property violates any ordinance, regulation or building, zoning, or other Laws with respect to the Leased Real Property; and (ix) the Seller does not owe any brokerage commission in connection with such Lease.

(d) Except as set forth in Schedule 4.16(d), no parcel of Leased Real Property is subject to any governmental decree or order to be sold or is being condemned, expropriated or otherwise taken by any public authority with or without payment of compensation therefore, nor, to Seller’s Knowledge, has any such condemnation, expropriation, or taking been proposed or threatened.

(e) Schedule 4.16(e) lists each Lease where any party to such Lease has deferred, withheld or otherwise failed to pay when due, any amounts owed pursuant to such Lease in accordance with all Laws, and all guidance and recommendations by all Governmental Entities, relating to COVID-19, and the amounts deferred, withheld or otherwise unpaid as of the date of this Agreement.

Section 4.17. Taxes. For purposes of this Section 4.17, each reference to Seller includes any Person that was liquidated into, merged with, or otherwise is a predecessor to, Seller. Except as set forth in Schedule 4.17:

(a) All Tax Returns required to be filed by Seller, or with respect to any of the Transferred Assets or the Seller, in each case, have been duly and timely filed (taking into account any valid extensions), and all such Tax Returns are true, correct and complete in all material respects. All Taxes due and owing by Seller, or in respect of any of the Transferred Assets or the Seller, in each case, whether or not shown to be due and owing on any Tax Return, have been duly and timely paid in full.

(b) No claim has ever been made in writing by any Taxing Authority in a jurisdiction where Seller does not pay a particular Tax or file a particular Tax Return that: (i) Seller is or may be subject to a Tax or required to file a Tax Return with respect to that jurisdiction; or (ii) that any of the Transferred Assets or the Business may be subject to a Tax of that jurisdiction or that a Tax Return in respect of any Transferred Asset or the Seller may be required to be filed with, that jurisdiction.

(c) All Taxes required to be withheld or collected and paid by Seller, in connection with amounts paid or owing to any Person have been timely and duly withheld and paid (or set aside for payment when due). Seller has timely filed with the required Taxing Authority, and provided to any required Person, all information returns and reports, including IRS Forms 1099 and W-2, that are required to be filed or provided by it in respect of any withheld Taxes described in the preceding sentence and accurately reported all information required to be included on such returns and reports.

(d) There is no Lien for Taxes upon any of the Transferred Assets or the Business, in each case other than Liens for Taxes that are not yet due and payable. No Taxing Authority is in the process of imposing any Lien for Taxes on any assets of Seller, or any of the Transferred Assets or the Business. No actions, audits, examinations, claims, administrative proceedings, or court proceedings are currently pending, or have been proposed or threatened by any Taxing Authority with respect to any Taxes or Tax Returns of Seller or relating to any of the Transferred Assets or the Business. No notice of any Tax deficiency or proposed Tax deficiency has been received by Seller or with respect to any of the Transferred Assets or the Business.

(e) No Transferred Asset is: (i) an equity interest in any Person; (ii) tax-exempt use property within the meaning of Section 168(g) of the Code; or (iii) a "United States real property interest" within the meaning of Section 897(c) of the Code. Seller (as a result of owning any of the Transferred Assets or the Business) has never had a permanent establishment (within the meaning of an applicable Tax treaty) or otherwise has an office or fixed place of business in a jurisdiction outside of the United States.

(f) Seller has properly: (i) collected and remitted sales, use, valued added and similar Taxes with respect to sales or leases made or services provided to its customers by Seller or with respect to the Transferred Assets or the Business; and (ii) for all sales, leases or provision of services by Seller or with respect to the Transferred Assets or the Business, in each case, that are exempt from sales, use, valued added, and similar Taxes and that were made without charging or remitting sales, use, valued added, or similar Taxes, received and retained any appropriate Tax exemption certificates and other documentation qualifying such sale, lease or provision of services as exempt.

(g) Neither the execution of, nor the consummation of the transactions contemplated by this Agreement (either alone or when combined with the occurrence of any other event, including a termination of employment) will result in the receipt or retention by any person who is a "disqualified individual" (within the meaning of Code Section 280G) of any payment or benefit that is or could be characterized as a "parachute payment" (within the meaning of Code Section

280G) determined without regard to the application of Code Section 280G(b)(5). Seller has not received an advance payment for goods or services with respect to which Buyer is assuming the obligation to deliver. Seller has never been a party to any "reportable transaction" within the meaning of Section 6707A(c)(2) of the Code or Treasury Regulation Section 1.6011-4.

Section 4.18. Insurance. Seller has made available to Buyer all of the insurance policies or binders for which Seller is a policyholder or which covers the Business, the Transferred Assets, the Assumed Liabilities or otherwise ("**Insurance Policies**"), and Schedule 4.18 sets forth a complete list of the Insurance Policies that are in effect or are pending as of the Effective Date. All Insurance Policies are in full force and effect in accordance with their terms and all premiums with respect thereto covering all periods up to and including the Closing Date have been paid or will be paid when due. Seller has not received any written notice of cancellation, material change in premium, or denial of renewal in respect of any of the Insurance Policies. Seller is not in material default with respect to its obligations under any of the Insurance Policies. Seller has not received notice of denial of coverage or that any insurer is questioning or disputing coverage with respect to a claim submitted under any of the Insurance Policies or defending under a reservation of rights clause. The coverage provided by any of the Insurance Policies will not terminate or lapse by reason of the transactions contemplated by this Agreement. Seller does not have any self-insurance or co-insurance programs. All claims of Seller for which insurance coverage would have been available have been properly tendered to the applicable insurance provider. Except as set forth in Schedule 4.18, no claim is pending under the Insurance Policies involving an amount in excess of \$10,000.

Section 4.19. Environmental Compliance. Except as would not reasonably be expected to be, either individually or in the aggregate, material to the Business: (a) the Seller is and for the last five years has been in material compliance with all applicable Environmental Laws and the Seller and the employees, consultants, or other service providers of the Seller as related to his, her, or its employment or services with the Business possess and are in compliance with all applicable Governmental Authorizations required pursuant to Environmental Laws for its business and operations; (b) there has been no Release of, or exposure of any person to, Hazardous Materials by the Seller or, to Seller's Knowledge, any other Person at any real property currently or formerly owned, leased, or operated by the Seller or at any real property which the Seller conducts or has conducted any operations or at any location to which Hazardous Materials generated by or on behalf of the Seller or for which the Seller has arranged for disposal have come to be located, in each case which could reasonably be expected to result in the Seller incurring any liability or obligation pursuant to Environmental Law; (c) within the past five years (or, prior to such time, that is pending or unresolved), the Seller has not received a written notice, request for information, notice of claims, or demand asserting that it is or may be liable for any investigation, cleanup, remediation, or similar activities (or the costs thereof) with respect to any Release or threatened Release of or exposure to a Hazardous Material or violation of Environmental Law; and (d) the Seller has not assumed by Contract (including indemnity agreement) or operation of Law the Liability of another person under Environmental Law. The Seller has provided to Buyer all environmental reports, audits, permits, claim notices, and other documents in the possession or control of the Seller that are material to a reasonable understanding of the Liability of the Seller pursuant to Environmental Law.

Section 4.20. Related Party Transactions. Except as set forth on Schedule 4.20, none of Seller or Owner, or any officer, manager or employee of Seller, or any Affiliates of any of the foregoing (each, an "**Interested Party**"), has, or has had, any direct or indirect ownership, participation, royalty, or other interest in, or is an officer, director, employee of or consultant or contractor for any Person that competes with, or does business with, or has any contractual arrangement with, owes any Indebtedness to, or is owed any Indebtedness by, Seller or Owner (in each case, with respect to the Assumed Liabilities, Transferred Assets or the Business). Except as set forth on Schedule 4.20, no Interested Party is, or has been, a party to or otherwise directly or indirectly interested in, any Contract to which Seller or Owner are a party or by which Seller, Owner, or any of their respective assets, rights or properties may be bound or affected (in

each case, with respect to the Assumed Liabilities, Transferred Assets or the Business), except for normal compensation for services as an officer, director, or employee thereof. Except as set forth on Schedule 4.20, there are no Contracts in effect between Seller and any Interested Party, except for ordinary course employment agreements disclosed to Buyer. All Contracts set forth on Schedule 4.20 will be terminated in full, and all obligations thereunder will be satisfied in full, at or prior to the Closing. No Interested Party has any cause of action or other claim whatsoever against or related to Seller or Owner in connection with the Assumed Liabilities, Transferred Assets, or the Business.

Section 4.21. Top Customers. Schedule 4.21 sets forth a list of the 15 largest customers of the Business as measured by the Dollar value of annual sales volume for such customers as of June 30, 2021 (the “**Top Customers**”). Except as set forth on Schedule 4.21, no Top Customer has materially modified or terminated its relationship with the Business or decreased materially (except for decreases occurring in the ordinary course of business consistent with past practice) its usage or purchase of the products and services of the Business, and no Top Customer has threatened any such action or given the Business notice of material modification or termination or intent to materially modify or terminate its relationship with the Business.

Section 4.22. Top Suppliers. Schedule 4.22(a) sets forth a list of the 15 largest suppliers of the Business as measured by the Dollar value of net purchases from such suppliers as of August 14, 2021 (the “**Top Suppliers**”). Except as set forth on Schedule 4.22(b), no Top Supplier has materially modified or terminated its relationship with the Business or has decreased materially (except for decreases occurring in the ordinary course of business consistent with past practice) its services, supplies, materials or finished products to the Business, and, no Top Supplier has threatened any such action or given the Business notice of material modification or termination or intent to materially modify or terminate its relationship with the Business.

Section 4.23. Finders’ Fees. Except the Broker Fee, there is no other fee or commission payable by Seller, Owner, or any of their Affiliates to any investment banker, broker, finder, or other intermediary that has been retained by or is authorized to act on behalf of Seller, Owner, or any of their Affiliates in connection with the transactions contemplated hereby.

Section 4.24. COVID-19 Indebtedness. Except for the PPP Loan Proceeds, neither Seller nor Owner have, with respect to the Business, directly or indirectly, sought, pursued, applied for, claimed, obtained, received, accepted or otherwise availed itself of any loan, grant, funding, tax benefit or other benefit, relief or assistance under the Paycheck Protection Program under the CARES Act. Seller was entitled to incur the PPP Indebtedness under all applicable Laws as of the date Seller received the proceeds of the PPP Indebtedness and all proceeds received by Seller under the Paycheck Protection Program established under the CARES Act or the PPP Flexibility Act have been used only for purposes that are both allowable and forgivable under applicable Law including the PPP Rules and Seller has submitted an application to the U.S. Small Business Administration for forgiveness of the PPP Indebtedness. All application materials (including all loan application materials) submitted by or on behalf of Seller in connection with the PPP Rules or otherwise in connection with securing the PPP Indebtedness were accurate and complete when submitted and neither Seller nor any Person signing any such application materials or any other documents relating thereto have made any misstatements therein, and all certifications therein were accurate when made and were made in good faith. All PPP Indebtedness was incurred by Seller in accordance with the PPP Rules and there is no PPP Proceeding pending or threatened in writing against Seller nor is there any reason to believe that any such proceeding may be brought. Seller has not received any written notice from any lender or Governmental Entity challenging or questioning the eligibility of Seller to incur PPP Indebtedness, nor has Seller ever been denied forgiveness of any of the PPP Indebtedness.

Section 4.25. Full Disclosure. No representation or warranty by Seller in this Agreement or any Ancillary Agreement and no statement contained in the Schedules to this Agreement or any certificate or other document furnished or to be furnished to Buyer under this Agreement contains any untrue statement of a material fact or omits to state a material fact necessary to make the statements contained therein, in light of the circumstances in which they are made, not misleading.

## **ARTICLE V: BUYER'S REPRESENTATIONS AND WARRANTIES**

Buyer hereby represents and warrants to Seller as of the Effective Date (unless a representation or warranty that is made as of a specific date, then only as of such specific date), as follows:

Section 5.1. Organization and Qualification. Buyer is a limited liability company duly organized, validly existing and in good standing under the Laws of Delaware and has all requisite corporate power and authority to own or lease and operate its properties and assets and to carry on the Business as presently conducted. Buyer is duly licensed or qualified to do business in and has obtained and currently maintains all qualifications to do business as a foreign entity, and, to the extent legally applicable, is in good standing in each such jurisdiction. Buyer is not in violation of any provision contained in its Organizational Documents.

Section 5.2. Corporate Authorization. Buyer has full corporate power and authority to execute and deliver this Agreement and each of the Ancillary Agreements to which it is a party, and to perform its obligations and consummate the transactions contemplated hereunder and thereunder. The execution, delivery and performance by Buyer of this Agreement and each of the Ancillary Agreements to which it is a party, and the consummation of the transactions contemplated hereunder and thereunder, has been duly and validly authorized by Buyer and no additional corporate (or similar entity) authorization or consent by Buyer is required in connection therewith.

Section 5.3. Binding Effect. This Agreement and each of the Ancillary Agreements to which Buyer is a party, when executed and delivered by the parties thereto (assuming the due authority, execution and delivery by Seller, Owner, and the other parties thereto), constitutes a valid and legally binding obligation of Buyer, enforceable against Buyer in accordance with their respective terms, except as enforceability may be limited by bankruptcy, insolvency, fraudulent conveyance, reorganization, or moratorium Laws, other similar Laws affecting creditors' rights and general principles of equity affecting the availability of specific performance and other equitable remedies.

Section 5.4. Non-Contravention. The execution, delivery and performance by Buyer of this Agreement, and the execution, delivery and performance by Buyer of the Ancillary Agreements to which it is a party, and the consummation of the transactions contemplated hereby and thereby, do not and will not: (a) violate any provision of Buyer's Organizational Documents; (b) conflict with, or result in the breach of, or constitute a default under, or result in the termination, cancellation, modification or acceleration (whether after the filing of notice or the lapse of time or both) of any right or obligation of Buyer under, or result in a loss of any benefit to which Buyer is entitled under, any Contract to which Buyer is a party or result in the creation of any Lien upon any of its assets; (c) violate or result in a breach of or constitute a default under any Law or Governmental Authorization to which Buyer or its Affiliates are subject; or (iv) cause Seller or Owner to become subject to, or become liable for the payment of, any Liability.

Section 5.5. Finders' Fees. There is no investment banker, broker, finder, or other intermediary that has been retained by or is authorized to act on behalf of Buyer or any of its Affiliates who would be entitled to any fee or commission in connection with the transactions contemplated hereby for which Seller, Owner, or their Affiliates would be liable.



## ARTICLE VI: COVENANTS

### Section 6.1. Public Disclosure; Confidentiality.

(a) Notwithstanding anything to the contrary contained in this Agreement (including Section 6.1(b)), except as may be required to comply with the requirements of any applicable Law, from and after the Effective Date, no party hereto or its respective Representatives will make any press release or similar public announcement or public communication relating to this Agreement or the Ancillary Agreements unless specifically approved in advance by Buyer and Seller, which approval will not be unreasonably withheld, conditioned, or delayed (provided that the financial terms of this Agreement will not be disclosed in such press release or similar public announcement or public communication); *provided*, that Buyer and its Affiliates may make: (i) announcements or communicate with its and their respective Affiliates' direct or indirect current or prospective investors and their respective directors, members, limited or general partners, equity holders, officers, employees, agents, financing sources, counsel, advisors, or other Representatives; and (ii) internal announcements (including to current or prospective financing sources).

(b) From and after the Effective Date, each of Buyer, Seller, and Owner will, and will cause each of their respective Affiliates and Representatives to, keep confidential the terms and existence of this Agreement and the Ancillary Agreements and the negotiations relating thereto (collectively, the "**Transaction Confidential Information**"). Notwithstanding the foregoing, any of Buyer, Owner, or Seller and their respective Affiliates' and Representatives may disclose such Confidential Information to the extent compelled by order of a Governmental Entity or applicable Law; *provided*, that such disclosing Person will promptly notify the other party of such intended disclosure so that the disclosing party (with the cooperation of the other party) may seek a protective order or other appropriate remedy and waive compliance with the provisions of this Section 6.1(b). In the event that such protective order or other remedy is not obtained, such disclosing Person will furnish only that portion of such information which such party is advised by counsel in writing is legally required to be disclosed and will exercise reasonable best efforts to obtain reliable assurance that confidential treatment will be accorded such information.

(c) From and after the Closing, Seller and Owner will, and will cause each of their respective Representatives to, keep confidential, and not use or disclose, any Transaction Confidential Information. Notwithstanding the foregoing: (i) Owner will be permitted to disclose and use Confidential Information while performing duties for Buyer; and (ii) Owner or Seller may disclose such proprietary or Confidential Information to the extent required by order of a Governmental Entity or applicable Law; *provided*, that Seller will promptly notify Buyer of such intended disclosure so that Buyer (with the cooperation of Owner and Seller) may seek a protective order or other appropriate remedy and waive compliance with the provisions of this Section 6.1(c). In the event that such protective order or other remedy is not obtained, Owner or Seller, as applicable, will furnish only that portion of such information which such party is advised by counsel in writing is legally required to be disclosed and will exercise reasonable best efforts to obtain reliable assurance that confidential treatment will be accorded such information.

(d) This Section 6.1 will survive the termination of this Agreement and the consummation of the Closing in accordance with its terms.

### Section 6.2. Restrictive Covenants.

(a) *Noncompetition.* During the period commencing on the Closing Date and ending three (3) years after the Closing Date (the "**Restricted Period**"), Seller and Owner will not, and

will cause their respective Affiliates and Representatives not to, anywhere within fifty (50) miles of Buyer's principal place of business in the State of Minnesota (the "**Territory**"), directly or indirectly, as a proprietor, partner, stockholder, director, executive, employee, consultant, joint venturer, member, investor, lender or otherwise, engage or assist others to engage in, or own, manage, operate or control, or participate in the ownership, management, operation or control of, or become employed or engaged by any business or entity that: (i) carries on, plans to carry on, or is taking steps to carry on activities similar to the Business as currently conducted or contemplated to be conducted (or any business that is a reasonable extension of any of the foregoing); or (ii) is competitive with the activities, products or services of the type conducted, authorized, offered, or provided by the Business or with respect to which Seller has spent significant time or resources analyzing for the purposes of assessing expansion opportunities by Seller during the 12 month period prior to the Closing Date. Notwithstanding the foregoing, nothing in this Section 6.2 will prevent Seller or Owner from owning, as a passive investor, up to 5% of the securities of any entity that is publicly traded on a national securities exchange.

(b) *Covered Individual Nonsolicitation.* During the Restricted Period, Seller and Owner will not, and will cause their respective Affiliates and Representatives not to, directly or indirectly through another Person: (i) encourage, induce, or solicit, or attempt to encourage, induce, or solicit, any employee, officer, director, or independent contractor of the Business, or Buyer or any of its Affiliates (the "**Covered Individuals**") to leave or reduce their employment with or services provided to the Business, or to Buyer or any of its Affiliates; (ii) in any way interfere with the relationship between the Business, or Buyer or any of its Affiliates and any of its Covered Individuals with the intent to terminate or breach such Covered Individual's employment agreement (if any) or otherwise adversely affect such relationship; or (iii) hire, employ or engage any Covered Individual; *provided* that the foregoing restrictions regarding solicitation set forth in this Section 6.2(b) will not apply to any Person whose employment or services with Buyer or one of its Affiliates terminates at least 12 months prior to any such solicitation or hiring.

(c) *Business Relation Nonsolicitation.* During the Restricted Period, Seller and Owner will not, and will cause their respective Affiliates and Representatives not to, directly or indirectly through another Person, encourage, induce, or solicit, or attempt to encourage, induce, or solicit, or undertake any action that would reasonably be expected to cause, any customer, supplier, licensee, licensor, or other business relation of the Business to discontinue or reduce (or refrain from increasing) such party's relationship with the Business, or Buyer or any of its Affiliates.

(d) *Non-disparagement.* Seller and Owner will not, and will cause their respective Affiliates not to, at any time, directly or indirectly, make any public or private statements in any medium that disparage, denigrate, or malign the Business, Buyer, any member of the LSP Investor Group, any of the respective Affiliates or representatives of the foregoing, or the respective businesses, activities, operations, affairs, reputations, prospects, officers, directors, or employees of any of the foregoing (the "**Protected Persons**"). For purposes of clarification, and not limitation, a statement will be deemed to disparage, denigrate or malign a Protected Person if such statement could be reasonably construed to adversely affect the opinion any other person may have or form of any Protected Person. The foregoing limitations will not be violated by truthful statements in connection with any legal or administrative proceeding, response to legal process, governmental testimony or filings, or administrative or arbitral proceedings (including, without limitation, pleadings, depositions or other discovery in connection with such proceedings).

(e) *Scope.* Seller and Owner acknowledge and agree that the covenants and restrictions contained in Section 6.1 and Section 6.2 are: (i) reasonable with respect to period, geographical area and scope; (ii) each constitute a material inducement to Buyer to enter into this Agreement

and to perform its obligations hereunder, and that Buyer and its Affiliates would not obtain the benefit of the bargain set forth in this Agreement as specifically negotiated by the parties if either Seller or Owner breached the provisions of Section 6.1 or Section 6.2; (iii) are reasonable and necessary in order to protect Buyer's, its Affiliates' and Representatives' legitimate interests in their acquisition of the Business and assets (including the goodwill related to the Business and operations of Seller). Seller and Owner acknowledge and agree that he or it has received consideration and tangible benefits resulting from the transactions contemplated by hereunder that is adequate consideration to support the obligations in Section 6.1 and Section 6.2. Notwithstanding anything to the contrary contained within Section 6.2(a), (b), and (c), the parties acknowledge and agree that Owner's separate consulting practice involving business consulting practices relative to HVAC businesses through Service Nation Alliance and general consulting services for HVAC businesses located outside the State of Minnesota shall not be deemed to be violations of the restrictive covenants set forth in Section 6.2(a), (b), and (c).

(f) *Tolling.* In the event of a breach or violation by Seller or Owner of any of the provisions of Section 6.1 or Section 6.2, the duration of the applicable covenant or restriction (to the extent not perpetual) will be tolled for the duration of the breach so that Buyer and its Affiliates are provided with the full benefit of the Restrictive Periods.

(g) *Injunctive Relief.* Seller and Owner acknowledge and agree that a violation of Section 6.1 or Section 6.2 will cause immediate and irreparable injury and damage which is not readily measurable or fully compensable by monetary relief, even if available, and that, in addition to seeking monetary damages and any other relief to which they may be entitled, Buyer and its successors and assigns will be entitled to an injunction, specific performance, or other equitable relief to enforce Section 6.1, Section 6.2, or Section 6.3, without proof of damages, in any court of competent jurisdiction to cease or prevent any actual or threatened violation of Section 6.1 or Section 6.2, as well as the costs and reasonable legal fees they incur in enforcing their rights under Section 6.1 and Section 6.2 and an equitable accounting of all earnings, profits, and other benefits arising from any violation of Section 6.1 or Section 6.2. Each party agrees that it will not oppose the granting of specific performance and other equitable relief on the basis that the other parties have an adequate remedy at Law or that an award of specific performance is not an appropriate remedy for any reason at Law or equity. The parties acknowledge and agree that any party seeking an injunction to prevent breaches of Section 6.1 or Section 6.2 and to enforce specifically the terms and provisions of Section 6.1 or Section 6.2 will not be required to provide any bond or other security in connection with any such injunction.

(h) *Reformation.* The covenants set forth in Section 6.1 and Section 6.2 and each provision hereof are severable and distinct covenants and provisions. If any restriction or covenant contained in Section 6.1 or Section 6.2 is held to cover a geographic area or to be for a length of time which is not permitted by applicable Law, or in any way construed to be too broad or to any extent invalid, it is intended that a court of competent jurisdiction will construe and interpret or reform Section 6.1 or Section 6.2 to provide for a covenant having the maximum enforceable geographic area, time period, and other provisions (not greater than those contained herein) as will be valid and enforceable under such applicable Law.

Section 6.3. Release. Effective as of the Closing, Seller and Owner hereby, for itself, themselves, and all of their Affiliates, and its and their respective successors, assigns, heirs and Representatives, fully and unconditionally releases, acquits and forever discharges Buyer (and all of Buyer's Affiliates and Representatives) and each of its respective past, present, and future officers, directors, members, managers, equity holders, partners (general and limited) and employees, and the respective successors and assigns and Affiliates and Representatives of each of the foregoing, in their

capacities as such, (collectively, the “**Released Parties**”), from any and all manner of Losses, claims, bonds, bills, covenants, compensation, contracts, controversies, omissions, promises, variances, trespasses, judgments, executions or other relief, whether known or unknown, matured or unmatured, suspected or unsuspected, fixed, contingent or otherwise, whether in law or equity which Seller or Owner and their respective Representatives or Affiliates ever had, now have or which such Person hereafter can, will or may have, against the Released Parties arising out of, relating to, accruing from or in connection with Seller, the Transferred Assets, the Business or Assumed Liabilities, or any claims alleging a breach of duty on the part of any officer, director, or employee of Seller or involved in the Business (each claim referred to in this sentence, a “**Released Claim**”), and agrees not to bring or threaten to bring or otherwise join in any Released Claim against the Released Parties or any of them, relating to, arising out of or in connection with any facts or circumstances relating to Seller or Owner which occurred prior to the Closing. The foregoing notwithstanding, none of Seller, Owner, or their respective Representatives or Affiliates is releasing or discharging the Released Parties from the obligations and agreement of the Released Parties, if any, expressly pursuant to the Agreement or any other Ancillary Agreements. Seller and Owner, for themselves, or itself, and on behalf of their or its Representatives and Affiliates, agrees that he or it will not commence or institute any Litigation, arbitration or any other legal proceedings of any kind whatsoever, in law or equity, or assert any Released Claim, except as provided in this Section 6.3. Notwithstanding anything to the contrary contained within this Section 6.3, nothing in the release set forth within this Section 6.3 shall be deemed to constitute a release by Seller and/or Owner of any of the Released Parties with respect to any Losses, claims, bonds, bills, covenants, compensation, contracts, controversies, omissions, promises, variances, trespasses, judgments, executions or other relief, whether known or unknown, matured or unmatured, suspected or unsuspected, fixed, contingent or otherwise, whether in law or equity, arising after the Closing.

Section 6.4. Bulk Sales Laws. The parties hereby waive compliance with the provisions of any bulk sales, bulk transfer, or similar Laws of any jurisdiction that may otherwise be applicable with respect to the sale of any or all of the Transferred Assets to Buyer, and Seller will remain liable for (and Seller and Owner will jointly and severally indemnify Buyer) for any liabilities arising therefrom.

Section 6.5. Receivables; Bank Accounts. From and after the Closing, if any of Seller, Owner, or their respective Affiliates receives or collects any funds relating to any accounts receivable pertaining to the Transferred Assets or otherwise pertaining to the Transferred Assets, Seller or Owner, as applicable, will remit (or cause its respective Affiliate to remit) such funds to Buyer within five Business Days after its receipt thereof. Seller will take all steps necessary or reasonable to ensure that, following the Closing, all accounts receivable and other incoming payments with respect to the Business are no longer directed or routed to the bank accounts or possession of Seller but rather are directed or routed directly to a bank account designated by Buyer. For the avoidance of doubt, Seller will take all steps necessary or reasonable to satisfy any late fees or charges incurred under any credit card account of Seller which relate to the pre-Closing conduct of Seller but are incurred following the Closing Date.

Section 6.6. Assignment of Certain Transferred Assets. Notwithstanding anything to the contrary herein, to the extent that the assignment or transfer hereunder by Seller to Buyer of any Transferred Asset is not permitted or is not permitted without the consent of any third party, this Agreement will not be deemed to constitute an assignment or transfer of any such Transferred Asset if such consent is not given or if such assignment or transfer otherwise would constitute a breach of, or would adversely affect the rights and benefits of Buyer with respect to, any such Transferred Asset, and Buyer will assume no obligations or Liabilities with respect to any such Transferred Asset. Seller will advise Buyer in writing at least two Business Days prior to the Closing with respect to each Transferred Asset which Seller know or have substantial reason to believe will or may not be subject to assignment or transfer to Buyer hereunder at the Closing. Without in any way limiting Seller’s obligation to obtain all consents and waivers necessary for the sale, transfer, assignment, and delivery of the Transferred Assets to Buyer hereunder, if any such consent

is not obtained or if such assignment or transfer is not permitted irrespective of consent and if the Closing will occur, Seller will (and to the extent practicable, will cause each of its Affiliates to) cooperate with Buyer following the Closing Date in any reasonable arrangement designed to provide Buyer with the rights and benefits (subject to the obligations) under any such Transferred Asset, including enforcement for the benefit of Buyer of any and all rights of Seller against any other party arising out of any breach or cancellation of any such Transferred Asset by such other party and, if requested by Buyer, acting as an agent on behalf of Buyer or as Buyer will otherwise reasonably require. After the Closing Date, Seller will use their commercially reasonable efforts to obtain any consent necessary for the assignment or transfer of any such Transferred Asset, claim, right or benefit to Buyer, and upon the receipt of such consent, will immediately transfer such Transferred Asset to Buyer.

Section 6.7. Insurance Proceeds. From and after the Closing, upon the written request of Buyer, Seller will promptly file a claim with the applicable insurer under any of the Insurance Policies pursuant to which insurance proceeds are available for any of the Transferred Assets, and Seller and Owner will cause Buyer to have the right to receive the proceeds of any such claim.

Section 6.8. PPP Indebtedness. Seller acknowledges and agrees that: (a) prior to the Closing, Seller completed the Paycheck Protection Program Loan Forgiveness Application with respect to the PPP Indebtedness and filed the same with the lender servicing the PPP Indebtedness (the “**PPP Lender**”); and (b) subject to the terms and conditions of this Section 6.8, neither Buyer nor the Business will have any obligation to Seller or any of their Affiliates with respect to the PPP Indebtedness whatsoever. Seller represents that Seller has received a formal, written notification from the U.S. Small Business Administration or the PPP Lender stating that the PPP Indebtedness is fully or partially forgiven. Seller will indemnify and reimburse the Buyer Indemnified Parties (including the Business and its Representatives) for any Losses in connection with PPP Indebtedness within 30 days of request for indemnification by such Buyer Indemnified Party. Notwithstanding anything to the contrary herein, all obligations set forth in this paragraph will survive the Closing indefinitely.

Section 6.9. Retention Bonuses. Buyer shall make all payments to the applicable recipients thereof as set forth in those certain Retention Bonus Agreements by and between the individuals listed on Schedule Section 6.9 and the Buyer dated as of the date hereof, subject in all respects to the terms and conditions thereof. Seller and Owner shall reimburse Buyer for the payments due on September 15, 2022 under each Retention Bonus Agreement, to the extent such payments become payable pursuant to the terms of the applicable Retention Bonus Agreement, up to an aggregate amount equal to the Seller Retention Bonus Amount.

## ARTICLE VII: TAX MATTERS

Section 7.1. Tax Treatment; Allocation of Purchase Price. The Purchase Price, the Assumed Liabilities, and any other items required to be taken into account for Tax purposes (the “**Tax Consideration**”) will be allocated for Tax purposes among the Transferred Assets in accordance with Section 1060 of the Code and the Treasury Regulations promulgated thereunder. Within 90 days after the Closing Date, Buyer will deliver to Owner for their review a statement (the “**Allocation**”) setting forth the allocation of the Tax Consideration among the Transferred Assets, and Buyer will in good faith consider any comments made by Owner to the Allocation within 15 days of such delivery. Any adjustment to the Tax Consideration pursuant to this Agreement will result in an adjustment of the Allocation. Seller and Buyer agree to be bound by the Allocation, as so adjusted, and act in accordance therewith in the preparation, filing and audit of any income Tax Return and to not take any position that is inconsistent with the Allocation as finally determined under this Section 7.1 for U.S. federal and applicable state and local income tax purposes.

Section 7.2. Apportionment. For purposes of this Agreement, in the case of any Taxes with respect to the Transferred Assets for any Straddle Period, the amount of any Taxes imposed on a periodic basis (including any ad valorem Taxes): (a) allocable to the portion of such Straddle Period that ends on and includes the Closing Date will be deemed to be the amount of such Tax for the entire Straddle Period multiplied by a fraction, the numerator of which is the number of days in the portion of such Straddle Period ending on and including the Closing Date and the denominator of which is the total number of days in such Straddle Period; and (b) allocable to the portion of such Straddle Period that begins on the day after the Closing Date will be deemed to be the amount of such Tax for the entire Straddle Period multiplied by a fraction, the numerator of which is the number of days in the portion of such Straddle Period beginning on the day after the Closing Date and the denominator of which is the total number of days in such Straddle Period. The party that has the primary obligation to do so under applicable Law will file any Tax Return that is required to be filed in respect of Taxes described in this Section 7.2, and such party will pay the Taxes shown on such Tax Return and provide a copy of such Tax Return to the other party. To the extent any portion of such Taxes paid by Buyer (or any refund of Taxes received by Buyer) is allocable to the Pre-Closing Tax Period, or any portion of such Taxes paid by Seller (or any refund of Taxes received by Seller) is allocable to the Post-Closing Tax Period, Buyer or Seller (as applicable) will pay to the other party the amount of such portion promptly after the payment of such Taxes (or the receipt of any such refund).

Section 7.3. Cooperation on Tax Matters. Buyer and Seller will provide any information required to allow Seller or Buyer to comply with any information reporting contained in the Code or other applicable Laws.

Section 7.4. Survival of Obligations. The obligations of the parties set forth in this Article VII will be unconditional and absolute and will remain in effect without limitation as to time.

### ARTICLE VIII: INDEMNIFICATION

Section 8.1. Survival. The representations and warranties set forth in Article III, Article IV and Article V and any certificate delivered in connection herewith and the covenants and agreements contained herein to be performed prior to Closing, will expire on the date that is 60 days after the expiration of the applicable statute of limitations; *provided*, however, the Fundamental Representations will survive indefinitely. The other covenants and agreements herein or hereunder will survive the Closing in accordance with their respective terms until performed. The foregoing notwithstanding, any Liability which results from fraud on the part of any party may be asserted at any time following the Closing and nothing herein will limit or otherwise impact a party's liability for fraud. If at any time prior to the end of the applicable survival period any claim for indemnification is asserted, such claim will survive until finally resolved by agreement among the parties or by decision of a court of competent jurisdiction from which no further appeal may be taken. The parties specifically and unambiguously intend that the survival periods that are set forth in this Section 8.1 replace any statute of limitations that would otherwise be applicable and any corresponding indemnity obligation will terminate concurrently with the expiration of such applicable survival or termination date set forth in this Section 8.1.

Section 8.2. Indemnification by Seller and Owner. Subject to the terms and conditions of this Article VIII, from and after the Closing, Seller and Owner will severally and jointly defend, indemnify, and hold harmless Buyer, its Affiliates and their respective equityholders (collectively, the "**Buyer Indemnified Parties**"), and reimburse such Buyer Indemnified Parties for any Losses arising from or in connection with:

(a) any breach of any representation or warranty made in respect of or by Seller or Owner in this Agreement, any of the Schedules hereto, or any certificate delivered in connection herewith or any Ancillary Agreements;

- (b) any breach of any covenant or obligation of, or required to be performed in respect of, Seller or Owner in this Agreement, any of the Schedules hereto, or in any Ancillary Agreements;
- (c) any Excluded Assets and Excluded Liabilities;
- (d) any amounts expended in connection with any Buyer Indemnified Party's enforcement of its rights under this Section 8.2; and
- (e) any of the matters described on Schedule 8.2(e).

Section 8.3. Indemnification by Buyer. Subject to the terms and conditions of this Article VIII, from and after the Closing, Buyer will defend, indemnify and hold harmless Seller, Owner, and their respective Affiliates (the "**Seller Indemnified Parties**"), and reimburse the Seller Indemnified Parties, for any Losses arising from or in connection with:

- (a) any breach of any representation or warranty made by Buyer in this Agreement, any certificate delivered in connection herewith, or any Ancillary Agreements;
- (b) any breach of any covenant or obligation of Buyer in this Agreement or in any Ancillary Agreements; and
- (c) any amounts expended in connection with the Seller Indemnified Parties' enforcement of its rights under this Section 8.3.

Section 8.4. Certain Limitations on Indemnification. Each Indemnified Party will assert any claim on account of any Losses (an "**Indemnification Claim**") by giving the Indemnifying Party written notice thereof reasonably promptly following the Indemnified Party's discovery of the applicable Losses reasonably likely to give rise to a claim under Section 8.2 or Section 8.3. Such notice by the Indemnified Party will describe the Indemnification Claim in reasonable detail and indicate the estimated amount, if reasonably estimable, of Losses that have been or may be sustained by the Indemnified Party; provided that the failure to timely give such notice will not affect the rights of an Indemnified Party hereunder unless such failure has a material and prejudicial effect on the defenses or other rights available to the Indemnifying Party with respect to such Indemnification Claim. In Buyer's sole discretion, any Indemnification Claim by the Buyer Indemnified Parties may be settled either by: (a) a cash payment from Seller; (b) subject to the provisions of Section 2.11, a set-off against any Earn-out Payment; or (c) cancellation or redemption of Seller's equity interests in Buyer. For purposes of determining: (i) whether there has been a breach of any representation or warranty hereunder; and (ii) calculating the amount of any Loss arising from such breach, the representations and warranties set forth in this Agreement will be read without regard to any materiality, "knowledge" or similar qualifications that may be contained herein as if such qualification were deleted from such representation or warranty. Any investigation, inquiry, or other examination that may be made at any time by, for or on behalf of any party hereto to which representations, warranties and covenants are made, or the knowledge of any of Buyer's or Seller's officers, directors, members, employees or agents or the acceptance by Buyer or Seller of any certificate or opinion hereunder will not limit, diminish or in any way affect the specific representations, warranties, and covenants made to them in this Agreement, and the parties hereto may rely on the specific representations, warranties, and covenants in this Agreement, irrespective of any information obtained by them.

Section 8.5. Tax Treatment. The parties agree that the payment of any indemnity hereunder will be treated as an adjustment to the Purchase Price paid by Buyer hereunder for Tax purposes; *provided* that to the extent the foregoing treatment is not permitted by applicable Laws, the payment of any indemnity

hereunder will include any amount necessary to hold the applicable payee harmless on an after-Tax basis from all Taxes required to be paid in connection with the receipt of such payment.

## ARTICLE IX: GENERAL PROVISIONS

Section 9.1. Notices. All notices, requests, demands, and other communications required or permitted to be given pursuant to this Agreement must be in writing and will be deemed to have been duly given: (a) on the day of delivery, if delivered by hand; (b) on the day of delivery, if sent by electronic mail (with no notice of delivery failure) on a Business Day; (c) on the first Business Day following delivery, if sent by electronic mail on a day that is not a Business Day; (d) on the first Business Day following deposit with a nationally recognized overnight delivery service; or (e) upon the earlier of actual receipt and the fifth Business Day following first class mailing, with first class, postage prepaid to the addresses set forth on the signature page to this Agreement.

Section 9.2. Amendment; Waiver. 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 Buyer and Seller (on behalf of themselves and Owner) or Buyer and Owner; or in the case of a waiver, by the party against whom such waiver is intended to be effective. No failure or delay by any party in exercising any right, power, or privilege hereunder will operate as a waiver thereof nor will any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any other right, power, or privilege.

Section 9.3. No Assignment or Benefit to Third Parties. This Agreement will be binding upon and inure to the benefit of the parties hereto and their respective successors, legal representatives, and permitted assigns. Notwithstanding the foregoing, no party to this Agreement may assign any of its rights or delegate any of its obligations under this Agreement without the prior written consent of the other parties hereto and any purported assignment in violation of the foregoing will be null and void ab initio, except that Buyer will have the right to: (a) assign its rights and obligations under this Agreement, in whole or in part, to one or more of its Affiliates; (b) collaterally assign in whole or in part, this Agreement, and its rights hereunder, as security to one or more financing sources or purchasers of debt securities of Buyer or its Affiliates; and (c) assign its rights and obligations hereunder to a third party in connection with a bona-fide sale or transfer (by means of a merger, stock sale, or otherwise) of all or substantially all of the equity, or substantially all or any material portion of the assets, of Buyer or its Affiliates. Except for: (i) the Released Parties, who will be third party beneficiaries of, and will be entitled to enforce, the provisions of Section 5.2, Section 9.7, Section 9.9, and this Section 9.3; and (ii) the Seller Indemnified Parties and Buyer Indemnified Parties, who will be third party beneficiaries of, and will be entitled to enforce, the indemnification provisions of Section 5.3 and the provisions set forth in Section 9.7, Section 9.9 and this Section 9.3. Except as set forth in Article VIII or Section 6.3, Section 9.4, Section 9.5 and this Section 9.3, nothing in this Agreement, express or implied, is intended to confer upon any Person other than Buyer, Owner, and Seller, and their respective successors, legal representatives and permitted assigns, any rights, benefits or remedies under or by reason of this Agreement.

Section 9.4. Entire Agreement; Inconsistency. This Agreement (including all Schedules, Exhibits and Appendices hereto) and the Ancillary Agreements contain the entire agreement among the parties hereto with respect to the subject matter hereof and thereof, and supersede all prior agreements and understandings, oral or written, with respect to such matters. In the event and to the extent that there will be an inconsistency between the provisions of this Agreement and the provisions of an Ancillary Agreement or any other agreement executed by a party hereto in connection herewith or therewith, this Agreement will prevail. The provisions of this Agreement will be construed according to their fair meaning and neither for nor against any party hereto irrespective of which party caused such provisions to be drafted. Each of the



parties hereto acknowledges that it has been represented by an attorney in connection with the preparation and execution of this Agreement and the Ancillary Agreements.

Section 9.5. Non-Recourse. Notwithstanding anything that may be expressed or implied in this Agreement, any Ancillary Agreement or any document, certificate or instrument delivered in connection herewith or therewith or otherwise, each party hereby acknowledges and agrees, on behalf of itself and its respective Affiliates, that all actions, suits, claims, investigations or proceedings that may be based upon, in respect of, arise under, out of, by reason of, be connected with, or relate in any manner to: (a) this Agreement or any Ancillary Agreement or the transactions contemplated hereunder or thereunder; (b) the negotiation, execution or performance of this Agreement or any Ancillary Agreement (including any representation or warranty made in, in connection with, or as an inducement to, any of the foregoing documents); and (c) any breach or violation of this Agreement or any Ancillary Agreement, in each case may be made only against (and are those solely of) the Persons that are expressly identified as parties hereto or thereto, as applicable. In furtherance and not in limitation of the foregoing, each party hereby acknowledges and agrees, on behalf of itself and its respective Affiliates, that no recourse under this Agreement or any Ancillary Agreement or in connection with any transactions contemplated hereby or thereby will be sought or had against any other such Person and no other such Person will have any liabilities or obligations (whether in contract or in tort, in law or in equity or otherwise, or granted by statute or otherwise, whether by or through attempted piercing of the corporate, partnership, limited partnership or limited liability company veil or any other theory or doctrine) for any losses, damages, claims, causes of action, obligations or liabilities of any nature whatsoever arising under, out of, in connection with or related in any manner to the items in the immediately preceding clauses (a) through (c), it being expressly agreed and acknowledged that no personal liability or losses, damages, claims, causes of action, obligations or liabilities whatsoever will attach to, be imposed on or otherwise be incurred by any past, present or future shareholder, member, partner, manager, director, officer, employee, financing source, Affiliate, agent or Representative of any party to this Agreement, through Buyer, Seller, Owner, or otherwise, whether by or through attempted piercing of the corporate, partnership, limited partnership or limited liability company veil, by or through a claim by or on behalf of any party hereto, as applicable, by the enforcement of any assessment or by any legal or equitable actions, suits, claims, investigations or proceedings, by virtue of any Law, or otherwise, except for claims of fraud or claims under and to the extent provided for in this Agreement or any Ancillary Agreement, on the terms and subject to the conditions herein and therein.

Section 9.6. Expenses. Except as otherwise expressly provided in this Agreement, whether or not the transactions contemplated by this Agreement are consummated, all costs and expenses incurred in connection with this Agreement and the transactions contemplated hereby will be borne by the party incurring such costs and expenses.

Section 9.7. Governing Law. THIS AGREEMENT AND ALL MATTERS ARISING FROM, OR RELATING TO, THIS AGREEMENT (WHETHER IN CONTRACT, TORT, OR OTHERWISE) WILL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF DELAWARE WITHOUT REGARD TO PRINCIPLES OF CONFLICTS OF LAW.

Section 9.8. Alternative Dispute Resolution.

(a) The parties shall resolve any dispute, controversy, or claim arising out of or relating to this Agreement, or the breach, termination, or invalidity hereof (each, a “**Dispute**”), under the provisions of Section 9.8(b) through Section 9.8(d). The procedures set forth in Section 9.8(b) through Section 9.8(d) shall be the exclusive mechanism for resolving any Dispute that may arise from time to time and Section 9.8(b) through Section 9.8(c) are express conditions precedent to binding arbitration of the Dispute pursuant to Section 9.8(d).

(b) A party shall send written notice to the other party of any Dispute (a “**Dispute Notice**”). The parties shall first attempt in good faith to resolve any dispute set forth in a Dispute Notice by negotiation and consultation between themselves. In the event that such Dispute is not resolved on an informal basis within thirty (30) days after one party delivers the Dispute Notice to the other party (the “**Escalation to Mediation Date**”), either party may initiate mediation under Section 9.7(c).

(c) If a Dispute cannot be resolved through good-faith negotiation pursuant to Section 9.8(b), the parties may, at any time after the Escalation to Mediation Date, submit the Dispute to mediation before a mutually agreed-upon mediator. If the parties cannot agree upon a neutral mediator, each shall select one name from a list of mediators maintained by any bona fide dispute resolution provider or other private mediator; the two selected shall then choose a third Person who will serve as mediator. The parties agree to have the principals participate in the mediation process, including being present in person or through telephone or video-conferencing throughout the mediation session(s). The parties further confirm their motivating purpose in selecting mediation is to find a solution that serves their respective and mutual interests, including their continuing professional relationship.

(d) Any Dispute that is not resolved through mediation shall be submitted to binding arbitration through the American Arbitration Association (“**AAA**”). The place of arbitration shall be Wilmington, Delaware. The arbitration shall be governed by the laws of the State of Delaware. Arbitration must commence not later than ninety (90) days after either party submits a written demand for arbitration to AAA, otherwise such demanding party shall be entitled to an order compelling arbitration as provided by applicable law. The decision by the arbitrator shall be final and binding upon the parties and/or their heirs, successors and assigns. Except as may be required by law, neither a party nor an arbitrator may disclose the existence, content, or results of any arbitration hereunder without the prior written consent of both parties. The prevailing party shall be entitled to judgment upon the award and the entry of a judgment or for any other relief with respect to the award, as provided by law. The prevailing party shall be entitled to an award of reasonable attorney fees.

Section 9.9. WAIVER OF JURY TRIAL. EACH PARTY ACKNOWLEDGES AND AGREES THAT ANY CONTROVERSY WHICH MAY ARISE UNDER THIS AGREEMENT OR ANY ANCILLARY AGREEMENT IS LIKELY TO INVOLVE COMPLICATED AND DIFFICULT ISSUES, AND THEREFORE EACH SUCH PARTY HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVES ANY RIGHT SUCH PARTY MAY HAVE TO A TRIAL BY JURY WITH RESPECT TO ANY LITIGATION DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY ANCILLARY AGREEMENT, OR THE TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT OR ANY ANCILLARY AGREEMENT. EACH PARTY CERTIFIES AND ACKNOWLEDGES THAT: (A) NO REPRESENTATIVE, AGENT, OR ATTORNEY OF ANY OTHER PARTY HAD REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER; (B) SUCH PARTY UNDERSTANDS AND HAS HAD THE OPPORTUNITY TO CONSULT, WITH COUNSEL OF THEIR CHOICE, THE IMPLICATIONS OF THIS WAIVER; (C) SUCH PARTY MAKES THIS WAIVER KNOWINGLY, VOLUNTARILY, AND INTENTIONALLY, AND (D) SUCH PARTY HAS BEEN INDUCED TO ENTER INTO THIS AGREEMENT AND EACH ANCILLARY AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION.

Section 9.10. Headings; Interpretations. The heading references herein are for convenience purposes only and will not be deemed to limit or affect any of the provisions hereof. Unless the express

context otherwise requires: (a) the words “hereof,” “herein,” and “hereunder” and words of similar import, when used in this Agreement, will refer to this Agreement as a whole and not to any particular provision of this Agreement; (b) the terms defined in the singular have a comparable meaning when used in the plural, and vice versa; (c) references herein to a specific Article, Section, Subsection or Schedule will refer, respectively, to Articles, Sections, Subsections or Schedules of this Agreement; (d) wherever the word “include,” “includes,” or “including” is used in this Agreement, it will be deemed to be followed by the words “without limitation;” (e) references herein to any gender includes each other gender; (f) the word “or” will be inclusive and not exclusive, unless used in conjunction with “either” or the like; (g) each reference to “days” will be to calendar days; (h) each reference to any Contract will be to such Contract as amended, supplemented, waived or otherwise modified from time to time, subject to the limitations on such amendments or modifications set forth herein; (i) each reference to a Law is to it as in effect at the time in question and, as applicable, is to corresponding provisions of successor Laws and any rules or regulations promulgated thereunder; (j) references to any Person will include such Person and its permitted assigns, transferees, successors or heirs; and (k) accounting terms which are not otherwise defined in this Agreement, or any appendix or schedule hereto, will have the meanings given to them under GAAP.

Section 9.11. Severability. The provisions of this Agreement will be deemed severable and the invalidity or unenforceability of any provision hereof will not affect the validity or enforceability of the other provisions hereof. If any provision of this Agreement, or the application thereof to any Person or any circumstance, is invalid or unenforceable: (a) a suitable and equitable provision will be substituted therefor in order to carry out, so far as may be valid and enforceable, the intent and purpose of such invalid or unenforceable provision; and (b) the remainder of this Agreement and the application of such provision to other Persons or circumstances will not be affected by such invalidity or unenforceability, nor will such invalidity or unenforceability affect the validity or enforceability of such provision, or the application thereof, in any other jurisdiction.

Section 9.12. Service of Process. Service upon any party hereto of any notice, process, motion, or other document in connection with Litigations relating in any with or to this Agreement or the subject matter hereof may be effectuated by service upon such party at the address set forth in Section 9.1 or such other address as provided to each other party in accordance with the notice provisions set forth in Section 9.1 at least ten days prior to such change in address; provided that if such party changes its address and fails to provide notice as set forth in this Section 9.12, then service upon such party may be effected: (a) by service upon the applicable attorney set forth in Section 9.1, as agent for such party; or (b) by personal service or in the same manner as notices are to be given pursuant to Section 9.1 or any other manner permitted by Law. Each of the parties to this Agreement expressly and irrevocably agrees that service in accordance with this Section 9.12 will be effective and sufficient service of process upon the applicable party hereto. Nothing herein will affect the right to serve process in any other manner permitted by applicable Law; it being agreed and understood, however, that no Person will be obligated to serve process in any other way than as provided herein.

Section 9.13. Enforcement. The parties agree that irreparable damage for which monetary damages, even if available, would not be an adequate remedy would occur in the event that the parties do not perform their obligations under the provisions of this Agreement (including failing to take such actions as are required of them hereunder to consummate the transactions contemplated by this Agreement) in accordance with its specified terms or otherwise breach such provisions. The parties acknowledge and agree that the parties will be entitled to an injunction, specific performance, or other equitable relief to prevent breaches of this Agreement and to enforce specifically the terms and provisions hereof, without proof of damages, this being in addition to any other remedy to which they are entitled under this Agreement. Each party agrees that it will not oppose the granting of specific performance and other equitable relief on the basis that the other parties have an adequate remedy at Law or that an award of specific performance is not an appropriate remedy for any reason at Law or equity. The parties acknowledge and agree that any party

seeking an injunction to prevent breaches of this Agreement and to enforce specifically the terms and provisions of this Agreement in accordance with this Section 9.13 will not be required to provide any bond or other security in connection with any such injunction.

Section 9.14. Counterparts. This Agreement may be executed in one or more counterparts, each of which, including those received via email or other electronic transmission (including in PDF format), will be deemed an original, and all of which will constitute one and the same Agreement.

*[Signature pages follow.]*

IN WITNESS WHEREOF, the parties have executed or caused this Agreement to be effective as of the Effective Date, notwithstanding the actual date of execution.

**BUYER:**

**COMFORT MATTERS, LLC**

By: Linfu (Frank) Zhang

Name: Linfu (Frank) Zhang

Title: President

Notice Address:

Comfort Matters, LLC

123 E. 70<sup>th</sup> Street

New York, New York 10021

Attention: Nicholas (Jake) Sloane

Linfu (Frank) Zhang

Phone: 949-228-2545

Email: [jake@cretemechanical.com](mailto:jake@cretemechanical.com)

[frank@cretemechanical.com](mailto:frank@cretemechanical.com)

*With a copy to:*

Armstrong Teasdale LLP

7700 Forsyth Boulevard, Suite 1800

St. Louis, Missouri 63105

Attention: Joseph F. Hipskind

Phone: 314.342.8075

Email: [jhipskind@atllp.com](mailto:jhipskind@atllp.com)

IN WITNESS WHEREOF, the parties have executed or caused this Agreement to be effective as of the Effective Date, notwithstanding the actual date of execution.

**SELLER:**

~~Comfort Matters Heating and Cooling Inc.~~

By: Corey Hickmann  
Name: Corey Hickmann  
Title: President

**OWNER:**

~~DocuSigned by:~~  
Corey Hickmann  
Corey Hickmann

Notice Address:

20081 Hunters Ridge  
Rogers, MN 55374  
Attention: Corey Hickmann  
Phone: 612-275-0800  
Email: corey@comfortmatters.com

*With a copy to:*

Chestnut Cambronne, P.A.  
100 Washington Avenue South, Suite 1700  
Minneapolis, MN 55401  
Attention: Jeffrey O'Brien  
Phone: 612-339-7300  
Email: jobrien@chestnutcambronne.com

### Exhibit A: Definitions

Capitalized terms contained in this Agreement will have the meaning set forth below.

“**Adjusted EBITDA**” means, with respect to the Calculation Period, the average net income before interest, income taxes, depreciation and amortization of the Business for such period, determined in accordance with GAAP but applied and calculated in a manner consistent with the EBITDA calculation derived from the Financial Statements for the most recent fiscal year end, adjusted to exclude the management fees of Buyer or any of its Affiliates.

“**Affiliate**” of (a) any particular Person means any other Person which directly or indirectly controls, is controlled by, or is under common control with such Person, and (b) in addition, with respect to an individual, means any member of such Person’s family (including any child, step-child, parent, step-parent, spouse, sibling, mother-in-law, father-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law or any other lineal descendant) and any trust, partnership, corporation, limited liability company or other entity established for the benefit of all or any of the foregoing. Notwithstanding the foregoing, (i) Seller and its Affiliates will not be deemed Affiliates of Buyer, and (ii) other than in Section 6.1(a), Section 6.3, Section 8.2, Section 9.3 and Section 9.5, in no event will (A) Buyer be considered an Affiliate of (1) any investment fund affiliated with [REDACTED] (2) any management or advisory entirely affiliated with [REDACTED] (3) any portfolio company of any investment fund affiliated with [REDACTED]

and, with respect to each Person in the foregoing clauses (1) through (3), vice versa with respect to being affiliated with Buyer. For purposes of this definition, the term “control” (including the correlative meanings of the terms “controlled by” and “under common control with”), as used with respect to any Person, means the possession, directly or indirectly, of the power to direct or cause the direction of the management policies of such Person, whether through the ownership of voting securities or by contract or otherwise.

“**Aggregate Rollover Amount**” means [REDACTED]

“**Ancillary Agreements**” means, collectively, the bills of sale (including vehicle bill of sale), Assignment and Assumption Agreements, Employment Agreement, LLC Agreement, Rollover Agreement, license agreement, restrictive covenant agreement, and each other agreement, document, instrument and/or certificate contemplated by this Agreement to be executed in connection with the transactions contemplated hereby.

“**Books and Records**” means all books, ledgers, files, reports, plans, records, manuals and other materials (in any form or medium) of, or maintained for, the Business.

“**Broker Fee**” means the fee in the amount [REDACTED] incurred by Owner to [REDACTED] in connection with certain advisory services.

“**Business Day**” means each day that is not a Saturday, Sunday or other day on which commercial banks located in New York, New York are not generally open for business.

“**Business Intellectual Property Rights**” means all Intellectual Property Rights owned or purported to be owned, in whole or in part, by Seller or otherwise the Business.

“**Calculation Period**” means the period beginning on the Closing Date and ending on the first anniversary of the Closing Date.

“**CARES Act**” means “the U.S. Coronavirus Aid, Relief, and Economic Security Act,” P.L. 116-136 (2020).

“**CARES Act PPP Debt**” means (a) one or more unsecured loans made by an U.S. Small Business Administration qualified lender on or before the Closing and guaranteed by a Governmental Entity (including the U.S. Small Business Administration), in each case, pursuant to the Paycheck Protection Program provisions of the CARES Act, as modified by the Paycheck Protection Program Flexibility Act of 2020, and (b) all interest, fees, costs and expenses accrued and/or payable in connection therewith.

“**Closing Date Net Working Capital**” means the Net Working Capital of the Business, as of the Closing Date.

“**Code**” means the Internal Revenue Code of 1986, as in effect at the time in question.

“**Confidential Information**” means all information of a confidential or proprietary nature (whether or not specifically labeled or identified as “confidential”), in any form or medium, that relates to the Transferred Assets, the Assumed Liabilities, or the Business, or any products, services, research, or development of the Business and its respective suppliers, distributors, customers, independent contractors, and other business relations. Confidential Information includes, but is not limited to, the following: (a) internal business information (including financial information, strategic and staffing plans and practices, business, training, marketing, promotional and sales plans and practices, cost, rate and pricing structures and accounting and business methods); (b) identities of, individual requirements and preferences of, specific contractual arrangements with, and information about suppliers, distributors, customers, independent contractors, or other business relations and their confidential information; (c) trade secrets, know-how, compilations of data and analyses, techniques, systems, formulae, recipes, research, records, reports, manuals, documentation, models, data and data bases relating thereto; (d) inventions, innovations, improvements, developments, methods, designs, analyses, drawings, reports and all similar or related information (whether or not patentable); and (e) other Intellectual Property Rights.

“**Contracts**” means all written or oral agreements, contracts, Leases, purchase orders, arrangements, loan instruments, letters of credit, guarantees and any other binding commitments.

“**COVID-19**” means SARS-CoV-2 (severe acute respiratory syndrome coronavirus 2), coronavirus disease or COVID-19, or any mutation or variation thereof or related or associated epidemics, pandemic or disease outbreaks, or any escalation or worsening of any of the foregoing (including any subsequent waves).

“**EBITDA Threshold**” means with respect to the Calculation Period, \$1,100,001.

“**Environmental Laws**” means any and all Laws relating to pollution or protection of human health or the environment (including ambient air, surface water, ground water, land surface or subsurface strata), or emissions, discharges, Releases, or threatened Releases of, or exposure to, or the manufacture, processing, distribution, use, labeling, packaging, treatment, storage, disposal, transport, or handling of, any Hazardous Material.

“**ERISA Affiliate**” means any Person which is treated with Seller as a single employer within the meaning of Section 414 of the Code.

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

“**Estimated Working Capital Deficit**” means the amount by which the Estimated Closing Date Net Working Capital (whether a positive or negative number) is less than the Working Capital Target.



**“Estimated Working Capital Surplus”** means the amount by which the Estimated Closing Date Net Working Capital (whether a positive or negative number) is greater than the Working Capital Target.

**“Excluded Taxes”** means: (a) all Taxes of Seller or its Affiliates; (b) any Tax associated or related to the Business or any Excluded Asset or income relating to any Excluded Asset for any Pre-Closing Tax Period; (c) any Taxes that will arise as a result of the sale of the Transferred Assets or any of the transactions contemplated by this Agreement; (d) any deferred Taxes of any nature; and (e) any Transfer Taxes.

**“Final Shortfall”** means the amount, if any, by which the Working Capital Deficit exceeds the Working Capital Surplus.

**“Final Surplus”** means the amount by which the Working Capital Surplus exceeds the Working Capital Deficit.

**“Fundamental Representations”** means: (a) with respect to Seller and Owner, as applicable, any representations or warranties relating to, or made pursuant to, Section 3.1 (Authorization), Section 3.2 (Binding Effect), Section 3.4 (Title), Section 4.1 (Organization and Qualification), Section 4.2 (Corporate Authorization), Section 4.3 (Binding Effect), Section 4.6 (Assets, Capitalization; Equity Interests), Section 4.17 (Taxes), Section 4.20 (Related Party Transactions), and Section 4.23 (Finder’s Fees), and (b) with respect to Buyer any representations and warranties relating to, or made pursuant to, Section 5.1 (Organization and Qualification), Section 5.2 (Corporate Authorization), Section 5.3 (Binding Effect), and Section 5.5 (Finders’ Fees).

**“GAAP”** means generally accepted accounting principles in the United States, consistently applied during the periods involved.

**“Governmental Authorizations”** means all licenses, permits, approvals, accreditations, certifications, grants, franchises, waivers, consents and other similar authorizations or approvals issued by or obtained from a Governmental Entity, any securities exchange or third party payor.

**“Governmental Entity”** means any United States or foreign federal, state, provincial or local government or other political subdivision thereof, any entity, authority or body exercising executive, legislative, judicial, regulatory or administrative functions of any such government or political subdivision, and any supranational organization of sovereign states exercising such functions for such sovereign states.

**“Hazardous Materials”** means: (a) any pollutant, contaminant, hazardous or toxic substance, material or waste (as those terms are defined by any applicable Environmental Laws); and (b) any chemicals, petroleum, petroleum products, oils, asbestos-containing materials, radioactive materials, per- or polyfluoroalkyl substances, COVID-19 or SARS-CoV-2 virus (or any mutation or variation thereof), bacteria or other pathogen and any polychlorinated biphenyls.

**“Indebtedness”** means, collectively, with respect to the Business, without duplication, the sum of (a) all indebtedness for borrowed money of the Business, and all obligations evidenced by bonds, debentures, hedging or swap arrangements, notes or other similar instruments, (b) all obligations under acceptance credit, bond, banker’s acceptance, guarantee, surety, letters of credit or similar facilities, (c) the amounts of all checks written and wires issued but not yet cleared and the amount of all checks drawn and wires issued in excess of balances, (d) negative balances in bank accounts and all overdrafts, (e) the capitalized portion of all obligations under capital or direct financing leases and purchase money and vendor financing, (f) any deferred purchase price, earn-out or similar deferred payment obligation, (g) all amounts secured by a Lien (other than a Permitted Lien) on the Transferred Assets, (h) any amounts owed to Seller, Owner, any Representative or Affiliate of Seller (except as required under this Agreement or any Ancillary Agreement),

(i) customer deposits or deferred customer revenue, (j) all customer accounts receivable credit balances or amounts, (k) all obligations in respect of overpayments by customers, whether accrued or unaccrued, (l) all pending third party recoupments, (m) any Taxes of the Business deferred pursuant to Section 2302 of the CARES Act, (n) any amounts owed to any Representative or Affiliate of the Business other than accrued but unpaid compensation owed to non-Seller employees of the Business to the extent included in the final calculation of Net Working Capital, (o) underfunding under any defined benefit pension or retiree medical plan, and any delinquent contributions or outstanding withdrawal liability owned to any “multiemployer” plan (within the meaning of Section 3(37) of ERISA), (p) the amount of bonuses and commissions that relate to any period (including any partial performance period) ending on or prior to the Closing Date, (q) all severance obligations owned to any Person whose employment or other service terminated, or who received a notice of termination from or provided a notice of termination to, the Business prior to the Closing Date, all pending insurance recoupments, and (r) all guarantee or keep well obligations in respect of obligations of the kind referred to in clauses (a) through (q) above, including, in each case, accrued and unpaid interest on any of the foregoing and any breakage costs, penalties, additional interest, premiums, fees and other costs and expenses associated with prepayment or redemption of any of the foregoing. Notwithstanding anything to the contrary herein, CARES Act PPP Debt will not be included in the definition of Indebtedness.

“**Indemnified Party**” means any Person entitled to seek indemnification pursuant to Article VIII.

“**Indemnifying Party**” means any Person against whom indemnification may be sought pursuant to Article VIII.

“**Intellectual Property Rights**” means any and all intellectual and industrial property rights and other similar proprietary rights, in any jurisdiction throughout the world, whether registered or unregistered, including all rights pertaining to or deriving from: (a) patents and patent applications; (b) inventions, invention disclosures, discoveries and improvements, whether or not patentable; (c) copyrights and works of authorship, whether or not copyrightable; (d) computer software and firmware, including data files, source code, object code and software-related specifications and documentation; (e) trademarks, trade names, service marks, certification marks, service names, brands, trade dress and logos, applications therefore, and the goodwill associated therewith; (f) trade secrets, non-public information, confidential information, know-how, business information and technical information (including formulas, techniques and processes), and rights to limit the use or disclosure thereof by any Person; (g) mask works; (h) domain names and social media accounts; (i) proprietary databases and data compilations and all documentation relating to the foregoing; (j) all rights of publicity, including the right to use the name, voice, likeness, signature and biographies of real persons, together with all commercial rights therein and all goodwill related thereto, and (k) all registrations and applications for any of the foregoing.

“**Law**” means any constitution, law (including common law), statute, ordinance, rule, regulation, regulatory requirement, code, order, judgment, injunction or decree enacted, issued, promulgated, enforced or entered by a Governmental Entity or securities exchange.

“**Liability**” means with respect to any Person, any liability, debt, loss, damage, adverse claim, fine, penalty, expense, deficiency, responsibility or obligation of such Person of any kind, character or description, whether known or unknown, absolute or contingent, accrued or unaccrued, matured or unmatured, choate or inchoate, disputed or undisputed, liquidated or unliquidated, secured or unsecured, joint or several, due or to become due, vested or unvested, executory, determined, determinable or otherwise, including those arising under any Law or any Contract, arrangement or undertaking, whether or not the same is required to be accrued on the financial statements of such Person, and including all out-of-pocket costs and expenses relating thereto (including all fees, disbursements and expenses of legal counsel, experts and consultants and costs of investigation).

“**Lien**” means any charge, mortgage, pledge, security interest, license, lien (statutory or otherwise), restriction, claim, encroachment, easement, title, retention agreement, assignment, restriction, right of first refusal or restriction convenient, conditional sale, deemed statutory trust or other encumbrance of any nature which, in substance secures payment or performance of an obligation.

“**Litigations**” means any civil, criminal or administrative actions, proceedings, suits, demands, claims, charges, inspections, disputes, audits, hearings, proceedings or investigations filed, brought or conducted by or before any Governmental Entity, or arbitrator, or arbitral panel.

“**LLC Agreement**” means that certain Amended and Restated Limited Liability Company Agreement of Buyer, dated as of the date hereof.

“**Losses**” means any loss, Liability, claim, Tax, damage (other than punitive damages except to the extent any such punitive damages are required to be paid to an unaffiliated third party in respect of a claim by such third party that is indemnifiable under Article VIII), obligation, disbursement, deficiency, demand, diminution in value, suit, penalty, settlement, fine, cost or expense, including, without limitation, interest, penalties, legal, accounting, other professional fees, and expenses or other costs and expenses actually and reasonably incurred in the investigation, collection, prosecution or defense of and all actions, suits, proceedings, demands, assessments, judgments, settlements and compromises, that may be imposed on or otherwise incurred or suffered (including the actual and reasonably incurred costs of the enforcement of rights hereunder).

“**LSP Investor Group**” means [REDACTED] and their respective stockholders, directors, officers controlling Persons, partners (limited and general), members, managers, and employees.

“**Net Working Capital**” means, at any time, (a) the sum of all current assets *minus* (b) the sum of all current liabilities of the Business; provided that current assets excludes deferred charges and deferred Tax assets and current liabilities excludes deferred Tax liabilities. Notwithstanding anything to the contrary herein, the PPP Indebtedness will not be included in the definition of Net Working Capital.

“**Organizational Documents**” means each of the following, as applicable, as amended and supplemented: (a) the articles or certificate of incorporation and the bylaws of a corporation; (b) the partnership agreement and any statement of partnership of a general partnership; (c) the limited partnership agreement and the certificate of limited partnership of a limited partnership; (d) the operating agreement (or limited liability company agreement) and certificate of organization or formation of a limited liability company; and (e) any charter or similar document adopted or filed in connection with the creation, formation, or organization of a Person.

“**Permitted Liens**” means: (a) Liens reflected or reserved against on the face of the balance sheet that is a part of the Financial Statements; and (b) landlords’, lessors’, mechanics’, materialmen’s, warehousemen’s, carriers’, workers’, or repairmen’s liens or other similar liens arising or incurred in the ordinary course of business not yet due and payable or being contested in good faith by appropriate Litigations for which adequate reserves have been established in accordance with GAAP.

“**Person**” means an individual, a corporation, a partnership, an association, a limited liability company, a Governmental Entity, a trust or other entity or organization.

“**Plans**” means all employee benefit plans, programs, agreements or arrangements, domestic or foreign, including all bonus, incentive, profit sharing, pension, retirement compensation, retirement savings, retirement income, deferred compensation, incentive compensation, welfare, fringe benefit, vacation, salary

continuation, legal, health and other medical, dental, life, accident, disability, supplemental retirement, nonqualified trusts, stock purchase, stock option, restricted stock, phantom stock, stock appreciation rights or other equity incentive plans, programs, agreements or arrangements, and all termination, severance or other plans, programs, agreements or arrangements, whether formal or informal, written or unwritten, funded or unfunded, registered or unregistered, insured or self-insured, whether covering one person or more than one person, and all other benefit plans, programs, agreements or arrangements which are maintained, contributed to, required to be contributed to, or sponsored by Seller, or under which Seller has any liability or contingent liability, for the benefit of, or relating to, any employee or former employee or their respective dependents or beneficiaries or which otherwise provide coverage for any current or former employees or their respective dependents and beneficiaries.

**“Post-Closing Tax Period”** means any taxable period (or portion thereof) beginning after the Closing Date.

**“Pre-Closing Tax Period”** means any taxable period (or portion thereof) ending on or before the Closing Date.

**“PPP Loan Proceeds”** means [REDACTED]

**“PPP Rules”** means the CARES Act, the PPP Flexibility Act and all applicable rules and guidance promulgated thereunder from time to time that govern the administration of the Paycheck Protection Program established under the CARES Act.

**“PPP Proceeding”** means any audit, inquiry or other examination by any Governmental Entity arising out of, relating to or in connection with the PPP Indebtedness, any judicial or administrative proceedings relating to liabilities for the PPP Indebtedness including any appeals to determine the amount of the PPP Indebtedness to be forgiven.

**“Release”** means any release, spill, emission, leaking, dumping, injection, pouring, deposit, disposal, discharge, dispersal, leaching or migration into or through the environment or within any building, structure, facility or fixture.

**“Representative”** or **“Representatives”** means, with respect to a particular Person, any Affiliate, director, member, limited or general partner, equityholder, officer, employee, agent, consultant, advisor or other representative of such Person or its Affiliates, including outside legal counsel, accountants and financial advisors.

**“Retention Bonus Agreements”** means those certain retention bonus agreements entered into between the Buyer and certain individuals as set forth on Schedule Section 6.9.

**“Schedule”** means the disclosure schedules delivered to Buyer concurrently with the parties’ execution of this Agreement, containing disclosures in response to or exception to the representations and warranties contained in this Agreement. Nothing in the Schedules will be deemed adequate to disclose an exception to a representation or warranty made in this Agreement unless the applicable Schedule identifies the exception with particularity and describes the relevant facts in reasonable detail. The section headings in the Schedules are for convenience of reference only and will not be deemed to alter or affect the meaning or interpretation of any information disclosed herein or in any provision of this Agreement.

**“Seller’s Knowledge”** means the knowledge of Corey Hickmann. For such purpose, an individual will be deemed to have knowledge of a particular fact or matter if: (a) that individual is actually aware of that fact or matter; or (b) such individual would reasonably be expected to discover or otherwise become aware of that fact or matter in the course of the reasonable conduct of his or her duties.

**“Seller Retention Bonus Amount”** means half of the aggregate dollar amount due to be paid under the Retention Bonus Agreements, plus the employer’s share of any employment, unemployment, payroll, or similar Taxes due in connection with any such payment.

**“Straddle Period”** means any taxable period beginning on or before the Closing Date and ending after the Closing Date.

**“Tax Return”** means any report, return, computation, declaration, estimate, claim, claim for refund, schedule, supplement or information return or statement (including any attachment or amendment to the foregoing) with respect to Taxes.

**“Taxes”** means all: (a) federal, state or local and all foreign taxes, including income, gross receipts, capital stock, profits, transfer, estimated, registration, stamp, premium, escheat, unclaimed property, customs duties, ad valorem, occupancy, occupation, alternative, add-on, windfall profits, value added, provincial and harmonized sales tax, severance, property, production, sales, use, license, excise, franchise, employment, payroll, social security, disability, unemployment, workers’ compensation, withholding or other taxes, duties, fees, assessments or governmental charges or deficiencies thereof of any kind whatsoever, however denominated; (b) interest, penalties, fines, additions to tax or additional amounts imposed by any Taxing Authority in connection with any item described in clause (a), along with any interest applied thereto; and (c) Liability for Taxes on account of transferee or successor Liability in respect of any items described in clause (a) or (b) payable by reason of Contract (or other agreement), assumption, operation of applicable Law (including Treasury Regulation Section 1.1502-6(a) (or any predecessor or successor thereof of any analogous or similar provision under state, local or non-U.S. applicable Law)), or otherwise.


**“Taxing Authority”** means any Governmental Entity responsible for the administration, imposition, or collection of any Tax (foreign or domestic).

**“Transaction Related Expenses”** means, to the extent unpaid as of the Closing, the sum of: (a) all severance, compensation, sale bonuses, change in control bonuses, retention bonuses or similar bonuses and payments that become payable by the Business by reason of the execution of this Agreement or any Ancillary Agreement or the consummation of the transactions contemplated hereby or thereby (except for the amounts payable under the Retention Bonus Agreements), plus the employer’s share of any employment, unemployment, payroll or similar Taxes due in connection with any such payment; (b) the amount of any investment banking, accounting, attorney or other professional fees incurred by the Business or Seller on or prior to Closing with respect to the transactions contemplated by this Agreement (or otherwise for which Buyer or its Affiliates could become liable), including the Broker Fee; (c) the amount of all fees, Liabilities, and expenses incurred by the Business for the negotiation, preparation and execution of this Agreement and the Ancillary Agreements and the performance and consummation of the transactions contemplated hereby; (d) any fees, costs, expenses, or disbursements to the extent incurred or payable by the Business in connection with obtaining any consent, approval, authorization, amendment or waiver pursuant to this Agreement or otherwise in connection with the transactions contemplated hereby; (e) discretionary compensation or bonus obligations owed or payable to Seller or Owner; and (f) any obligations for deferred compensation payable pursuant to any plan or other document, program, or arrangement (whether written or unwritten) with any officer or employee of the Business. For the avoidance of doubt, no amounts included in the calculation of Indebtedness will be included in the calculation of Transaction Related Expenses.

**“Transfer Taxes”** means all sales, use, value added, transfer, recording, ad valorem, privilege, documentary, gross receipts, registration, conveyance, excise, license, stamp or similar Taxes and fees arising out of, in connection with, or attributable to the transactions effectuated pursuant to this Agreement.

**“Working Capital Deficit”** means the amount (whether a positive or negative number) by which the Closing Date Net Working Capital is less than the Estimated Closing Date Net Working Capital.

**“Working Capital Surplus”** means the amount (whether a positive or negative number) by which Closing Date Net Working Capital is greater than the Estimated Closing Date Net Working Capital.

**“Working Capital Target”** means 

**Exhibit B: Transferred Assets**

Substantially all of the assets, rights and properties, whether tangible or intangible, real or personal and wherever located and by whomever possessed, arising from, related to or in connection with, or otherwise used or held for use in, the Business, excluding any assets, rights and properties comprising the Excluded Assets.

*[Exhibit B – Asset Purchase Agreement]*

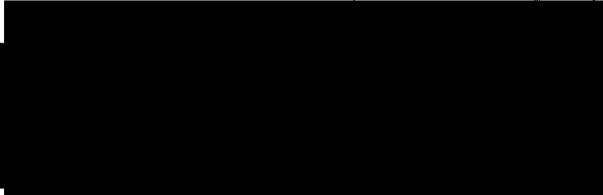
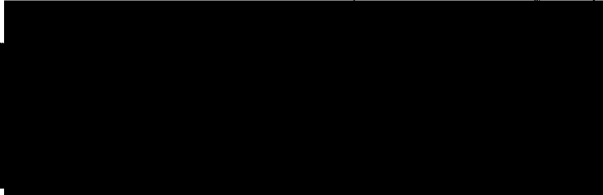

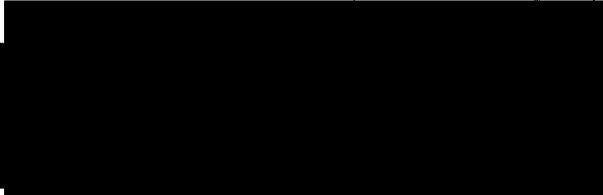
**Exhibit C: Excluded Assets**

Excluded Assets:

- Owner's personal cell phone [REDACTED]
- Amy Hickmann's personal cell phone [REDACTED]
- Ella Hickmann's personal cell phone - [REDACTED]
- Emri Hickmann's personal cell phone [REDACTED]
- 2012 Enclosed Trailer Vin# [REDACTED]
- 2016 Chevrolet Silverado 2500 Vin# [REDACTED]
- Exmark Zero Turn Lawn Mower
- Hiniker Snow Plow
- 14' Utility Trailer
- Ariens Snowblower
- Toro Snowblower
- (2) Honda Generators



**Exhibit D: Earn-out Payment**

Earn-out New Valuation	Adjusted EBITDA Range	Earn-out Payment
n/a		
		

*[Exhibit D – Asset Purchase Agreement]*

**DISCLOSURE SCHEDULES TO  
ASSET PURCHASE AGREEMENT**

**dated as of October 1, 2021**

**by and between**

**Comfort Matters, LLC (“Buyer”),**

**Comfort Matters Heating & Cooling, Inc. (“Seller”)**

**and**

**Corey Hickmann (“Owner”)**

**DISCLOSURE SCHEDULES TO ASSET PURCHASE AGREEMENT**  
**dated as of October 1, 2021**  
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**Schedule 4.4**

**REQUIRED CONSENTS**

None.

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**Schedule 4.6(b)**

**CAPITALIZATION OF SELLER**

<u>Shareholder Name</u>	<u>Number of Shares Issued</u>	<u>Class</u>	<u>Percentage</u>
Corey Hickmann	1	Common Stock	100%
			100%

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**Schedule 4.8**

**LITIGATION**

None.

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**Schedule 4.9**

**COMPLIANCE WITH LAWS**

No exceptions.

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**Schedule 4.10**

**REGULATORY COMPLIANCE**

No exceptions.

**DISCLOSURE SCHEDULES TO ASSET PURCHASE AGREEMENT**

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and

**Corey Hickmann (“Owner”)**

**Schedule 4.12(a)**

**INTELLECTUAL PROPERTY**

	COMFORT MATTERS	COMFORT MATTERS HEATING AND COOLING
SUNSHINE CLUB	WITH YOU THROUGH THE HIGHS AND LOWS	 <b>COMFORT MATTERS</b> Heating & Cooling
COMFORT MATTERS		

**Copyrights:** No registration, but common law rights exist in marketing materials, website, images and video content

**Domain Names:**<sup>1</sup>

Domain Name	Expires	Other key information
ComfortMatters.com	Aug. 11, 2022	Owner name: Comfort Matters Heating & Cooling, Inc.  <a href="mailto:corey@comfortmatters.com">corey@comfortmatters.com</a>  Administrator: Corey Hickmann Hosted by Online Access: 1-810-985-6603
workforcomfortmatters.com	Nov. 11, 2021	Owner name: Comfort Matters Heating &

<sup>1</sup> Note to Seller: Please provide or confirm highlighted items.



**DISCLOSURE SCHEDULES TO ASSET PURCHASE AGREEMENT**

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and

**Corey Hickmann (“Owner”)**

		Cooling, Inc.  <a href="mailto:corey@comfortmatters.com">corey@comfortmatters.com</a>
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**Social Media Pages:**

Page address	Administrator or Login/Password
<a href="https://www.facebook.com/comfortmatters/">https://www.facebook.com/comfortmatters/</a>	Administrator: Corey Hickmann
<a href="https://twitter.com/ComfortMatters">https://twitter.com/ComfortMatters</a>	Login: comfortmatters Password: comfort1
<a href="https://www.linkedin.com/company/comfort-matters-heating-and-cooling-inc./">https://www.linkedin.com/company/comfort-matters-heating-and-cooling-inc./</a>	Administrator: Corey Hickmann
<a href="https://www.instagram.com/comfortmatters/">https://www.instagram.com/comfortmatters/</a>	Login: comfortmatters Password: Comfort1
<a href="https://www.instagram.com/explore/locations/139649594/comfort-matters-heating-cooling-inc/">https://www.instagram.com/explore/locations/139649594/comfort-matters-heating-cooling-inc/</a>	Administrator or login and password?
<a href="https://www.youtube.com/c/Comfortmatters">https://www.youtube.com/c/Comfortmatters</a>	Administrator or login and password?

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**Schedule 4.13(d)**

**BENEFIT PLAN LIABILITIES**

No exceptions.

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Corey Hickmann (“Owner”)

**Schedule 4.14(a)**

**COLLECTIVE BARGAINING AGREEMENTS**

No exceptions.

**DISCLOSURE SCHEDULES TO ASSET PURCHASE AGREEMENT**

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**Schedule 4.16(b)**

**REAL PROPERTY**

Seller leases property at 18071 Territorial Rd, Maple Grove, MN 55369 pursuant to a lease dated December 12, 2019 by and between Seller and CEA Properties, LLC (the “Lease”).

**DISCLOSURE SCHEDULES TO ASSET PURCHASE AGREEMENT**

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**Schedule 4.16(c)**

**REAL PROPERTY DISPUTES**

No exceptions.

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**Schedule 4.16(d)**

**CONDEMNATION MATTERS**

A portion of the Leased Real Property is subject to that certain Temporary Construction Easement dated December 19, 2019 in favor of the City of Dayton. A copy of the Temporary Easement Agreement has been uploaded to:



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**Schedule 4.16(e)**

**LEASE MATTERS**

None.

**DISCLOSURE SCHEDULES TO ASSET PURCHASE AGREEMENT**

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**Schedule 4.17**

**TAX MATTERS**

No exceptions.



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**Schedule 4.18**

**INSURANCE POLICIES**

Seller’s Insurance Policies:

1. Commercial Property Coverage
2. Commercial General Liability Coverage
3. Commercial Auto Coverage
4. Commercial Inland Marine Coverage
5. Commercial Liability Umbrella Coverage.

**DISCLOSURE SCHEDULES TO ASSET PURCHASE AGREEMENT**

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**Schedule 8.2(e)**

**INDEMNIFIED MATTERS**

The payments due on September 15, 2022 under the Retention Bonus Agreements, up to an aggregate amount equal to the Seller Retention Bonus Amount.