IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re: NORCOLD LLC,[1] Debtor.	Chapter 11 Case No. 25-11933 (TMH)

DEBTOR'S MOTION FOR ENTRY OF AN ORDER (I)(A) APPROVING BIDDING PROCEDURES FOR THE SALE OF ALL OR SUBSTANTIALLY ALL OF THE DEBTOR'S ASSETS, (B) AUTHORIZING THE DEBTOR'S ENTRY INTO THE STALKING HORSE APA, (C) SCHEDULING AN AUCTION AND A SALE HEARING AND APPROVING THE FORM AND MANNER OF NOTICE THEREOF, (D) APPROVING ASSUMPTION AND ASSIGNMENT PROCEDURES AND (E) GRANTING RELATED RELIEF; AND (II)(A) APPROVING THE SALE OF THE DEBTOR'S ASSETS FREE AND CLEAR OF LIENS, CLAIMS, INTERESTS AND ENCUMBRANCES, (B) APPROVING THE ASSUMPTION AND ASSIGNMENT OF EXECUTORY CONTRACTS AND UNEXPIRED LEASES AND (C) GRANTING RELATED RELIEF

The above-captioned debtor and debtor in possession (the "Debtor") respectfully states as follows in support of this motion (this "Motion"). In further support of this Motion, the Debtor relies upon and incorporates by reference the First Day Declaration (as defined below):

PRELIMINARY STATEMENT[2]

1. Prior to the Petition Date, the Debtor and its advisors analyzed and explored potential transactions, conducted comprehensive liquidity analyses, and considered potential restructuring alternatives to address the Debtor's liquidity issues before concluding that commencing a sale process was the most viable path to preserve and maximize the value of the

[1] The Debtor in this chapter 11 case, along with the last four digits of the Debtor's federal tax identification number, is: Norcold LLC (6081). For purposes of this chapter 11 case, the Debtor's service address is 7101 Jackson Road, Ann Arbor, MI 48103.

[2] Capitalized terms used herein and not otherwise defined shall have the meaning ascribed to them in the Bidding Procedures Order or Bidding Procedures, as applicable (as such terms are defined herein).

Assets. The Debtor commenced this chapter 11 case to implement a sale of all or substantially all of its Assets.

2. As more fully described in the *Declaration of Richard Wu in Support of the Debtor's Chapter 11 Petition and First Day Pleadings* (the "First Day Declaration"), prior to the Petition Date, the Debtor engaged in extensive negotiations with its primary stakeholders, and reached an agreement for David Carter & Associates ("DCA") to serve as the "Stalking Horse Bidder" (and such bid, the "Stalking Horse Bid") subject to higher or otherwise better bids received during the auction process.

3. DCA has also agreed to provide a $13 million new money DIP facility (the "DIP Facility") that will provide the Debtor the necessary runway to continue its marketing efforts and ensure that the Assets are sold for the highest and best value.

4. On October 31, 2025, the Debtor executed the Stalking Horse APA (defined below) with DCA, who, in the Alternative Sale Process (defined below), will serve as the Stalking Horse Bidder in a sale process pursuant to section 363 of the Bankruptcy Code, subject to Bankruptcy Court approval. The Stalking Horse APA contemplates a credit bid for a purchase price of $13 million consisting of all outstanding obligations under the DIP facility. As part of the purchase price, DCA has also agreed to assume certain liabilities (including contract cure costs) and leave behind cash to conclude this chapter 11 case and fund a liquidating trust that will wind down the Debtor's estate post-sale.

5. Concurrently with the solicitation of votes on the Debtor's plan, the Debtor will conduct a marketing and sales process for the purpose of soliciting, receiving, and considering offers in connect with the sale of its Assets (the "Alternative Sale Process"). If the Debtor determines there is a higher or otherwise better offer than the Stalking Horse APA, then the Debtor

will seek approval of such transaction (an "Alternative Sale Transaction") pursuant to section 363 of the Bankruptcy Code, subject to Bankruptcy Court approval. If no competing offers are received through the Alternative Sale Process, the Debtor will seek to consummate the Stalking Horse APA through the Plan (the "Plan Sale" and either the Plan Sale or an Alternative Sale Transaction, a "Sale Transaction"), subject to Bankruptcy Court approval.

6. Through this Motion, the Debtor seeks the Court's approval of bidding procedures pursuant to which it will seek overbids for the Assets through the Alternative Sale Process. The proposed sale timeline and accompanying Bidding Procedures, which is intended to run in parallel with the confirmation timeline, is the product of substantial negotiations among the Debtor and DCA. The Debtor believes that the timeline and other terms proposed herein will balance the dual goals of making sure that the Debtor can run a competitive marketing process to secure the highest or otherwise best purchase price for its Assets while also ensuring that the Debtor avoids the value-destructive consequences of a protracted chapter 11 case.

7. On the Petition Date, the Debtor filed the *Chapter 11 Plan of Liquidation for Norcold LLC* (the "Plan") and accompanying *Disclosure Statement for the Chapter 11 Plan of Liquidation for Norcold LLC* (the "Disclosure Statement"). Together with Plan, the APA and the Bidding Procedures, provide a roadmap for the Debtor to close the Plan Sale or an Alternative Sale Transaction, confirm the Plan, and wind down the Debtor's estate within 90 days. The transactions provide the Debtor with certainty, while also providing necessary freedom to solicit, encourage and entertain higher alternative transactions through the Alternative Sale Process—and to terminate the Stalking Horse Bid if the Debtor's fiduciary duties so dictate—all for the benefit of the Debtor's estate.

8. Accordingly, the Debtor respectfully requests that the Court grant the relief requested herein.

RELIEF REQUESTED

9. By this Motion, the Debtor requests entry of an order (the "Bidding Procedures Order"), substantially in the form attached hereto as **Exhibit A**: (i) approving the proposed bidding procedures (the "Bidding Procedures") attached as Exhibit 1 to the Bidding Procedures Order, pursuant to which the Debtor will solicit and select the highest or otherwise better offers for the sale of all, or substantially all, of the Debtor's assets (collectively, the "Assets"), free and clear of all claims, liens, interests, and encumbrances (the "Sale"), (ii) authorizing the Debtor to enter into the stalking horse asset purchase agreement (the "Stalking Horse APA"), on terms to be finalized between the parties thereto, subject to Court approval, (iii) scheduling an auction for the Assets (the "Auction"), if necessary, and scheduling a hearing to approve the Alternative Sale Transaction (the "Sale Hearing"), and approving the form and manner of notice of the proposed Bidding Procedures, the Auction, and the Sale Hearing, substantially in the form attached to the Bidding Procedures Order as Exhibit 2 (the "Sale Notice"), (iv) authorizing procedures governing the assumption and assignment of certain executory contracts and unexpired leases (the "Contracts") in connection with the Sale Transaction (the "Assumption and Assignment Procedures"), and approving the form and manner of notice to each relevant non-debtor counterparty to a Contract of (a) the Debtor's calculation of the amount necessary to cure any defaults under an applicable Contract (the "Cure Costs") and (b) certain other information regarding the potential assumption and assignment of Contracts in connection with the Sale Transaction, substantially in the form attached to the Bidding Procedures Order as Exhibit 3 (the "Assumption and Assignment Notice") and (v) granting related relief. If the Debtor seeks to consummate an Alternative Sale Transaction, the Debtor also seeks entry of an order (the

"Sale Order")[3] authorizing the sale of the Debtor's Assets free and clear of all liens, claims, interests, and encumbrances, except as provided in the Sale Order and purchase agreement, (ii) authorizing the assumption and assignment of certain Contracts in connection with the Alternative Sale Transaction, and (iii) granting related relief.

JURISDICTION AND VENUE

10. The United States Bankruptcy Court for the District of Delaware (the "Court") has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware, dated as of February 29, 2012 (the "Amended Standing Order"). This matter is a core proceeding within the meaning of 28 U.S.C. § 157(b). Pursuant to rule 9013-1(f) of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware (the "Local Rules"), the Debtor consents to a final order with respect to this Motion to the extent that it is later determined that the Court, absent consent of the parties, cannot enter final orders or judgments in connection herewith consistent with Article III of the United States Constitution.

11. Venue is proper before the Court pursuant to 28 U.S.C. §§ 1408 and 1409.

12. The statutory and legal bases for the relief requested herein are sections 105(a), 363, and 365 of title 11 of the United States Code, 11 U.S.C. §§ 101–1532 (the "Bankruptcy Code"), rules 2002, 6004, and 6006 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"), and Local Rules 2002-1, 6004-1, and 9006-1.

BACKGROUND

13. On November 3, 2025 (the "Petition Date"), the Debtor filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code. The Debtor is operating its business and

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[3] A copy of the Sale Order will be filed in advance of the Sale Hearing.

managing its property as debtor in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.

14. No request for the appointment of a trustee or examiner has been made in this chapter 11 case, and no committees have been appointed or designated as of the date hereof.

15. A detailed description of the Debtor and its business, including the facts and circumstances giving rise to this chapter 11 case, is set forth in the First Day Declaration, filed contemporaneously herewith and incorporated herein by reference.

THE PROPOSED ALTERNATIVE SALE PROCESS

I. Overview

16. As set forth in the First Day Declaration, in the years leading up to the Petition Date, the Debtor faced numerous financial and operational obstacles. Beginning in 2021, the Debtor initiated various cost-cutting measures to preserve liquidity. These efforts included shuttering its U.S. plants, transitioning its gas absorption operations and sales to Europe, and sourcing DC compressor units from China. The Debtor no longer has any employees, nor does it manufacture products. Instead, the Debtor operates as a distributor of RV refrigerators and related parts.

17. Ultimately, the Debtor, under the guidance of its independent manager and other advisors, determined that pursuing the sale process described herein was the most viable path to preserve and maximize the value of its assets. In the weeks leading up to the Petition Date, the Debtor, and DCA, each of which was represented by experienced counsel and financial advisors, negotiated a DIP Term Sheet and a Stalking Horse APA, which comprises a credit bid of the DIP Facility to fund this chapter 11 case (as well as the assumption of certain liabilities) and an agreement to serve as the stalking horse bidder. The liquidity provided by the DIP Facility, and the support of the Stalking Horse Bid, will facilitate a fulsome and value-maximizing postpetition

marketing process for the sale of all or substantially all of the Assets. The Debtor intends to use the Bidding Procedures to market-test the proposed Stalking Horse Bid and maximize the value of the Debtor's estate.

18. In light of the Debtor's constrained liquidity and, after consultation with its financial and legal advisors, the Debtor has determined that entry into the proposed DIP Facility and Stalking Horse APA constitutes the best presently available opportunity to maximize creditor recoveries, as no third-party lender contacted was willing to extend post-petition financing on terms more favorable than those negotiated with DCA.

II. The Need for a Timely Process and Proposed Schedule

19. The facts and circumstances of this chapter 11 case require that the Debtor run an expedited, but robust, sale process. Speed and certainty are critical here, especially because the Stalking Horse Bid and the Debtor's ability to access the DIP Facility and cash collateral (which will provide the Debtor with the necessary liquidity to fund continued operations and this chapter 11 case) are both conditioned upon adherence to sale milestones. The Debtor simply does not have liquidity to support a lengthy stay in chapter 11. In addition, the Debtor believes that a protracted sale process could be detrimental to its relationships with key vendors and suppliers. The proposed sale timeline is designed to minimize any further deterioration of the Assets and is in the best interests of all stakeholders. Thus, pursuing the Alternative Sale Transaction in the manner and within the time periods prescribed in the Bidding Procedures is in the best interest of the Debtor's estate and will provide interested parties with sufficient opportunity to participate.

20. Accordingly, pursuant to the Bidding Procedures, the Debtor will solicit any higher or otherwise better proposals according to the following proposed schedule, subject to Court approval and availability:

ALTERNATIVE SALE PROCESS KEY DATES AND DEADLINES[4]	
Deadline	**Event**
December 8, 2025, subject to the Court's availability	Entry of Bidding Procedures Order
Three (3) business day after the entry of the Bidding Procedures Order	Deadline for the Debtor to file and serve Sale Notice and Assumption and Assignment Notice
Three (3) business days after the entry of the Bidding Procedures Order	Deadline for the Debtor to publish the Publication Notice
4:00p.m. (ET) on the date that is 14 days after the service of the Assumption and Assignment Notice	Contract Objection Deadline[5]
January 15, 2026, at 4:00 p.m. (ET)	Sale Objection Deadline[6]
January 15, 2026, at 4:00 p.m. (ET)	Bid Deadline
January 16, 2026 at 4:00 p.m. (ET)	Deadline for the Debtor to Notify Bidders of Status as Qualified Bidders
January 20, 2026, at 9:00 a.m. (ET)	Auction (if any)
Within one day after the conclusion of the Auction	Deadline for the Debtor to file Notice of Auction Results
January 22, 2026 at 4:00 p.m. (ET)	Post-Auction Objection Deadline[7]
January 23, 2026 at 4:00 p.m. (ET)	Debtor's Reply Deadline to Post-Auction Objections
January 27, 2026, subject to the Court's availability	Sale Hearing

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[4] References to "days" means calendar days unless business days are expressly specified. If any time period referring to business days expires on a day which is a Saturday, Sunday, or legal holiday on which banking institutions in New York City, New York or governmental entities in the State of Delaware are authorized or obligation by law or executive order to close, the time period shall be automatically extended to the business day immediately following such Saturday, Sunday, or holiday.

[5] Deadline for any objection to the Debtor's proposed Cure Costs (as defined herein) or assumption and assignment on any basis (except objections solely related to adequate assurance of future performance by a Successful Bidder other than the Stalking Horse Bidder).

[6] Deadline for any objection to a sale of the Assets, including (i) any objection to a sale of the Assets free and clear of all liens, claims, interests, and encumbrances pursuant to section 363(f) of the Bankruptcy Code and (ii) entry of the Sale Order.

[7] Deadline for any objection to the conduct of the Auction, the particular terms of the proposed Alternative Sale Transaction in a Successful Bid, and/or the ability of the Successful Bidder (each as defined in Section VII.C.1 of the Bidding Procedures) to provide adequate assurance of future performance with respect to any Assigned Contract (as defined herein).

ALTERNATIVE SALE PROCESS KEY DATES AND DEADLINES[4]	
Deadline	**Event**
February 12, 2026	Sale Closing

21. The Debtor believes that this timeline provides them with an opportunity to conduct a thorough marketing process for the Assets. In addition to the Debtor's transaction efforts thus far, the Debtor will utilize the time prior to and following entry of the Bidding Procedures Order to actively market the Assets to expedite the solicitation bids in advance of the Bid Deadline. In light of the foregoing, the Debtor has determined that the proposed schedule is in the best interests of the Debtor's estates, will assist in establishing whether and to what extent a market exists for any or all the Assets, and provide interested parties with sufficient opportunity to participate in any sale transaction and ultimately, will result in the highest or otherwise best bid for the underlying Assets under the circumstances.

III. The Stalking Horse APA and Material Terms of the Sale Transaction

22. On October 31, 2025, the Debtor and DCA agreed on the terms of the Stalking Horse APA. Pursuant to the Stalking Horse Bid, DCA proposes to acquire the assets of the Debtor identified in the Stalking Horse APA — which constitutes substantially all of the Debtor's assets — for a purchase price of $13 million, consisting of all outstanding obligations under the DIP Facility. As part of the purchase price, DCA has also agreed to assume certain liabilities (including contract cure costs) and leave behind cash to conclude this chapter 11 case and fund a liquidating trust that will wind-down the Debtor's estate post-sale.

23. The Stalking Horse APA does not include break-up fee or expense reimbursement provisions. As a result, the Debtor is not seeking any bid protections for the Stalking Horse Bidder or any other bidder in this chapter 11 case.

24. The following chart summarizes the terms and conditions of the Stalking Horse APA attached to the Bidding Procedures Order as Exhibit 4 and discloses certain information required pursuant to Local Rule 6004-1:[8]

Key Terms of the Stalking Horse APA[9]	
Parties	Seller: Norcold LLC Stalking Horse Purchaser: DCA
Purchase Price / Credit Bid (Stalking Horse APA § 3.1) (L.R. 6004-1(b)(iv)(N))	The aggregate consideration (the "Purchase Price") for the purchase, sale, assignment and conveyance of Seller's right, title and interest in, to and under the Acquired Assets shall consist of: (a) the assumption by Buyer of the Assumed Liabilities from Seller, including the assumption of the obligation to pay to the applicable counterparties of the applicable Assigned Contracts the Cure Costs payable by Buyer under Section 2.6 of the Stalking Horse APA; *plus* (b) the Credit Bid in an aggregate amount equal to the outstanding obligations under the DIP Term Sheet as of the Closing (which amount shall not be less than $13,000,000.00 as of the Closing), exercised by Buyer or its designee in accordance with section 363(k) of the Bankruptcy Code and the DIP Order; *plus* (c) such additional cash consideration, the use, allocation and amount of which shall be determined at the sole discretion of Buyer and by providing written notice to Sellers; provided, however, that if no such notice has been provided, then the amount of such cash consideration under this Section 3.1(a)(iv) shall be $0.
Acquired Assets / Sale of Avoidance Actions (Stalking Horse APA § 2.2) (L.R. 6004-1(b)(iv)(K))	"Acquired Assets" shall mean all of Seller's right, title and interest in, to or under the following (other than the Excluded Assets): (i) all of Seller's properties, rights, claims and assets of every kind and description (wherever situated or located, real, personal or mixed, tangible or intangible, whether identifiable or contingent, owned, leased, licensed) related to, associated with, pertaining to, or presently, historically or prospectively used in or held for use in the operation of the Business as conducted by Seller, whether or not reflected on the books and records of Seller, and (ii) without limiting the generality of Section 2.2(i) of the Stalking Horse APA, such Acquired Assets shall include, whether they relate to the Business or not (except where so

[8] This summary is provided for the convenience of the Court and parties in interest. To the extent there is any conflict between this summary and the Stalking Horse APA, the Stalking Horse APA shall govern in all respects. Terms used but not defined in this summary description have the meaning given to such term in the Stalking Horse APA.

[9] Capitalized terms used in this table and not otherwise defined herein shall have the meaning ascribed to such terms in the Stalking Horse APA.

Key Terms of the Stalking Horse APA[9]	
	noted in the following list or in any definition used in the following list), all of Seller's direct or indirect right, title and interest in, to and under the following (other than the Excluded Assets): (a) all inventory of any kind or nature, merchandise and goods related to the Business or Acquired Assets and maintained, held or stored by or for Seller on the Closing Date, whether or not prepaid, and wherever located, held or owned, and any prepaid deposits for any of the same, including raw materials, components and other parts, work-in-process, finished goods or products, packaging materials and labels, and other stores, supplies, disposables and consumables used in or held for use in the operation of the Business as conducted by Seller, including any goods or products in transit ("Inventory"); (b) all Equipment; (c) all Assigned Contracts; (d) all (i) Real Property (other than Leased Real Property to the extent the Leases related thereto are not Assigned Contracts) and any such agreements and rights related thereto or under the applicable Leases, and (ii) the Lessor Leases (to the extent the Lessor Lease is an Assigned Contract), in each case, together with all interests in and to all Improvements located thereon or attached thereto, and other appurtenances thereto, and rights in respect thereof; (e) subject to Section 2.6(c) of the Stalking Horse APA, all Permits and pending applications therefor of Seller used in, held for use in, or necessary for the operation of the Business or the Acquired Assets, including all Permits described in Section 2.2(e) of the Disclosure Schedules, in each case, to the extent transferable under applicable Legal Requirements (the "Transferred Permits"); (f) all Intellectual Property; (g) all Accounts Receivable; (h) all contribution or reimbursement Claims that Seller has or may have against any Affiliate of Buyer; (i) all Pre-Paid Expenses except for those set forth Section 2.2(i) of the Disclosure Schedules; (j) all goodwill and intangible property relating to, arising from or associated with any of the Acquired Assets (including the Intellectual Property), the Assumed Liabilities or the Business; (k) to the extent permitted by Legal Requirements, and except to the extent related to the Excluded Assets or the Excluded Liabilities, all Documents and other books and records (financial, accounting and other),

Key Terms of the Stalking Horse APA[9]	
	and correspondence, and all customer sales, marketing, advertising, packaging and promotional materials, files, data, owned software (whether written, recorded or stored on disk, film, tape or other media, and including all computerized data), drawings, engineering and manufacturing data and other technical information and data, and all other business and other records, in each case, arising under or relating to the Acquired Assets, the Assumed Liabilities or the Business; (l) all rights, remedies and benefits of Seller arising under or relating to any of the Acquired Assets, the Assumed Liabilities or the Business, including rights, remedies and benefits arising out of express or implied warranties, representations and guarantees from suppliers, manufacturers, contractors or others to the extent relating to the operation of the Business or affecting the Inventory, Equipment, Real Property, or other tangible Acquired Assets or ordered by Seller prior to the Closing Date (and in any case, any component thereof), and all claims and causes of action arising or existing therefrom, in each case, other than as they relate to any Excluded Cause of Action; (m) other than as they exclusively relate to any Excluded Causes of Action, which, for the avoidance of the doubt, shall be retained by Seller, and subject to Section 2.2(n) and Section 2.2(p) of the Stalking Horse APA, any and all Actions or other causes of action, and any rights, claims, demands, privileges, set offs, counterclaims, defenses, assertions or rights of any kind as against others (whether by contract or otherwise) of, or on behalf of, Seller with respect thereto, including (A) any and all causes of action, rights, claims, counterclaims, defenses or assertions of Seller against or with respect to any direct or indirect equityholders of Seller, (B) any and all causes of action, rights, claims, counterclaims, defenses or assertions of Seller against or with respect to any direct or indirect lender to Seller, (C) any and all causes of action, rights, claims, counterclaims, defenses or assertions of Seller against or with respect to any Affiliate of Seller (including any party or Affiliate of a party set forth on Section 2.2(m) of the Disclosure Schedules), and (D) any and all causes of action, rights, claims, counterclaims, defenses or assertions of Seller with respect to any Trade Payables; (n) all Avoidance Actions, except for Excluded Causes of Action; (o) after the deduction of all Excluded Cash, (x) to the extent transferable, all bank deposit accounts, control agreements and lockbox accounts of Seller associated with the collection of the Accounts Receivable or other

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Key Terms of the Stalking Horse APA[9]	
	proceeds from the Business, including all bank accounts that receive checks, ACH payments, and electronic payments (a complete list of all such accounts (including any deposit accounts, securities accounts and any sub-accounts) and amounts in such accounts are as set forth on Section 2.2(o) of the Disclosure Schedules); provided, that to the extent any such account is not transferable, at Closing, Seller shall grant access to and control over any such account to allow Buyer to sweep or otherwise withdraw any funds held in any non-transferable account, and (y) all Cash remaining, including (i) any checks, commercial paper, treasury bills, certificates of deposit and other bank deposits, instruments and investments of Seller, and (ii) any Cash held in any escrow account, trust account, or similar account, any rights thereto, any escrow agreements or other Contracts governing such funds and Seller's rights thereunder, and any other interests or rights with respect to any of the foregoing; (p) all (i) rights under, with respect to, or arising out of any Transferable Insurance Policies relating to the Business or any of the Acquired Assets or Assumed Liabilities, (ii) returns and refunds of any premiums paid, or other amounts due back to Seller, with respect to any cancelled insurance policies, and (iii) third-party property and casualty insurance proceeds, to the extent receivable by Buyer or Seller in respect of the Business or the Acquired Assets after the Closing Date (whether under current or prior policies or under the Transferable Insurance Policies), in each case, other than under, with respect to, or receivable as a result of the Excluded Insurance Policies or with respect to such Transferable Insurance Policies that exclusively relate to Excluded Causes of Action; (q) all rights, but not obligations, under non-disclosure or confidentiality, non-compete, no-hire or non-solicitation agreements or similar arrangements entered into in connection with or in contemplation of the auction contemplated by the Bidding Procedures (the "Auction"), in each case, to the extent transferrable and related to the Business; (r) all telephone numbers and other directory listings, e-mail addresses, websites, URLs, internet domain names and social media sites and accounts (including the content contained therein and any usernames and passwords), owned or licensed by Seller; (s) all other property and assets related to, associated with, pertaining to, or presently, historically or prospectively used in or held for use in the Business as conducted by Seller or the ownership of the Acquired Assets, in each case, of every kind and description and wherever located, and the proceeds thereof and all

Key Terms of the Stalking Horse APA[9]	
	other tangible and intangible assets but, in each case, to the extent not expressly identified as Excluded Assets; (t) all assets, if any, listed on Section 2.2(t) of the Disclosure Schedules (regardless of whether such assets are covered by any of the foregoing); (u) any and all rights to Tax Refunds of Seller for any tax period, including, for the avoidance of doubt, any and all rights to the Employee Retention Credit; and (v) the Tax records, work papers and other records of Seller as they pertain to ownership, organization, qualification to do business or existence of Seller; (w) the Klein Settlement Amount; (x) all Excess Cash; and (y) all proceeds and products of any and all of the foregoing Acquired Assets.
Excluded Assets (Stalking Horse APA § 2.3)	The term "Excluded Assets" shall consist of only the following: the assets, if any, listed on Section 2.3(a) of the Disclosure Schedules; (b) any shares of capital stock or other equity interest in or issued by Seller or any securities convertible into, exchangeable or exercisable for shares of capital stock or other equity interest in or issued by Seller; (c) all Documents and other books and records (financial, accounting and other), and correspondence, and all customer sales, marketing, advertising, packaging and promotional materials, files, data, software (whether written, recorded or stored on disk, film, tape or other media, and including all computerized data), drawings, engineering and manufacturing data and other technical information and data, and all other business and other records, in each case, (A) that relate exclusively to the Excluded Assets or Excluded Liabilities, (B) that if transferred as an Acquired Asset would violate any Person's privacy rights under applicable Legal Requirements, or (C) that are subject to any attorney-client, work product or similar privilege with respect to work performed in anticipation of or in connection with the preparation or administration of the Bankruptcy Case, this Agreement or the Transactions; (d) any Contract that is not an Assigned Contract; (e) all rights of Seller under or arising out of any insurance policy set forth on Section 5.11 of the Disclosure Schedules that is not a Transferable Insurance Policy (the "Excluded Insurance Policies") or with respect to

Key Terms of the Stalking Horse APA[9]	
	Excluded Causes of Action under Transferable Insurance Policies; (f) Avoidance Actions that have been expressly excluded by Buyer in writing on or after the Effective Time; (g) all Excluded Causes of Action; (h) except as otherwise set forth herein, any rights, claims or causes of action of Seller arising under this Agreement or any other Transaction Document; (i) all Cash of Seller in an amount equal to, and not in excess of, (i) the aggregate amount of remaining Cash included in the Wind-Down Budget *less* (ii) the aggregate amount of Estimated Wind-Down Expenses actually paid prior to the Closing, *plus* (iii) any portion of the Purchase Price actually paid by Buyer in Cash (together, the "Excluded Cash"); (j) all Benefit Plans, together with all funding arrangements related thereto (including all assets, trusts, insurance policies and administrative service Contracts related thereto), and all rights and obligations thereunder; (k) all insurance policies other than the Transferable Insurance Policies; and (l) all proceeds and products of any and all of the foregoing Excluded Assets.
Assumed Liabilities (Stalking Horse APA § 2.4)	The following Liabilities of Seller shall constitute, without duplication, the "Assumed Liabilities": all Liabilities arising out of the ownership, possession or operation of the Acquired Assets; provided, that if an Action is brought after the Closing Date, but is related to conduct prior to the Closing Date, such Liability shall not be an Assumed Liability and shall be deemed an Excluded Liability unless Buyer consents in writing to assume such Action (b) all Liabilities under the Assigned Contracts; (c) all Cure Costs; (d) any Accounts Payable (including Trade Payables) owed by Seller to any Person; (e) those specific Liabilities of Seller, if any, set forth on Section 2.4(e) of the Disclosure Schedules; (f) the Assumed Taxes; and (g) the Warranty Claims.

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Key Terms of the Stalking Horse APA[9]	
Excluded Liabilities (Stalking Horse APA § 2.5)	Buyer shall not assume, and shall not be liable for, any of the following Liabilities, whether existing on or prior to the Closing Date or arising thereafter, and whether known or unknown, absolute or contingent, matured or unmatured, direct or indirect (collectively, the "Excluded Liabilities"), all of which shall remain the sole responsibility of Seller: (a) any and all Liabilities arising under, or otherwise relating to, the Pre-Petition Debt Documents; (b) all Liabilities relating to the Excluded Causes of Action other than Liabilities relating to the Warranty Claims; (c) all Liabilities with respect to any Excluded Asset, including Contracts that are not Assigned Contracts; (d) all Liabilities for costs and expenses: (i) incurred or owed in connection with the administration of the Bankruptcy Case (including all Estimated Wind-Down Expenses); and (ii) incurred in connection with the negotiation, execution and consummation of the Transactions. (e) all Liabilities of the Seller arising under or in connection with any employee benefit plan providing compensation or benefits to any current or former employee of such Seller and all Liabilities arising out of, relating to, resulting from or with respect to the employment or engagement (or termination of employment or engagement) of any current or former officers, directors, employees, leased employees, managers, independent contractors, applicants or consultants (or their respective representatives or beneficiaries) of Seller, including, without limitation, any Liability under the WARN Act or associated with any claims for wages or other benefits, bonuses, accrued vacation, workers' compensation, or employee deferred compensation, including equity-based plans, grants and agreements, severance, retention, termination, or other payments, in each case, except as otherwise provided in this Agreement or arising out of or relating to workers' compensation benefits, obligations, or liabilities under any applicable workers' compensation statutes; and (f) all Post-Closing COBRA Liabilities, whenever occurring; (g) all Liabilities relating to any (x) Multiemployer Plan, pre-closing funding obligation, and penalties assessed by a Governmental Authority and (y) Benefit Plan, in the case of (x) and (y), whether arising prior to, at or after, the Closing Date; (h) all pre-Closing Liabilities to the extent such Liabilities are not Assumed Liabilities; and

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Key Terms of the Stalking Horse APA[9]	
	(i) all Liabilities for Taxes other than the Assumed Taxes and Transfer Taxes.
Sale Free and Clear **(Stalking Horse APA § 7.7)**	The Sale Order shall provide that, on the Closing Date and concurrently with the Closing, all then existing or thereafter arising Liabilities and Liens (including all successor liability) of, against or created by Seller or its bankruptcy estate shall, to the fullest extent permitted by sections 363 and 365 of the Bankruptcy Code, be fully released from and with respect to the Acquired Assets. On the Closing Date, the Acquired Assets shall be transferred to Buyer free and clear of any and all Liabilities and Liens (including all successor liability), other than the Assumed Liens and the Assumed Liabilities, to the fullest extent permitted by sections 363 and 365 of the Bankruptcy Code. The Sale Order shall authorize Buyer's exercise of the Credit Bid for any obligations arising under the DIP Term Sheet and that no credit bid right shall be available with respect to the Pre Petition Debt Documents.
Conditions to Closing **(Stalking Horse APA Art. 9 & 10)**	**Conditions Precedent to Obligations of Buyer to Close** The obligations of Buyer to consummate the Transactions are subject to fulfillment, at the Closing, of each of the following conditions, any one or more of which may be waived by Buyer, in its sole and absolute discretion: Accuracy of Representations. The representations and warranties of Seller set forth in (a) ARTICLE 5 of the Stalking Horse APA (other than the representations and warranties set forth in Section 5.1 and Section 5.2 of the Stalking Horse APA) shall be true and correct as of the Closing Date as though such representations and warranties had been made on and as of the Closing (provided that representations and warranties which are confined to a specified date shall speak only as of such date), except for those breaches, if any, of such representations and warranties that in the aggregate have not had and would not reasonably be expected to have a Material Adverse Effect, and (b) Section 5.1 and Section 5.2 of the Stalking Horse APA shall be true and correct in all respects as of the Closing Date with the same effect as though such representations and warranties had been made on and as of the Closing. Seller's Performance. The covenants and agreements that Seller is required to perform or to comply with pursuant to this Agreement at or prior to the Closing shall have been performed and complied with, in all material respects. No Order. No Governmental Authority shall have enacted, issued, promulgated, decreed or entered any final, non-appealable Order, which is in effect and has the effect of restraining or preventing the

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	consummation of or imposing material modifications on the Transactions. Governmental Authorizations; Consents. All material Permits and consents set forth on Section 9.4 of the Disclosure Schedules shall have been made or obtained. Seller's Deliveries. Each of the deliveries required to be made to Seller pursuant to Section 4.3 of the Stalking Horse APA shall have been so delivered. Sale Order. The Bankruptcy Court shall have entered the Sale Order, and the Sale Order shall have not been stayed, reversed, modified or amended and be in effect on the Closing Date. Assigned Contracts. The Bankruptcy Court shall have approved and authorized the assumption and assignment of each Assigned Contract, except as would not have a material effect on the Business from and after the Closing and except for any Contracts that are removed from Section 2.6(a) of the Disclosure Schedules pursuant to the provisions of Section 2.6. Material Adverse Effect. Since the Execution Date, no Material Adverse Effect shall have occurred. Event of Default. No Event of Default shall have occurred under the DIP Order (a) which gives the secured parties thereunder a termination right, (b) as a result of which, the secured parties thereunder shall have accelerated the repayment obligations of Seller, and (c) which has not been waived. Releases and Termination Statements. Seller shall have delivered to Buyer releases and termination statements sufficient for Buyer to receive the Acquired Assets free and clear of any and all material Liens (other than Assumed Liens); provided, however, that releases shall not be required with respect to Liens that are both (a) released by the Sale Order, and (b) not required to be released at Closing pursuant to releases and termination statements in connection with a financing or debt facility obtained by Buyer. Confirmation Order. The Bankruptcy Court shall have entered the Confirmation Order in full force and effect as a Final Order and there shall have been no modification or stay of the Confirmation Order or entry of any other order prohibiting the transactions contemplated by the Plan from being consummated. **Conditions Precedent to the Obligation of Seller to Close** The obligations of Seller to consummate the Transactions are subject to fulfillment, at the Closing, of each of the following conditions, any one or more of which may be waived by Seller, in its sole and absolute discretion: Accuracy of Representations. The representations and warranties of Buyer (a) set forth in ARTICLE 6 of the Stalking Horse APA (other than the representations and warranties set forth in Section 6.1 and Section 6.2 of the Stalking Horse APA) shall be true and correct as of the Closing Date as though such representations and warranties had been made on and as of the Closing (provided that representations and warranties which are confined to a specified date shall speak only as of such date), except for those breaches, if any, of such representations

Key Terms of the Stalking Horse APA[9]	
	and warranties that in the aggregate have not had and would not reasonably be expected to have a Material Adverse Effect, and (b) set forth in Section 6.1 and Section 6.2 of the Stalking Horse APAshall be true and correct in all respects as of the Closing Date with the same effect as though such representations and warranties had been made on and as of the Closing. Sale Order in Effect. The Bankruptcy Court shall have entered the Sale Order. Buyer's Performance. The covenants and agreements that Buyer is required to perform or to comply with pursuant to this Agreement at or prior to the Closing shall have been performed and complied with, in all material respects. No Order. No Governmental Authority shall have enacted, issued, promulgated or entered any final, non-appealable Order, which is in effect and has the effect of preventing the consummation of the Transactions. Buyer's Deliveries. Each of the deliveries required to be made to Buyer pursuant to Section 4.2 of the Stalking Horse APA shall have been so delivered.
Sale to Insider **(L.R. 6004-1(b)(iv)(A))**	DCA is an indirect affiliate of the Debtor. As reflected in the organizational chart attached to the First Day Declaration, the Debtor's parent is Thetford LLC, and Thetford LLC's parent is Yosemite Acquisition Corp. Yosemite Acquisition Corp is also the indirect parent of DCA. DCA is also the DIP Lender. As noted in the First Day Declaration, the Debtor appointed an independent manager and chief restructuring officer in connection with the Chapter 11 Case. Moreover, both the Debtor and DCA have been represented by separate counsel in negotiations resulting in entry into the Stalking Horse APA.
Agreements with Management **(L.R. 6004-1(b)(iv)(B))**	Not applicable.
Releases **(Stalking Horse APA § 12.17)** **(L.R. 6004-1(b)(iv)(C))**	Effective as of the Closing and subject to consummation of the Transactions, and except as otherwise expressly provided herein or in the Sale Order, Seller, on behalf of itself, its bankruptcy estate, successors, assigns and any Person claiming by, through, or on behalf of any of the foregoing (collectively, the "Releasing Seller Parties"), hereby fully, finally, irrevocably, and unconditionally releases, waives, acquits, and forever discharges Buyer and each of its current and former officers, directors, managers, employees, agents, attorneys, accountants, consultants, advisors, representatives, and respective successors and assigns thereof, solely in their capacities as such (collectively, the "Released Buyer Parties"), from any and all Actions, Liabilities, and obligations of any kind, nature or description, whether known or unknown, asserted or unasserted, foreseen or unforeseen, accrued or unaccrued, pending or threatened, contingent or fixed, liquidated or unliquidated, matured or unmatured, suspected or unsuspected, at law or in equity, upon contract tort or under any state

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	or federal law or otherwise, which any Releasing Seller Party has or may have against any Released Buyer Party arising on or prior to the Closing Date and relating to or arising out of (a) the Acquired Assets, (b) the Assumed Liabilities, or (c) the Transactions or the negotiation thereof. The foregoing release shall not apply unless and until the Closing occurs and shall not affect any rights of the Releasing Seller Parties (i) under the Transaction Documents, or (ii) to enforce Buyer's obligations under the Stalking Horse APA.
Private Sale/No Competitive Bidding (L.R. 6004-1(b)(iv)(D))	Not applicable.
Closing and Other Deadlines (Stalking Horse APA §§ 7.4 & 11.1; L.R. 6004-1(b)(iv)(E))	<u>Sale Milestones</u>. From and after the Execution Date and until the Closing Date, subject, in each case, to the terms of the Bidding Procedures Order, Seller agrees: (i) To file a motion in form and substance reasonably acceptable to Buyer seeking approval of the bidding and sale procedures and designating Buyer and this Agreement as the Stalking Horse Purchaser and the Stalking Horse Agreement (the "<u>Bidding Procedures Motion</u>") for the Transactions within three (3) Business Days after the Petition Date. (ii) To obtain a hearing to approve the Bidding Procedures Motion on or before thirty-five (35) calendar days following the Petition Date. (iii) That no later than thirty-five (35) calendar days after the Petition Date, the Bankruptcy Court shall have entered an order with respect to the bidding procedures (the "<u>Bidding Procedures Order</u>"). (iv) That if multiple Qualified Bids are submitted prior to the Bid Deadline (as defined in the Bidding Procedures Order), commence the Auction on or before eighty (80) days after the Petition Date, subject to the Bidding Procedures Order. (v) To obtain a Sale Hearing before the Bankruptcy Court to approve the Transactions to be held on or before ninety (90) days following the Petition Date and the Sale Order shall have been entered no later than ninety (90) days following the Petition Date. (vi) The Closing shall occur no later than 120 days after the Petition Date. <u>Outside Date.</u> The Stalking Horse APA may be terminated by either Seller or Buyer if the Closing shall not have occurred by February 12, 2026 or such later date as chosen by Buyer, in its sole and absolute discretion (the "<u>Outside Date</u>").
Good Faith Deposit (L.R. 6004- 1(b)(iv)(F))	Not applicable.
Interim Arrangements with DCA	Not applicable.

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(L.R. 6004-1(b)(iv)(G))	
Use of Proceeds **(L.R. 6004-1(b)(iv)(H))**	The proceeds of the Sale shall be distributed in accordance with the Plan.
Tax Exemption **(L.R. 6004-1(b)(iv)(I))**	The Sale is contemplated to be implemented through the Plan, and the Debtor therefore anticipates seeking to have the Sale declared exempt from taxes under 11 U.S.C. § 1146(a).
Record Retention **(Stalking Horse APA § 8.4)** **(L.R. 6004-1(b)(iv)(J))**	From and after the Closing Date, each Party shall provide the other Parties (and their respective Representatives) with access, at reasonable times and in a manner so as not to unreasonably interfere with their normal business, to the books, records, systems and any employees of the other Parties so as to enable Buyer and Seller to prepare Tax, financial or court filings or reports, to respond to court orders, subpoenas or inquiries, investigations, audits or other proceedings of Governmental Authorities, and to prosecute and defend legal Actions or for other like purposes, including Claims, objections and resolutions, and with respect to Seller, to wind-up its bankruptcy estate, which shall include the cooperation of the Parties in taking whatever actions are reasonably necessary to effect such winding up. If any party desires to dispose of any such records, such Party shall, thirty (30) days prior to such disposal, provide the other Party with a reasonable opportunity to remove such records to be disposed of at the removing Party's expense.
No Successor Liability **(Stalking Horse APA § 8.7)** **(L.R. 6004-1(b)(iv)(L))**	The Parties intend that upon the Closing, Buyer shall not be deemed to (a) be the successor of or successor employer (within the meaning of such term under any Legal Requirement and applicable rules, regulations or legal principles thereunder) to Seller or any of its Affiliates, including with respect to any current (if applicable) or former employees, contractors or consultants, (b) have, de facto, or otherwise, merged with or into Seller, (c) be a mere continuation or substantial continuation of Seller or the enterprise(s) of Seller, or (d) except in each case as included in the Assumed Liabilities, be liable for any acts or omissions of Seller in the conduct of the Business or arising under or related to the Acquired Assets other than as set forth in this Agreement. Without limiting the generality of the foregoing, and except as otherwise provided in this Agreement or otherwise required by applicable law, the Parties intend that Buyer shall not be liable for any Liens (other than Assumed Liabilities and Assumed Liens) against Seller or any of its predecessors or Affiliates, and Buyer shall have no successor or vicarious liability of any kind or character whether known or unknown as of the Closing Date, whether now existing or hereafter arising, or whether fixed or contingent, with respect to the Business, the Acquired Assets or any Liabilities of Seller arising prior to the Closing Date. The Parties agree that the provisions substantially in the form of this Section 8.7 shall be reflected in the Sale Order.
Sale Free and Clear of Unexpired Leases **(L.R. 6004-1(b)(iv)(M))**	The Debtor is seeking to sell the Assets free and clear of all Encumbrances (other than Assumed Liabilities and Permitted Encumbrances).
Relief from Bankruptcy Rule 6004(h) **(L.R. 6004-1(b)(iv)(O))**	This Motion seeks, and the proposed Bidding Procedures Order includes, relief from the fourteen-day stay imposed by Bankruptcy Rule 6004(h).

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	The Sale Order is also anticipated to include relief from the fourteen-day say imposed by Bankruptcy Rules 3020(e) and 6004(h).

THE BIDDING PROCEDURES ORDER

I. The Bidding Procedures

25. To optimally and expeditiously solicit, receive, and evaluate bids in a fair and accessible manner, the Debtor has developed the proposed Bidding Procedures, attached as Exhibit 1 to the Bidding Procedures Order. The proposed Bidding Procedures are designed to permit a fair, efficient, competitive, and value-maximizing auction process for the Assets, consistent with the timeline of this chapter 11 case.

26. The Bidding Procedures will provide potential bidders with sufficient notice and time to conduct thorough due diligence to submit binding bids in advance of the Bid Deadline. The Debtor and its advisors, prior to the Petition Date, commenced a marketing and sale process to confirm the market value of the Debtor's Assets. In creating the Bidding Procedures, the Debtor seeks to balance its interests in consummating an Alternative Sale Transaction on a timeline consistent with the negotiated milestones set forth in the Stalking Horse APA, and DIP Facility while at the same time preserving the opportunity to attract the highest or otherwise best offer. The Bidding Procedures are designed to encourage all prospective bidders to put their best bid forward, bring finality to the Debtor's restructuring process, and create a path towards consummation of a sale transaction that maximizes value and provides the greatest recoveries to the Debtor's stakeholders.

27. The following describes the salient points of the Bidding Procedures and discloses certain information required by Local Rule 6004-1:[10]

Requirement	**Description**
Stalking Horse Purchaser & Purchase Price	Stalking Horse Purchaser: DCA Purchase Price: $13,000,000
Assets to be Sold	The Debtor intends to sell all or substantially all of its Assets.
Participation Requirements: Prospective Bidders	Each person or entity (other than the Stalking Horse Bidder) that desires to participate in the Auction process (each, a "Prospective Bidder") and seeks access to the Data Room must first deliver to each of the Bid Notice Parties (as defined in Section X.A of the Bidding Procedures) the following: A. An executed confidentiality agreement, in form and substance satisfactory to the Debtor and the Purchaser and containing terms no more favorable to the Prospective Bidder than those contained in any confidentiality agreement executed by the Stalking Horse Bidder (unless such party is already a party to an existing confidentiality agreement with the Debtor that is acceptable to the Debtor and the Purchaser for this due diligence process, in which case such agreement shall govern); and B. Sufficient information, as reasonably determined by the Debtor, to allow the Debtor to determine that the interested party intends to access the Data Room for a purpose consistent with these Bidding Procedures.
Bankruptcy Court Jurisdiction	All Prospective Bidders and Qualified Bidders (including the Stalking Horse Bidder, Successful Bidder, and Backup Bidder) shall be deemed to have (i) consented to the core jurisdiction of the Court to enter any order related to these Bidding Procedures, the Auction or, any other relief granted pursuant to the Bidding Procedures Order or the construction or enforcement of any agreement or any other document relating to any Sale Transaction, (ii) waived any right to a jury trial in connection with any disputes relating to these Bidding Procedures, the Auction or the construction or enforcement of any agreement or any other document relating to any Sale Transaction, and (iii) consented to the entry of a final order or judgment in connection with any disputes relating to these Bidding Procedures, the Auction, the construction or enforcement of any agreement or any other document relating to any Sale Transaction, if it is determined that the Court would lack Article III jurisdiction to enter such a final order or judgment absent the consent of the relevant parties.
Due Diligence	The Debtor shall grant the Stalking Horse Bidder and, upon execution of a valid confidentiality agreement and up to and including the Bid Deadline, any Prospective Bidder, access to the Data Room or additional information allowing such Prospective Bidder to conduct due diligence on the potential acquisition of some or all of the Assets. Neither the Debtor nor any of its representatives shall be obligated to furnish any information of any kind whatsoever relating to the Assets (a) to any person or entity who

[10] The following summary is provided for convenience purposes only. To the extent any of the terms described below are inconsistent with the Bidding Procedures, the Bidding Procedures control in all respects. Capitalized terms used in this summary but not defined herein shall have the meanings given to them in the Bidding Procedures.

	(i) is not a Prospective Bidder, (ii) does not comply with the participation requirements set forth above, or (iii) in the case of competitively sensitive information, is a competitor of the Debtor and (b) if and to the extent doing so would (i) violate any law to which the Debtor is subject, including any privacy law, (ii) result in the disclosure of any trade secrets of third parties in breach of any contract with such third party, (iii) violate any legally-binding obligation of the Debtor with respect to confidentiality, non-disclosure or privacy or (iv) jeopardize protections afforded to the Debtor under the attorney-client privilege or the attorney work product doctrine (*provided* that, in case of each of clauses (i) through (iv), the Debtor shall use commercially reasonable efforts to (x) provide such access as can be provided (or otherwise convey such information regarding the applicable matter as can be conveyed) without violating such privilege, doctrine, contract, obligation or law and (y) provide such information in a manner without violating such privilege, doctrine, contract, obligation or law). Notwithstanding the foregoing, the Debtor reserves the right, in its discretion, to withhold or limit access to any information that the Debtor determines to be sensitive or otherwise not appropriate to disclose to any Prospective Bidder. The Debtor shall provide the Stalking Horse Bidder with any information provided to a Prospective Bidder that has not already been provided to the Stalking Horse Bidder. The Debtor may terminate access to the Data Room and any other non-public information in their reasonable discretion at any time, including if (a) a Prospective Bidder fails to become a Qualified Bidder or (b) these Bidding Procedures are terminated. The Prospective Bidder shall return or destroy any non-public information the Debtor or its advisors provided to the Prospective Bidder in accordance with the terms of the confidentiality agreement executed by the Debtor and the Prospective Bidder. The Debtor will work to accommodate all reasonable requests from the Stalking Horse Bidder and any Prospective Bidders for additional information and due diligence access. Each Prospective Bidder shall be required to acknowledge that it has had an opportunity to conduct any and all due diligence regarding the Assets in conjunction with submitting its Bid (as defined below). All due diligence requests shall be directed to Hilco Corporate Finance, LLC, Attn: Teri Stratton (tstratton@hilcocf.com).
Qualified Bids & Bid Requirements	To qualify as a "Qualified Bid," (the holder of which is a "Qualified Bidder") a Bid must be in writing and determined by the Debtor, after consultation with the Consultation Parties, to satisfy the following requirements: 1. Identification of Bidder. A Qualified Bidder must fully disclose the following: (a) the legal identity of each person or entity bidding for the applicable Assets and/or otherwise sponsoring, financing (including through the issuance of debt in connection with such Bid) or participating in (including through license or similar arrangement with respect to the Assets to be acquired in connection with such Bid) the Auction in connection with such Bid and the complete terms of any such participation and (b) any past or present connections or agreements with the Debtor or its non-Debtor affiliates, the Stalking Horse Bidder, any other known Prospective Bidder or Qualified Bidder, the Prepetition Lenders (as defined in the DIP Motion) or any officer or director of any of the foregoing (including any current or former officer or director of the Debtor or its non-Debtor affiliates). 2. Purchased Assets. A Qualified Bid must identify the following: a. the Assets to be purchased (including any causes of action and Contracts) such Prospective Bidder wishes to bid on;

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	b. the liabilities (including applicable Cure Costs (as defined in the Stalking Horse APA), if any, to be assumed by the Prospective Bidder in the Sale Transaction, including any debt to be assumed; and c. if a Bid is for less than all of the Assets contemplated by the Stalking Horse Bid, then an allocation of the purchase price across the individual Assets. 3. Form of Consideration. a. Credit Bidding. Unless otherwise ordered by the Court, any Prospective Bidder holding a perfected security interest in any of the Assets may seek to credit bid all or a portion of the Prospective Bidder's claims for the collateral in which it holds a perfected security interest (each such Bid, a "Credit Bid") in accordance with section 363(k) of the Bankruptcy Code. A Credit Bid may be applied only with respect to those Assets in which the party submitting such Credit Bid holds a perfected security interest. As set forth in the DIP Order, DCA is permitted to credit bid any outstanding DIP Obligations, Adequate Protection Obligations, or Prepetition Obligations, respectively, in accordance with section 363(k) of the Bankruptcy Code in any sale of Assets and may assign such right to credit bid in whole or in part to any of its affiliates. DCA shall have the unqualified right to credit bid on a dollar-for-dollar basis up to the full amount of the DIP Obligations pursuant to section 363(k) of the Bankruptcy Code. For the avoidance of doubt, DCA, as the Stalking Horse Bidder, will be deemed to be a Qualified Bidder, for all purposes and requirements pursuant to the Bidding Procedures, notwithstanding the requirements that a Prospective Bidder must satisfy to be a Qualified Bidder, and any Bid submitted by any party identified in this paragraph will be deemed to be a Qualified Bid, for all purposes and requirements pursuant to the Bidding Procedures, notwithstanding the requirements that a Bid must satisfy to be a Qualified Bid, including the requirements, among others, that each Bid must be irrevocable and to deliver a confidentiality agreement and post a Good Faith Deposit (as defined below). b. Form of Consideration and Allocation. A Bid must specify whether the Bid is an all cash offer (including confirmation that the cash component is in U.S. Dollars) or consists of certain non-cash components, such as a credit bid, assumption of liabilities, or other forms of consideration (and including a detailed analysis of the value of any non-cash component of the Bid) as well as the allocation of the purchase price among the Assets to be acquired and the liabilities to be assumed.

	4. Minimum Bid for Stalking Horse Assets. Each Bid submitted in connection with Assets that are the subject of the Stalking Horse Bid (any such Assets, the "Stalking Horse Assets") must either (a) (i) be a Bid for all of the Assets that are the subject of the Stalking Horse Bid, (ii) include cash consideration of not less than the sum of the purchase price set forth in the Stalking Horse APA (excluding, for the avoidance of doubt, any "Assumed Liabilities" to be assumed by the Stalking Horse Bidder pursuant to the Stalking Horse APA) plus (A) $275,000 (the "Initial Bid Increment"), plus (B) Excluded Cash (as defined in the Stalking Horse APA), and (iii) assume the Assumed Liabilities (as defined in the Stalking Horse APA) or (b) propose an alternative transaction that, in the Debtor's business judgment, provides higher value or better terms than the Stalking Horse Bid, including by exceeding the purchase price of the Stalking Horse Bid plus any Initial Bid Increment, and after taking into account, among other things, in light of all the Bids submitted for the Assets, whether there is sufficient cash to pay (x) the amounts required to fund the wind-down of the Debtor's estate, and (y) the DIP financing amount (the "DIP Financing Amount"), in each case, as applicable. 5. Proposed Asset Purchase Agreement and Sale Order: A Qualified Bid must constitute a *binding and irrevocable offer* and be in the form of an asset purchase agreement reflecting the terms and conditions of the Bid (each, a "Proposed Asset Purchase Agreement"). A Proposed Asset Purchase Agreement shall (a) be duly authorized and executed, (b) be based on, and marked against the Stalking Horse APA to reflect the proposed Sale Transaction and to show any all modifications to the Stalking Horse APA, (c) specify the proposed purchase price for the Assets, and (d) identify any then- known Contracts proposed for or that may be proposed for assumption and assignment in connection with the proposed Sale Transaction. A Qualified Bid must also contain a sale order based on, and marked against, the sale order (which will be provided by the Debtor to bidders prior to the Bid Deadline) for the assets to reflect the proposed Sale Transaction and to show any other proposed modifications to the sale order. 6. Financial Information. A Qualified Bid must include the following: a. a statement that the Prospective Bidder is financially capable of timely consummating the Sale Transaction contemplated by the Prospective Bidder's Proposed Asset Purchase Agreement; b. sufficient evidence, as reasonably determined by the Debtor (in consultation with the Consultation Parties), to determine that the Prospective Bidder has, or can obtain, the financial wherewithal to timely consummate the Sale Transaction contemplated by the Prospective Bidder's Proposed Asset Purchase Agreement; and c. Adequate Assurance Information (as defined herein) with respect to any Contracts included or that may be included in the Prospective Bidder's Bid. 7. Good Faith Deposit. Each Qualified Bid must be accompanied by a good faith deposit (each, a "Good Faith Deposit") in the form of cash in an amount equal to ten percent (10%) of the proposed purchase price for the Assets (inclusive of

	any amount thereof comprising any Credit Bid consideration); *provided*, that no Good Faith Deposit shall be required for any Qualified Bid from the Stalking Horse Bidder. Good Faith Deposits shall be deposited into a trust account maintained on behalf of the Debtor (and to be designated by the Debtor) and handled in accordance with Section VII.E of the Bidding Procedures. To the extent a Qualified Bidder increases the purchase price before, during, or after the Auction, the Debtor reserves the right to require that such Qualified Bidder adjust its Good Faith Deposit so that it equals ten percent (10%) of the increased purchase price. The Debtor reserves the right to increase or decrease the Good Faith Deposit for one or more Qualified Bidders in its sole discretion except with respect to any Qualified Bid from the Stalking Horse Bidder; provided, the Debtor may not decrease or waive any Good Faith Deposit without consulting with the Consultation Parties. 8. Adequate Assurance. A Qualified Bid must include evidence of the Prospective Bidder's (or any other relevant assignee's) ability to comply with section 365 of the Bankruptcy Code (to the extent applicable), including providing adequate assurance of such Prospective Bidder's (or any other relevant assignee's) ability to perform future obligations arising under any Contracts included in its Bid. The Debtor may require the following information in connection with demonstrating adequate assurance of future performance: information evidencing the Prospective Bidder's (or any other relevant assignee's) financial wherewithal and willingness to perform under any Contracts included in the Bid, which information may include (i) a corporate organizational chart or similar disclosure identifying corporate ownership and control, (ii) financial statements, (iii) tax returns, and (iv) annual reports (the "Adequate Assurance Information"). All Adequate Assurance Information must be in a form that will permit its immediate dissemination to the applicable contract counterparties (the "Counterparties"). 9. Representations and Warranties. A Qualified Bid must include the following representations and warranties: a. a statement that the Prospective Bidder has had an opportunity to conduct any and all due diligence regarding the Debtor's business and the Assets prior to submitting its bid; b. a statement that the Prospective Bidder has relied solely upon its own independent review, investigation and/or inspection of any relevant documents and the Assets in making its bid and did not rely on any written or oral statements, representations, promises, warranties or guaranties whatsoever, whether express or implied, by operation of law or otherwise, regarding the Debtor's business or the Assets or the completeness of any information provided in connection therewith, except as expressly stated in the representations and warranties contained in the Stalking Horse APA; c. a statement that all proof of financial ability to consummate the Sale Transaction in a timely manner and all information provided to support adequate assurance of future performance is true and correct; and

	d. a statement that the Prospective Bidder agrees to be bound by the terms of the Bidding Procedures. 10. Authorization. A Qualified Bid must (a) include evidence of authorization and approval from the Prospective Bidder's board of directors (or comparable governing body) with respect to the submission, execution and delivery of any bid for the Assets, participation in the Auction and closing of the Sale Transaction contemplated by the Prospective Bidder's Proposed Asset Purchase Agreement or (b) if the Prospective Bidder is an entity formed for the purpose of effecting the proposed Sale Transaction, a Qualified Bid must provide written evidence acceptable to the Debtor of authorization and the approval by the equity holder(s) of such Prospective Bidder. 11. Joint Bids. The Debtor will be authorized to approve joint Bids in its discretion, subject to prior consultation with the Consultation Parties, on a case-by-case basis, so long as a joint bid meets the Qualified Bid requirements and the applicable bidders otherwise comply with these Bidding Procedures. Approved joint Bids shall be treated as bids for all purpose. In addition to the other requirements of these Bidding Procedures, a joint Bid shall include a concise description of the nature of such partnership or joint Bid to the extent reasonably practicable. 12. Other Requirements. A Qualified Bid must: a. state that the Prospective Bidder agrees to serve as a backup bidder (a "Backup Bidder") if such bidder's Qualified Bid is selected at the Auction as the next highest or next best bid after the Successful Bid (as defined in Section VII.C.1 of the Bidding Procedures) for the Assets (each such bid, a "Backup Bid"); b. state that the bid, as may be modified before or during the Auction, represents a binding, irrevocable, good-faith and *bona fide* offer to purchase the applicable Assets and is not subject to or conditioned on any due diligence, financing, or other contingency (other than the conditions to closing under the applicable agreement), and is irrevocable until the later of (i) the applicable outside date for consummation of the applicable Sale Transaction or (ii) the Backup Bid Expiration Date (as defined in Section VII.C.2 of the Bidding Procedures); c. expressly state and acknowledge that the Prospective Bidder shall not be entitled to a break-up fee, termination fee, expense reimbursement or other "bidding protection" in connection with the submission of a bid for the Assets or otherwise participating in the Auction or the Sale Transaction process, unless otherwise granted by the Debtor and approved by an order of the Court; d. state that the Prospective Bidder is committed to closing the Sale Transaction contemplated in its Bid as soon as practicable and in any case no later than the deadline to consummate an approved Sale Transaction set forth herein;

	e. expressly waive any claim or right to assert any substantial contribution administrative expense claim under section 503(b) of the Bankruptcy Code or the payment of any broker fees or costs in connection with bidding for any of the Assets and/or otherwise participating in the Auction or the Sale Transaction process; f. include a covenant to cooperate with the Debtor (i) to provide pertinent factual information regarding the Prospective Bidder's operations reasonably required to analyze issues arising with respect to any applicable antitrust laws and any other applicable regulatory requirements and (ii) to obtain Court approval of the Sale Transaction; g. state or otherwise estimate the types of transition services, if any, the Prospective Bidder would require of and/or provide to the Debtor, including an estimate of the time any such transition services would be required of and/or provided to the Debtor, if the Prospective Bidder's Bid were selected as the Successful Bid for the Assets; h. certify that the Prospective Bidder did not collude with any other bidders and is not otherwise a partnership, joint venture or other entity in which more than one bidder (or any affiliates of a bidder) has a direct or indirect interest, unless consented to in writing by the Debtor; i. include a covenant to comply with the terms of these Bidding Procedures and the Bidding Procedures Order; j. include contact information for the specific person(s) the Debtor should contact in the event they have any questions about the Prospective Bidder's bid; and k. provide any other evidence the Debtor may reasonably request to evaluate such party's fitness, interest or motives for participating in the bidding process.
Bid Deadline	Any Prospective Bidder that intends to participate in the Auction must submit in writing to the Bid Notice Parties a bid (a "Bid") on or before January 15, 2026, at 4:00 p.m. (ET), (the "Bid Deadline"). The Debtor may, in its reasonable judgment, subject to prior consultation with the Consultation Parties, extend the Bid Deadline for all or certain Prospective Bidders.
Designation of Prospective Bidders	The Debtor, in consultation with the Consultation Parties, will review each Bid received from a Prospective Bidder to determine whether it meets the requirements set forth above. Based upon their evaluation of the content of each Bid, the Debtor may, as it deems appropriate in its business judgment and in a manner consistent with their fiduciary duties and applicable law, subject to prior consultation with the Consultation Parties, engage in negotiations with any Prospective Bidder for the purposes of (i) curing any deficiencies in a Bid that prevents it from constituting a Qualified Bid, (ii) improving the terms of the Prospective Bidder's Bid, or (iii) otherwise promoting a more competitive bidding and Auction process with the ultimate goal of maximizing the value of the Assets.

	A Bid received from a Prospective Bidder for all or any portion of the Assets that the Debtor determines in its discretion, subject to prior consultation with the Consultation Parties, meets the requirements set forth in Section V and VI of the Bidding Procedures, and is otherwise satisfactory to the Debtor, will be considered a "Qualified Bid" and each Prospective Bidder that submits a Qualified Bid will be considered a "Qualified Bidder." The Debtor shall inform Qualified Bidders that their Bids have been designated as Qualified Bids as reasonably far in advance of the commencement of the Auction as is practicable. For the avoidance of doubt, the Stalking Horse APA will be deemed a Qualified Bid, and the Stalking Horse Bidder will be deemed a Qualified Bidder, for all purposes and requirements pursuant to the Bidding Procedures, notwithstanding the requirements that a Prospective Bidder must satisfy to be a Qualified Bidder. The Debtor shall, within three (3) calendar days following the Bid Deadline, inform the Stalking Horse Bidder and the other Qualified Bidders of the Baseline Bid (as defined in Section VII.B.2 of the Bidding Procedures) received relevant to the Assets under the Stalking Horse APA and shall provide copies of the Baseline Bid at the same time other Qualified Bidders receive such information. In evaluating a Bid, the Debtor may take into consideration any and all factors that the Debtor deems reasonably pertinent, including, without limitation: (i) the amount of the proposed purchase price and proposed form of consideration; (ii) any Assets and liabilities included in, or excluded from, the Bid, including any Contracts marked for assumption and assignment; (iii) the value to be provided to the Debtor under the Bid, including the net economic effect on the Debtor's estate (taking into account any amounts necessary to fund a wind-down of the Debtor's estate); (iv) any benefit to the Debtor's estates from any assumption or waiver of liabilities contemplated by the Bid; (v) any benefit to the Debtor's estates arising from the avoidance of additional costs that may be incurred as a result of the Bid; (vi) the structure of the proposed Sale Transaction and any attendant execution risk, including conditions to, timing of and certainty of closing, termination provisions, financing contingencies, availability of financing and general financial wherewithal to meet all commitments, and any required governmental approvals; (vii) the impact of the proposed Sale Transaction on the Debtor's trade creditors, licensees, customers and any other parties in interest; and (viii) any other factors the Debtor may reasonably deem relevant and consistent with their fiduciary duties. The Debtor will make a determination in its discretion, subject to prior consultation with the Consultation Parties, regarding the Bids that qualify as Qualified Bids and the Baseline Bid and will notify bidders whether they have been selected as Qualified Bidders as reasonably far in advance of the commencement of the Auction as is practicable. A Qualified Bidder shall not (without the consent of the Debtor) modify, amend or withdraw

	its Qualified Bid, unless for the purposes of increasing the purchase price or otherwise improving the terms of the bid, as determined by the Debtor in its business judgment. The Debtor, in its business judgment, subject to prior consultation with the Consultation Parties, reserves the right to reject any Bid (other than the Stalking Horse Bid) if such Bid, among other things, (i) is on terms that are more burdensome or conditional than the terms of the Stalking Horse APA, (ii) requires any indemnification of the Prospective Bidder in its asset purchase agreement, (iii) is not received by the Bid Deadline, (iv) is subject to any contingencies (including representations, warranties, covenants and timing requirements) of any kind or any other conditions precedent to such party's obligation to acquire the relevant Assets, (v) seeks any bidding protections, or (vi) does not, in the Debtor's determination, include a fair and adequate price or the acceptance of which would not be in the best interests of the Debtor's estate.
Authorization to Credit Bid	Unless otherwise ordered by the Court, any Prospective Bidder holding a perfected security interest in any of the Assets may seek to credit bid all or a portion of the Prospective Bidder's claims for the collateral in which it holds a perfected security interest (each such Bid, a "Credit Bid") in accordance with section 363(k) of the Bankruptcy Code. A Credit Bid may be applied only with respect to those Assets in which the party submitting such Credit Bid holds a perfected security interest. As set forth in the DIP Order, DCA is permitted to credit bid any outstanding DIP Obligations, Adequate Protection Obligations, or Prepetition Obligations, respectively, in accordance with 363(k) of the Bankruptcy Code in any sale of Assets and may assign such right to credit bid in whole or in part to any of their affiliates. The Stalking Horse Purchaser shall have the unqualified right to credit bid on a dollar-for-dollar basis up to the full amount of the DIP Obligations and Prepetition Obligations pursuant to section 363(k) of the Bankruptcy Code.
Auction	If the Debtor receives more than one Qualified Bid (including the Stalking Horse Bid) for an Asset or combination of Assets, the Debtor will conduct an Auction for such Assets. If the Debtor receives only one Qualified Bid by the Bid Deadline, the Debtor may, in its business judgment, determine to consummate a Sale Transaction with the Qualified Bidder without conducting an Auction. In the event the Debtor determines not to hold an Auction, the Debtor will file with the Court, serve on the Sale Notice Parties and cause to be published on the Claims Agent Website, a notice containing the following information: (i) a statement that the Auction for the applicable Assets has been canceled, (ii) the identity of the Successful Bidder, (iii) a copy of the Successful Bid or a summary of the material terms of such Successful Bid, including any assumption and assignment of Contracts contemplated thereby, and (iv) the date, time and location of the Sale Hearing. The Auction, if required, will be conducted on **January 20, 2026, at 4:00 p.m. (ET), 2025 at [●] (ET)**, at the offices of Young Conaway Stargatt & Taylor, LLP, 1000 N King St, Wilmington, DE 19801 (or at any other location or electronically as the Debtor may hereafter designate on proper notice), after providing notice to the Sale Notice Parties; *provided*, however, the Debtor shall have the right to hold the Auction remotely, including telephonically or by other electronic means (including, without limitation, video conferencing) as the Debtor may choose in its sole discretion. If held, the Auction proceedings will be transcribed and/or video recorded. Only Qualified Bidders are eligible to participate in the Auction, subject to other limitations as may be reasonably imposed by the Debtor in accordance with these Bidding Procedures. At least one (1) day prior to the Auction, each Qualified Bidder must inform the Debtor in writing whether it intends to participate in the Auction. Qualified Bidders

	participating in the Auction must appear at the Auction, or through a duly authorized representative. Subject to the Auction Procedures set forth in Section VII of the Bidding Procedures, all Qualified Bidders and the Consultation Parties are permitted to attend the Auction; *provided*, that the Debtor may, in its sole discretion, establish a reasonable limit on the number of representatives and/or professional advisors that may appear on behalf of or accompany each Qualified Bidder at the Auction. Any creditor and its advisors wishing to attend the Auction may do so by contacting, no later than one (1) day prior to the start of the Auction, the Debtor's advisors. **Auction Procedures** The Auction shall be governed by the following procedures, subject to the Debtor's right to modify such procedures in their business judgment, subject to and in accordance with these Bidding Procedures and the applicable parties' rights under the Stalking Horse APA: 1. Auction Packages. Prior to the commencement of the Auction, the Debtor will make a determination regarding the Assets for which the Debtor will conduct an Auction (each such Asset or group of Assets, an "Auction Package"). For the avoidance of doubt, the Debtor may, in its business judgment determine to (i) include an individual Asset in more than one Auction Package and (ii) have an Auction Package for all or substantially all of the Debtor's Assets. 2. Baseline Bids. Prior to the commencement of the Auction, the Debtor will determine, in its business judgment, after consultation with the Consultation Parties, the highest and/or best Qualified Bid submitted for each Auction Package by the Bid Deadline (each such Qualified Bid, a "Baseline Bid"). Bidding for each Auction Package at the Auction shall commence at the amount of the Baseline Bid. The Debtor shall, prior to the commencement of the Auction, inform the Stalking Horse Bidder and the other Qualified Bidders of the Baseline Bid received relevant to the applicable Assets under the Stalking Horse APA and shall provide copies of the Baseline Bid at the same time other Qualified Bidders receive such information. 3. Minimum Overbid. Bidding at the Auction for an Auction Package (or subset thereof) that is subject to Qualified Bids will begin with the Baseline Bid and continue, in one or more rounds of bidding, so long as during each round at least one subsequent bid (a "Subsequent Bid") is submitted by a Qualified Bidder that (i) improves on such Qualified Bidder's immediately prior Qualified Bid and (ii) the Debtor determines, after consultation with the Consultation Parties, that such Subsequent Bid is (A) for the first round, a higher or otherwise better offer than the Baseline Bid, and (B) for subsequent rounds, a higher or otherwise better offer than the Leading Bid (as defined below). The Debtor will announce at the outset of the Auction the minimum required increments for successive Bids (each, such Bid, a "Minimum Overbid"). The Debtor may, in its discretion, after consultation with the Consultation Parties, announce increases or reductions to Minimum Overbids at any time during the Auction. Upon a Qualified Bidder's declaration of a Bid at the Auction, the Qualified Bidder must state on the record its commitment to pay within two (2) business days following the Auction, if such Bid were to be selected as the Successful Bid or as the Backup Bid for the applicable Auction Package, the incremental amount of the Qualified Bidder's Good Faith Deposit calculated based on the increased purchase price of such bid (such Good Faith Deposit so increased, the "Incremental Deposit Amount"). Except as specifically set forth herein, for the

	purpose of evaluating the value of the consideration provided by any Bid subsequent to a Baseline Bid, the Debtor will, at each round of bidding, consider and/or give effect to (a) any additional liabilities to be assumed by a Qualified Bidder under the Bid, including whether such liabilities are secured or unsecured, (b) any additional costs that may be imposed on the Debtor, (c) the provision of any amounts necessary to fund a wind-down of the Debtor's estates, and (d) treatment of the DIP Financing Amount. 4. Leading Bid. After the first round of bidding and between each subsequent round of bidding, the Debtor after consultation with the Consultation Parties will announce the bid that they believe to be the highest or otherwise best offer for the applicable Auction Package (each such bid, a "Leading Bid") and describe the material terms thereof. Each round of bidding will conclude after each participating Qualified Bidder has had the opportunity to submit a Subsequent Bid with full knowledge of the material terms of the Leading Bid, subject to the Debtor's authority to revise the Auction procedures to the extent permitted hereby. The Auction will be conducted by open bidding in the presence of all other Qualified Bidders and each Qualified Bidder shall have the right to be present for all rounds of open bidding and to submit additional bids and make modifications to its Proposed Asset Purchase Agreement at the Auction to improve its bid. The Debtor may, in its business judgment, after consultation with the Consultation Parties, engage in discussions and negotiate with any and all Qualified Bidders participating in the Auction outside the presence of other bidders before each round of bidding, including to improve or clarify the terms of bids made. The Debtor shall have the right to determine, in its business judgment, following consultation with the Consultation Parties, which bid is the highest or otherwise best bid with respect to the Auction Package (including, without limitation, with respect to an Auction Package that includes all or substantially all of the Debtor's Assets) and, in accordance with the terms of these Bidding Procedures, reject, at any time, without liability, any bid that the Debtor, following consultation with the Consultation Parties, deems to be inadequate or insufficient, not in conformity with the requirements of the Bankruptcy Code, the Bankruptcy Rules, the Local Rules, these Bidding Procedures, any order of the Court, or the best interests of the Debtor and its estate, including, without limitation, the provision of any amounts necessary to fund a wind-down of the Debtor's estate and treatment of the DIP Financing Amount. **Auction Results** **1.** Successful Bids. Immediately prior to the conclusion of the Auction for an Auction Package the Debtor, in consultation with the Consultation Parties, will (a) determine, consistent with these Bidding Procedures, which Qualified Bid constitutes the highest or otherwise best bid (or bids) for the Auction Package (each such bid, a "Successful Bid") and (b) notify all Qualified Bidders at the Auction of the identity of the bidder that submitted the Successful Bid for the Auction Package (each such bidder, a "Successful Bidder") and the amount of the purchase price and other material terms of the Successful Bid. As a condition to remaining the Successful Bidder, the Successful Bidder shall, within two (2) business days after the conclusion of the Auction, (i) if applicable, wire to the Debtor in immediately available funds the Incremental Deposit Amount, calculated based on the purchase price in the Successful Bid (or bids) and (ii) submit to the Debtor fully executed documentation memorializing the terms of the Successful Bid(s).

2. Backup Bid. Immediately prior to the conclusion of the Auction for an Auction Package, the Debtor will in consultation with the Consultation Parties, (a) determine, in a manner consistent with these Bidding Procedures, which Qualified Bid is the Backup Bid for the Auction Package and (b) notify all Qualified Bidders at the Auction for the Auction Package of the identity of the Backup Bidder for the Auction Package and the amount of the purchase price and other material terms of the Backup Bid. Within two (2) business days after the Auction, the Backup Bidder shall submit to the Debtor execution versions of the documentation memorializing the terms of the Backup Bid(s).

A Backup Bid will remain binding on a Backup Bidder until the earlier of (a) the first business day after the closing of a Sale Transaction with the Successful Bidder for the applicable Auction Package and (b) 60 days after the Sale Hearing (or such other date as may be set forth in the Stalking Horse APA, the "Backup Bid Expiration Date"). If the Sale Transaction with the Successful Bidder is terminated prior to the Backup Bid Expiration Date, the Backup Bidder shall be deemed the new Successful Bidder for the Auction Package and shall be obligated to consummate the Backup Bid as if it were the Successful Bid at the Auction; *provided*, that the Debtor may, in its business judgment and after providing notice to the Sale Notice Parties, elect not to pursue the Sale Transaction contemplated by the Backup Bid.

3. Notice of Auction Results. Within one day after the conclusion of the Auction, or as soon as is reasonably practicable thereafter, the Debtor will file with the Court, serve on the Sale Notice Parties and cause to be published on the Claims Agent Website, a notice setting forth the results of the Auction (the "Notice of Auction Results"), which will (a) identify each Successful Bidder and each Backup Bidder, (b) include a copy of each Successful Bid and each Backup Bid or a summary of the material terms of such bids, including any proposed assumption and assignment of Contracts contemplated thereby, and (c) set forth the Post-Auction Objection Deadline (as defined in Section X.D below), the date, time and location of the Sale Hearing and any other relevant dates or other information necessary to reasonably apprise the Sale Notice Parties of the outcome of the Auction.

4. The Debtor's submission to the Bankruptcy Court for approval of a selected Qualified Bid as a Successful Bid does not constitute the Debtor's acceptance of such Bid. The Debtor will have accepted a Successful Bid only when such Successful Bid has been approved by the Bankruptcy Court at the Sale Hearing.

Additional Auction Procedures

The Debtor, after consultation with the Consultation Parties, may announce at the Auction additional procedural rules (e.g., among other things, the amount of time to make Subsequent Bids, the amount of the Minimum Overbid, or the requirement that parties submit "best and final" Bids) for conducting the Auction or otherwise modify these Bidding Procedures; *provided*, that such rules (i) are not materially inconsistent with the Bidding Procedures Order, the DIP Orders, these Bidding Procedures, the Bankruptcy Code or any order of the Bankruptcy Court and (ii) are disclosed to each Qualified Bidder during the Auction. For the avoidance of doubt, any bid for any Assets included in any Auction Package shall be subject to a determination by the Debtor, in its business judgment after consultation with the Consultation Parties, and in accordance with the other provisions of these Bidding Procedures, that (i) a bid for substantially all of the Debtor's

	Assets or (ii) a combination of bids that groups the Assets together differently is the highest or otherwise best offer for such Assets.
Sale Hearing	Each Successful Bid (including any Backup Bid that is subsequently deemed a Successful Bid) will be subject to approval by the Bankruptcy Court. The hearing to approve any Sale Transaction consummated in accordance with these Bidding Procedures (except in the case of a Sale Transaction contemplated by a Backup Bid that subsequently is deemed a Successful Bid) shall take place on **January 27, 2026, at [ ] _.m. (ET)** (the "Sale Hearing") before the Honorable [●], United States Bankruptcy Judge, in the United States Bankruptcy Court for the District of Delaware. At the Sale Hearing, the Debtor will seek entry of one or more orders (each, a "Sale Order") approving, among other things, one or more sales of the Assets to the Successful Bidder. Without prejudice to the rights of the Stalking Horse Bidder under the Stalking Horse APA, the Debtor may, in its business judgment (after consulting with the Successful Bidder(s)), adjourn or reschedule the Sale Hearing with sufficient notice to the Sale Notice Parties, including by announcing such adjournment or rescheduling at the Auction or in Court on the date of the originally scheduled Sale Hearing, *provided* that such later date is consistent with the Milestones, or the Debtor obtained the necessary consents under the DIP Order. At the Sale Hearing, the Debtor will seek entry of an order that, among other things: (i) authorizes and approves the Sale Transaction(s) to the Successful Bidder(s) and/or the Backup Bidder(s), (ii) includes a finding that the Successful Bidder is a good faith purchaser pursuant to section 363(m) of the Bankruptcy Code, and (iii) as appropriate, exempts the Sale Transaction(s) and conveyance of the applicable Assets from any transfer tax, stamp tax or similar tax, or deposit under any applicable bulk sales statute to the extent permissible under applicable law.
Backup Bidder	Immediately prior to the conclusion of the Auction for an Auction Package, the Debtor after consultation with the Consultation Parties will (a) determine, in a manner consistent with these Bidding Procedures, which Qualified Bid is the Backup Bid for the Auction Package and (b) notify all Qualified Bidders at the Auction for the Auction Package of the identity of the Backup Bidder for the Auction Package and the amount of the purchase price and other material terms of the Backup Bid. Within two (2) business days after the Auction, the Backup Bidder shall submit to the Debtor execution versions of the documentation memorializing the terms of the Backup Bid(s). A Backup Bid will remain binding on a Backup Bidder until the earlier of (a) the first business day after the closing of a Sale Transaction with the Successful Bidder for the applicable Auction Package and (b) the Backup Bid Expiration Date. If the Sale Transaction with the Successful Bidder is terminated prior to the Backup Bid Expiration Date, the Backup Bidder shall be deemed the new Successful Bidder for the Auction Package and shall be obligated to consummate the Backup Bid as if it were the Successful Bid at the Auction; *provided*, that the Debtor may, in its business judgment and after providing notice to the Sale Notice Parties, elect not to pursue the Sale Transaction contemplated by the Backup Bid.
Return of Deposit	With the exception of the Good Faith Deposits of a Successful Bidder and a Backup Bidder, and any forfeiture of a Good Faith Deposit as described above, any other Qualified Bidder's Good Faith Deposit shall be returned within five (5) business days after the conclusion of the Auction for the applicable Auction Package. Backup Bidder. Any Backup Bidder's Good Faith Deposit shall be returned within five (5) business days after the occurrence of the Backup Bid Expiration Date.

	Successful Bidder. At the closing of a Sale Transaction, the Successful Bidder shall be entitled to a credit against the purchase price for the applicable Assets in the amount of the Successful Bidder's Good Faith Deposit. The Good Faith Deposit of a Successful Bidder shall be forfeited if the Successful Bidder fails to consummate the applicable Sale Transaction because of a breach that entitles the Debtor to terminate the applicable asset purchase agreement with such Successful Bidder, and the Debtor and its estate shall be entitled to retain the Successful Bidder's Good Faith Deposit as partial compensation for the damages caused to the Debtor and its estate as a result of such breach. In the event that a Successful Bidder's Good Faith Deposit is deemed forfeited, such Good Faith Deposit shall be released by wire transfer of immediately available funds to an account designated by the Debtor within two (2) business days after receipt of written notice by an authorized officer of the Debtor stating that the applicable Successful Bidder has breached or otherwise failed to satisfy its obligations in accordance with these Bidding Procedures and the applicable Successful Bid.
Notice and Consultation Parties	**Bid Notice Parties** Qualified Bids must be submitted in writing to the following parties (collectively, the "Bid Notice Parties"): • the Debtor, c/o Norcold LLC, 7101 Jackson Road, Ann Arbor, MI 48103, Attn: Richard Wu, Chief Restructuring Officer; • counsel for the Debtor, (a) Young Conaway Stargatt & Taylor, LLP, Rodney Square, 1000 North King Street, Wilmington, DE 19801, Attn: Sean M. Beach (sbeach@ycst.com) and Matthew B. Lunn (mlunn@ycst.com); • the Debtor's investment banker, Hilco Corporate Finance, LLC, Attn: Teri Stratton (tstratton@hilcocf.com); and • counsel for any official committee appointed in this chapter 11 case. **Sale Notice Parties** The "Sale Notice Parties" shall include the following persons and entities: • counsel for the Stalking Horse Bidder, Ropes & Gray 191 N. Wacker, 32nd Floor, Chicago, IL 60606, Attn: Chris Dickerson (chris.dickerson@ropesgray.com) and Conor McNamara (conor.mcnamara@ropesgray.com); • all persons and entities known by the Debtor to have asserted any lien, claim, interest or encumbrance in the Assets (for whom identifying information and addresses are available to the Debtor), including, for the avoidance of doubt, the Secured Parties[11];

[11] As Defined in the *Debtor's Motion for Entry of Interim and Final Orders (I) Authorizing the Debtor to (A) Obtain Postpetition Financing and (B) Utilize Cash Collateral, (II) Granting Senior Secured Priming Liens and Superpriority Administrative Expense Claims, (III) Granting Adequate Protection to the Prepetition Senior Secured Parties, (IV) Modifying the Automatic Stay, (V) Scheduling a Final Hearing, and (VI) Granting Related Relief* [Docket No. 10].

	• all relevant non-debtor parties (each, a "Counterparty") to any Contract that may be assumed or rejected in connection with a Sale Transaction; • all of the Debtor's known creditors (for whom identifying information and addresses are available to the Debtor); • all persons and entities known by the Debtor to have expressed an interest to the Debtor in a Sale Transaction involving any of the Assets during the past 12 months, including any person or entity that has submitted a Bid or any of the Assets; • any governmental authority known to have a claim against the Debtor in this chapter 11 case; • the Federal Trade Commission; • the Office of the United States Trustee for the District of Delaware; • all applicable federal, state and local taxing authorities, including the Internal Revenue Service; • the United States Securities and Exchange Commission; • the United States Attorney's Office for the District of Delaware; • the Office of the Attorney General and the Secretary of State in each state in which the Debtor operates; • counsel for any official committee appointed in this chapter 11 case; • all of the parties entitled to notice pursuant to Bankruptcy Rule 2002; and • all other parties as directed by the Court. **Consultation By the Debtor** Throughout the Sale Transaction process, the Debtor and its advisors will consult with the following parties (collectively, the "Consultation Parties"), as provided in these Bidding Procedures, or as is otherwise necessary or appropriate, as determined in the Debtor's business judgment: (i) the legal and financial advisors for any official committee appointed in this chapter 11 case and (ii) solely to the extent they are not an active or prospective bidder with respect to the relevant Assets, or are participating in any way in any active or prospective bid with respect to such relevant Assets, the legal advisors for the DCA. Notwithstanding the foregoing, the Debtor will not consult with or provide copies of any Bids or other confidential information to any Consultation Party or any insider or affiliate of the Debtor if such party is an active or prospective bidder for the Assets at the applicable time. If, however, a member of an official committee appointed in this chapter 11 case submits a Qualified Bid for any of the Assets, the applicable committee will maintain its consultation rights as a Consultation Party, *provided*, that such committee excludes the bidding committee member from any discussions or deliberations regarding a transaction involving the Assets, and shall not provide any confidential information regarding the Assets or otherwise involving the Sale Transaction process to the bidding

	committee member. For the avoidance of doubt, any consultation rights afforded to the Consultation Parties by these Bidding Procedures or the Bidding Procedures Order shall not in any way limit the Debtor's discretion and shall not include the right to veto any decision made by the Debtor in the exercise of its business judgment.
Reservation of Rights	Without prejudice to the rights of the Stalking Horse Bidder under the Stalking Horse APA, the Debtor reserves the right to, in its business judgment, in a manner consistent with their fiduciary duties and applicable law, modify the Bidding Procedures, including to, among other things, (a) extend or waive deadlines or other terms and conditions set forth herein, (b) adopt new rules and procedures for conducting the bidding and Auction process, or otherwise modify the Bidding Procedures to further promote competitive bidding for and maximizing the value of the Assets (c) provide reasonable accommodations to the Stalking Horse Bidder, or (d) otherwise modify the Bidding Procedures to further promote competitive bidding for and maximizing the value of the Assets; *provided*, that such extensions, waivers, new rules and procedures, accommodations and modifications (i) do not conflict with and are not inconsistent with the Bidding Procedures Order, the Bidding Procedures, the Bankruptcy Code or any order of the Bankruptcy Court, (ii) do not frustrate or otherwise impair the Stalking Horse's ability to close the Sale Transaction, (iii) are promptly communicated to each Qualified Bidder, and (iv) do not extend the Bid Deadline, the date of the Auction, the closing of the Auction or any other Sale Milestones (as defined in the Stalking Horse APA), in consultation with DCA.
Consultation Parties	Throughout the Sale Transaction process, the Debtor and their advisors will consult with the following parties (collectively, the "Consultation Parties"), as provided in these Bidding Procedures, or as is otherwise necessary or appropriate, as determined in the Debtor's business judgment: (i) the legal and financial advisors for any official committee appointed in this chapter 11 case and (ii) solely to the extent they are not an active or prospective bidder with respect to the relevant Assets, or are participating in any way in any active or prospective bid with respect to such relevant Assets, the legal advisors for the Prepetition Lenders. Notwithstanding the foregoing, the Debtor will not consult with or provide copies of any Bids or other confidential information to any Consultation Party or any insider or affiliate of the Debtor if such party is an active or prospective bidder for the Assets at the applicable time. If, however, a member of an official committee appointed in this chapter 11 case submits a Qualified Bid for any of the Assets, the applicable committee will maintain its consultation rights as a Consultation Party, *provided*, that such committee excludes the bidding committee member from any discussions or deliberations regarding a transaction involving the Assets, and shall not provide any confidential information regarding the Assets or otherwise involving the Sale Transaction process to the bidding committee member. For the avoidance of doubt, any consultation rights afforded to the Consultation Parties by these Bidding Procedures or the Bidding Procedures Order shall not in any way limit the Debtor's discretion and shall not include the right to veto any decision made by the Debtor in the exercise of its business judgment

28. Importantly, the Bidding Procedures recognize and comply with the Debtor's fiduciary obligations to maximize sale value, and, as such, do not impair the Debtor's ability to

consider all qualified bid proposals and preserve the Debtor's right to modify the Bidding Procedures as necessary or appropriate to maximize value for the Debtor's estate.

II. Form and Manner of Sale Notice

29. Within three (3) business days after entry of the Bidding Procedures Order, or as soon as reasonably practicable thereafter, the Debtor will cause the Sale Notice, substantially in the form attached as Exhibit 2 to the Bidding Procedures Order, to be served on the following parties or their respective counsel, if known: (i) the Sale Notice Parties (as defined in the Bidding Procedures); (ii) counsel to the Stalking Horse Bidder; (iii) all known parties to Contracts (and their counsel, if known); (iv) all parties who have expressed a written interest in some or all of the Debtor's assets; (v) all known holders of liens, encumbrances, and other claims secured by the Debtor's assets; (vi) the Internal Revenue Service; (vii) the Securities and Exchange Commission; (viii) all applicable state and local taxing authorities; (ix) each governmental agency that is an interested party with respect to the Sale Transaction; and (x) all parties that have requested or that are required to receive notice pursuant to Bankruptcy Rule 2002.

30. In addition, within three (3) business days after entry of the Bidding Procedures Order, or as soon as reasonably practicable thereafter, the Debtor will provide notice of the Sale Hearing through the publication of the Sale Notice on the website of the Debtor's proposed noticing and claims agent to be retained in the chapter 11 case, Stretto, Inc. Within three (3) business days after entry of the Bidding Procedures Order, or as soon as reasonably practicable thereafter, the Debtor will publish the Sale Notice, with any modifications necessary for ease of publication, in a national publication to provide notice to any other potential interested parties.

31. The Debtor respectfully submits that the Sale Notice is reasonably calculated to provide interested parties with notice of the Sale and the Sale Hearing and an opportunity to respond accordingly.

III. Summary of the Assumption and Assignment Procedures

32. The Debtor intends to file and serve a Notice of Assumption and Assignment Procedures to facilitate the fair and orderly assumption and assignment of the contracts in connection with the Sale (the "Assigned Contracts"). Because the Bidding Procedures Order and the Assumption and Assignment Notice set forth the Assumption and Assignment Procedures in detail, they are not restated herein. Generally, however, the Assumption and Assignment Procedures: (i) outline the process by which the Debtor will serve notice to all Counterparties regarding the proposed assumption and assignment and related cure costs, if any, informing such parties of their right and the procedures to object thereto and (ii) establish objection and other relevant deadlines and the manner for resolving disputes relating to the assumption and assignment of the Contracts to the extent necessary.

BASIS FOR RELIEF

I. The Relief Sought in the Bidding Procedures Order Is in the Best Interests of the Debtor's Estate and Should Be Approved.

33. Courts are clear that a debtor's business judgment is entitled to substantial deference with respect to the procedures to be used in selling an estate's assets. *See*, *e.g.*, *Culp v. Stanziale* (*In re Culp*), 550 B.R. 683, 697 (D. Del. 2015) ("In determining whether to authorize use, sale or lease of property of the estate under Section 363, courts require the [Debtor] to show that a sound business purpose justifies such actions. If the [Debtor's] decision evidences a sound business purpose, then the Bankruptcy Court should approve the sale.") (quoting *In re Montgomery Ward Holding Corp.*, 242 B.R. 147, 153 (D. Del. 1999)); *Fulton State Bank v. Schipper*, 933 F.2d 513, 515 (7th Cir. 1991) ("Under Section 363, the debtor in possession can sell property of the estate . . . if he has an `articulated business justification' (internal citations omitted)); *Myers v. Martin*, 91 F.3d 389, 395 (3d Cir. 1996) (quoting *Fulton State Bank v. Schipper*); *see also Off.*

Comm. of Subordinated Bondholders v. Integrated Res. Inc. (*In re Integrated Res., Inc.*), 147 B.R. 650, 656–57 (S.D.N.Y. 1992) (noting that bidding procedures that have been negotiated by a trustee are to be reviewed according to the deferential "business judgment" standard, under which such procedures and arrangements are "presumptively valid").

34. The paramount goal in any proposed sale of property of the estate is to maximize the proceeds received by the estate. *See In re Adams Res. Expl. Corp.*, No. 17-10866 (KG), 2017 WL 5484017, at *3 (Bankr. D. Del. Sept. 20, 2017) ("The relief requested in the Sale Motion . . . is a necessary and appropriate step toward enabling the Debtor to maximize the value of its bankruptcy estate, and it is in the best interests of the Debtor, its estate and its creditors."); *In re Mushroom Transp. Co.*, 382 F.3d 325, 339 (3d Cir. 2004) (debtor-in-possession "had a fiduciary duty to protect and maximize the estate's assets"); *In re Edwards,* 228 B.R. 552, 561 (Bankr. E.D. Pa. 1998) ("The purpose of procedural bidding orders is to facilitate an open and fair public sale designed to maximize value for the estate."); *Four B. Corp. v. Food Barn Stores, Inc.*, 107 F.3d 558, 564–65 (8th Cir. 1997) (in bankruptcy sales, "a primary objective of the [Bankruptcy] Code [is] to enhance the value of the estate at hand"); *Off. Comm. of Subordinated Bondholders v. Integrated Res. Inc.*, 147 B.R. at 659 ("It is a well-established principle of bankruptcy law that the objective of bankruptcy rules and the Debtor's duty with respect to such sales is to obtain the highest price or greatest overall benefit possible for the estate.").

35. To that end, courts uniformly recognize that procedures intended to enhance competitive bidding are consistent with the goal of maximizing the value received by the estate and therefore are appropriate in the context of bankruptcy transactions. *See*, *e.g.*, *In re Dura Auto. Sys.*, No. 06-11202 (KJC), 2007 WL 7728109, at *90 (Bankr. D. Del. Aug. 15, 2007) (bidding procedures "enhanc[ing] competitive bidding are consistent with the goal of maximizing the value

received by the estate and therefore are appropriate in the context of bankruptcy sales"); *Off Comm. of Subordinated Bondholders v. Integrated Res. Inc.*, 147 B.R. at 659 (bidding procedures "are important tools to encourage bidding and to maximize the value of the debtor's assets"); *In re Fin. News Network, Inc.*, 126 B.R. 152, 156 (Bankr. S.D.N.Y. 1991) ("[C]ourt imposed rules for the disposition of assets . . . [should] provide an adequate basis for comparison of offers, and [should] provide for a fair and efficient resolution of bankrupt estates").

36. The Debtor believes that the proposed Bidding Procedures provide for a comprehensive process that will promote active bidding from seriously interested parties and will elicit the highest or otherwise best offers available for the Assets. The proposed Bidding Procedures will allow the Debtor to conduct the sale and marketing process in a controlled, fair, and open fashion that will encourage participation by one or more financially capable bidders who will offer the best package for the Assets and who can demonstrate the ability to close a transaction at a value in excess of the Stalking Horse Bid. Specifically, the Bidding Procedures contemplate an open auction process with minimum barriers to entry and provide potential bidding parties with sufficient time to perform due diligence and acquire the information necessary to submit a timely and well-informed bid.

37. The Bidding Procedures provide the Debtor with a robust opportunity to consider competing bids and select the highest or otherwise best offer for the completion of the Sale Transaction. At the same time, entering into the Stalking Horse APA with the Stalking Horse Bidder ensures that the Debtor obtains fair market value by setting a minimum purchase price for the Assets. As such, creditors of the Debtor's estate can be assured that the consideration obtained whether through the Stalking Horse Bid or such other Successful Bid following an Auction will be fair and reasonable and at or above market.

38. The Debtor submits that the proposed Bidding Procedures will encourage competitive bidding, are appropriate under the relevant standards governing auction proceedings and bidding incentives in bankruptcy proceedings, and are consistent with other procedures previously approved by this Court.

A. The Form and Manner of Service of the Sale Hearing Notice Should Be Approved.

39. Pursuant to Bankruptcy Rule 2002(a), the Debtor is required to provide creditors with twenty-one days' notice of the Sale Hearings. Pursuant to Bankruptcy Rule 2002(c), such notice must include the time and place of the Auction and the Sale Hearing and the deadline for filing any objections to the relief requested herein.

40. As noted above, within three (3) business days of entry of the Bidding Procedures Order, or as soon as reasonably practicable thereafter, the Debtor will serve the Sale Notice upon the following parties or their respective counsel, if known: (i) the Sale Notice Parties (as defined in the Bidding Procedures); (ii) counsel to the Stalking Horse Bidder; (iii) all known parties to Contracts; (iv) all parties who have expressed a written interest in some or all of the Assets; (v) all known holders of liens, encumbrances, and other claims secured by the Debtor's assets; (vi) the Internal Revenue Service; (vii) the Securities and Exchange Commission; (viii) all applicable state and local taxing authorities; (ix) each governmental agency that is an interested party with respect to an Sale Transaction; and (x) all parties that have requested or that are required to receive notice pursuant to Bankruptcy Rule 2002.

41. In addition, within three (3) business days after entry of the Bidding Procedures Order, or as soon as reasonably practicable thereafter, the Debtor will provide notice of the Sale Hearing through the publication of the Sale Notice on the website of the Debtor's proposed noticing and claims agent to be retained in the chapter 11 case, Stretto, Inc., at

https://cases.stretto.com/Norcold. The Debtor submits that notice of this Motion and the related hearing to consider entry of the Bidding Procedures Order, coupled with service of the Sale Notice, and the Assumption and Assignment Notice as provided for herein, constitutes good and adequate notice of the Sale and the proceedings with respect thereto in compliance with, and satisfaction of, the applicable requirements of Bankruptcy Rule 2002. Accordingly, the Debtor requests that the Court approve the form and manner of the Sale Notice.

B. The Assumption and Assignment Procedures Are Appropriate and Should Be Approved.

42. The Sale Transaction contemplates the assumption and assignment of Contracts to the Stalking Horse Bidder (or Successful Bidder arising from the Auction, if any). In connection with this process, the Debtor believes it is necessary to establish the Assumption and Assignment Procedures by which: (i) the Debtor and Counterparties can reconcile cure obligations, if any, in accordance with section 365 of the Bankruptcy Code; and (ii) such Counterparties can object to the assumption and assignment of contracts and/or related cure costs.

43. As set forth in the Bidding Procedures Order, the Debtor also requests that any party that fails to object to the proposed assumption and assignment of any contract be deemed to consent to the assumption and assignment of the applicable contract pursuant to section 365 of the Bankruptcy Code on the terms set forth in the Sale Order, along with the cure costs identified in the contract notice. *See*, *e.g.*, *In re Boy Scouts of Am. & Del. BSA, LLC*, 642 BR 504, 569 (Bankr. D. Del. 2022) ("The lack of objection of a [creditor] is also consensual for purposes of § 363 and, again, permissible under § 363(f)(2)."); *Hargrave v. Twp. of Pemberton* (*In re Tabone, Inc.*), 175 B.R. 855, 858 (Bankr. D.N.J. 1994) (same); *Pelican Homestead v. Wooten* (*In re Gabel*), 61 B.R. 661, 667 (Bankr. W.D. La. 1985) (same).

C. The Alternative Sale Process Should Be Approved as an Exercise of Sound Business Judgment.

44. Section 363(b)(1) of the Bankruptcy Code provides that a debtor, "after notice and a hearing, may use, sell or lease, other than in the ordinary course of business, property of the estate." 11 U.S.C. § 363(b)(1). A sale of the debtor's assets should be authorized pursuant to section 363 of the Bankruptcy Code if a sound business purpose exists for the proposed transaction. *See*, *e.g.*, *Fulton State Bank v. Schipper*, 933 F.2d at 515 ("Under Section 363, the debtor in possession can sell property of the estate . . . if he has an `articulated business justification' . . .."); *see also Myers v. Martin*, 91 F.3d 389, 395 (3d. Cir. 1996) (same); *Comm. of Equity Sec. Holders v. Lionel Corp.* (*In re Lionel Corp.*), 722 F.2d 1063, 1070 (2d Cir. 1983) (same); *In re Telesphere Commc'ns, Inc.*, 179 B.R. 544, 552 (Bankr. N.D. Ill. 1999) (same).

45. Once the Debtor articulate a valid business justification, the business judgment rule "is a presumption that in making a business decision the directors of a corporation acted on an informed basis, in good faith, and in the honest belief that the action taken was in the best interests of the company." *In re S.N.A. Nut Co.*, 186 B.R. 98, 102 (Bankr. N.D. In 1995) (citations omitted); *In re Filene's Basement, LLC*, 11-13511 (KJC), 2014 WL 1713416, at *12 (Bankr. D. Del. Apr. 29, 2014) ("If a valid business justification exists, then a strong presumption follows that the agreement at issue was negotiated in good faith and is in the best interests of the estate") (citations omitted); *Comm. of Asbestos-Related Litigants v. Johns-Manville Corp.* (*In re Johns-Manville Corp.*), 60 B.R. 612, 615–16 (Bankr. S.D.N.Y. 1986) ("a presumption of reasonableness attaches to a debtor's management decisions.").

(i) A Sound Business Purpose Exists for the Alternative Sale Process.

46. As set forth above, the Debtor has a sound business justification for selling the Assets. *First,* the Debtor believes the Alternative Sale Process will maximize the Assets' going-

concern value by allowing a party to bid on business assets that would have substantially less value on a stand-alone basis. Moreover, because the Stalking Horse APA contemplates the assumption of certain contracts and other obligations of the Debtor's estate, it will result in payment in full for a number of the Debtor's creditors.

47. *Second,* the Plan Sale pursuant to the Stalking Horse APA is subject to competing bids, enhancing the Debtor's ability to receive the highest or otherwise best value for such assets. Consequently, the ultimately successful bid, after being subject to a "market check" in the form of the Auction, will constitute, in the Debtor's reasonable business judgment, the highest or otherwise best offer for the Assets and will provide a greater recovery for their estates than any known or practicably available alternatives. *See, e.g.*, *In re Trans World Airlines, Inc.*, No. 01-00056 (PJW), 2001 WL 1820326, at *4 (Bankr. D. Del. 2001) (while a "section 363(b) sale transaction does not require an auction procedure," "the auction procedure has developed over the years as an effective means for producing an arm's length fair value transaction.").

48. As such, the Debtor's determination to sell the assets through the Alternative Sale Process and an Auction process and subsequently to enter into the Successful Bidder's purchase agreement will be a valid and sound exercise of the Debtor's business judgment. If the Debtor seeks to consummate an Alternative Sale Transaction, the Debtor will submit evidence at the Sale Hearing to support these conclusions. Therefore, if the Debtor seeks to consummate an Alternative Sale Transaction, the Debtor requests that the Court make a finding at the Sale Hearing that the Sale to the Stalking Horse Bidder (or another Successful Bidder) is a proper exercise of the Debtor's business judgment and is rightly authorized.

(ii) Adequate and Reasonable Notice of the Sale Will Be Provided.

49. The Sale Notice: (i) will be served in a manner that provides parties in interest notice of the date, time, and location of the Sale Hearing; (ii) informs parties in interest of the

deadlines for objecting to the Sale or the assumption and assignment of contracts; and (iii) otherwise includes all information relevant to parties interested in or affected by the Sale. Significantly, the form and manner of the Sale Notice will have been approved by this Court pursuant to the Bidding Procedures Order after notice and a hearing before it is served on parties in interest.

(iii) The Alternative Sale Transaction and Purchase Price Reflects a Fair Value Transaction.

50. It is well-settled that, where there is a court-approved auction process, a full and fair price is presumed to have been obtained for the assets sold, as the best way to determine value is exposure to the market. *See Bank of Am. Nat'l Trust & Sav. Ass'n. v. 203 N. LaSalle St. P'ship*, 526 U.S. 434, 457 (1999); *see also In re Trans World Airlines, Inc.*, No. 01-00056 (PJW), 2001 WL 1820326, *4 (Bankr. D. Del. 2001) (while a "section 363(b) sale transaction does not require an auction procedure [] the auction procedure has developed over the years as an effective means for producing an arm's length fair value transaction.").

51. Moreover, as described herein, as the Debtor moves forward with the Alternative Sale Transaction, the Debtor will continue to market the Assets and solicit other offers consistent with the Bidding Procedures, including, for example, by contacting interested parties as well as previously solicited parties, provide acceptable bidders with data room access and requested information, considering a variety of alternative transaction structures, and otherwise assisting the Debtor with all efforts to increase transaction value. In this way, the number of bidders that are eligible to participate in a competitive Auction process will be maximized, or, if no Auction is held because no Auction is necessary, the Stalking Horse APA's purchase price will, conclusively, be fair value.

(iv) The Alternative Sale Transaction Has Been Proposed in Good Faith and Without Collusion, and the Stalking Horse Bidder or Successful Bidder Are "Good-Faith Purchasers."

52. The Debtor requests that the Court find the Stalking Horse Bidder and/or other Successful Bidder arising from the Alternative Sale Process and Auction, if any, are entitled to the benefits and protections provided by section 363(m) of the Bankruptcy Code in connection with the sale of the Assets.

53. Section 363(m) of the Bankruptcy Code provides in pertinent part:

> [t]he reversal or modification on appeal of an authorization under subsection (b) or (c) of this section of a sale or lease or property does not affect the validity of a sale or lease under such authorization to an entity that purchased or leased such property in good faith, whether or not such entity knew of the pendency of the appeal, unless such authorization and such sale or lease were stayed pending appeal.

11 U.S.C. § 363(m).

54. Section 363(m) of the Bankruptcy Code thus protects the purchaser of assets sold pursuant to section 363 of the Bankruptcy Code from the risk that it will lose its interest in the purchased assets if the order allowing the sale is reversed on appeal, as long as such purchaser leased or purchased the assets in "good faith." While the Bankruptcy Code does not define "good faith," courts have held that a purchaser shows its good faith through the integrity of its conduct during the course of the sale proceedings, finding that where there is a lack of such integrity, a good-faith finding may not be made. *See, e.g.*, *In re Abbotts Dairies of Pa., Inc.*, 788 F.2d 143, 144 (3d Cir. 1986) ("Typically, the misconduct that would destroy a [buyer's] good faith status at a judicial sale involves fraud, collusion between the [proposed buyer] and other bidders or the trustee, or an attempt to take grossly unfair advantage of other bidders."); *In re Andy Frain Servs., Inc.*, 798 F.2d 1113, 1125 (7th Cir. 1986) (same); *In re Sasson Jeans, Inc.*, 90 B.R. 608, 610 (S.D.N.Y. 1988) (same).

55. The Debtor submits that the Stalking Horse Bidder, or any other Successful Bidder arising from the Auction, is or would be a "good faith purchaser" within the meaning of section 363(m) of the Bankruptcy Code, and the Stalking Horse APA, or any marked version thereof, are or would be a good-faith agreement on arms'-length terms entitled to the protections of section 363(m) of the Bankruptcy Code.[12] *First*, as set forth in more detail above, the consideration to be received by the Debtor pursuant to the Stalking Horse APA is substantial, fair, and reasonable. *Second*, the parties entered into the Stalking Horse APA in good faith and after extensive, arm's-length negotiations, during which all parties were represented by competent counsel, and any sale agreement with a Successful Bidder will be the culmination of a competitive Auction process in which all parties will presumably be represented by counsel and all negotiations will be conducted on an arm's-length, good-faith basis. *Third*, there is no indication of any "fraud, collusion between the purchaser and other bidders or the trustee, or an attempt to take grossly unfair advantage of other bidders" or similar conduct that would cause or permit the Alternative Sale Transaction or Stalking Horse APA to be avoided under section 363(n) of the Bankruptcy Code. And, with respect to potential bidders, the Bidding Procedures are designed to ensure that no party is able to exert undue influence over the process. Finally, the Stalking Horse Bidder's offer was evaluated and approved by the Debtor's Independent Manager in consultation with the Debtor's advisors, and any other bids that the Debtor ultimately determine to be a successful bid

[12] The Debtor believes that a finding of good faith within the meaning of section 363(m) of the Bankruptcy Code will be appropriate for any Successful Bidder arising from the Auction. Pursuant to the Bidding Procedures, any Successful Bidder will have had to present a proposal in accordance with the Bidding Procedures, which includes a declaration that the bid was submitted in good faith and absent collusion. In addition, the Debtor will not choose as the Successful Bidder or Backup Bidder (as defined in the Bidding Procedures) any entity whose good faith under section 363(m) of the Bankruptcy Code can reasonably be doubted, and will be prepared to present the Court with sufficient evidence to allow the Court to find that the "good faith" standard of section 363(m) of the Bankruptcy Code has been satisfied.

will have been evaluated in a similar fashion. Accordingly, the Debtor believes that the Stalking Horse Bidder should be entitled to the full protections of section 363(m) of the Bankruptcy Code.

(v) The Alternative Sale Transaction Should Be Approved "Free and Clear" Under Section 363(f).

56. Section 363(f) of the Bankruptcy Code permits a debtor to sell property free and clear of another party's interest in the property if: (i) applicable nonbankruptcy law permits such a free and clear sale; (ii) the holder of the interest consents; (iii) the interest is a lien and the sale price of the property exceeds the value of all liens on the property; (iv) the interest is the subject of a bona fide dispute; or (v) the holder of the interest could be compelled in a legal or equitable proceeding to accept a monetary satisfaction of its interest. *See* 11 U.S.C. § 363(f).

57. Section 363(f) of the Bankruptcy Code is drafted in the disjunctive. Thus, satisfaction of any of the requirements enumerated therein will suffice to warrant the Debtor's sale of the assets free and clear of all interests (*i.e.*, all liens, claims, rights, interests, pledges, obligations, restrictions, limitations, charges, or encumbrances), except with respect to any interests that may constitute an assumed liability under the purchase agreement. *See In re Kellstrom Indus., Inc.*, 282 B.R. 787, 793 (Bankr. D. Del. 2002) ("[I]f any of the five conditions are met, the debtor has the authority to conduct the sale free and clear of all liens.").

58. The Debtor submits that any interest that will not be an assumed liability satisfies or will satisfy at least one of the five conditions of section 363(f) of the Bankruptcy Code, and that any such interest will be adequately protected by either being paid in full at the time of closing, or by having it attach to the net proceeds of the Alternative Sale Transaction, subject to any claims and defenses the Debtor may possess with respect thereto. The Debtor accordingly requests authority to convey the assets to the Stalking Horse Bidder or other Successful Bidder arising from the Auction, if any, free and clear of all liens, claims, rights, interests, pledges, obligations,

restrictions, limitations, charges, or encumbrances, with any such liens, claims, rights, interests, pledges, obligations, restrictions, limitations, charges, or encumbrances to attach to the proceeds of the Alternative Sale Transaction.

(vi) Credit Bidding Should Be Authorized Under Section 363(k) of the Bankruptcy Code.

59. A secured creditor is allowed to "credit bid" the amount of its claim in a sale. Section 363(k) of the Bankruptcy Code provides, in relevant part, that unless the court for cause orders otherwise, the holder of a claim secured by property that is the subject of the sale "may bid at such sale, and, if the holder of such claim purchases such property, such holder may offset such claim against the purchase price of such property." 11 U.S.C. § 363(k). Even if a secured creditor is undersecured as determined in accordance with section 506(a) of the Bankruptcy Code, section 363(k) of the Bankruptcy Code allows such secured creditor to bid the total face value of its claim and does not limit the credit bid to the claim's economic value. *See In re Submicron Sys. Corp.*, 432 F.3d 448, 459-60 (3d Cir. 2006) (explaining that "[i]t is well settled among district court and bankruptcy courts that creditors can bid the full face value of their secured claims under section 363(k)").

60. In this district, absent cause for restricting credit bidding, courts have consistently ruled in favor of reserving a secured creditor's right to credit bid its claim. *See*, *e.g.*, *In re PGX Holdings, Inc.*, No. 23-10718 (CTG) (Bankr. D. Del. Aug. 4, 2023) [D.I. 331]; *In re Performance Powersports Grp. Holdings, Inc.*, No. 23-10047 (LSS) (Bankr. D. Del. Feb. 27, 2023) [D.I. 169]; *In re PES Holdings, LLC*, No. 19-11626 (KG) (Bankr. D. Del. Nov. 14, 2019) [D.I. 583] (order approving bid procedures which authorized parties with secured claims to credit bid); *In re Z Gallerie, Inc.*, No. 19-10488 (LSS) (Bankr. D. Del. Apr. 11, 2019) [D.I. 206] (same).

61. Here, the Stalking Horse APA contemplates consideration in the form of a credit bid of the outstanding obligations under the Debtor's DIP facility. Accordingly, the credit bid contemplated by the Stalking Horse APA should be authorized.

D. The Assumption and Assignment of Contracts Pursuant to the Sale Transaction Is Appropriate and Should Be Approved.

(i) The Assumption and Assignment of Contracts Reflects the Debtor's Reasonable Business Judgment.

62. To facilitate and effectuate the sale of the Assets, the Debtor is seeking authority to assign executory contracts and unexpired leases to the Stalking Horse Bidder or other Successful Bidder arising from the Auction, if any, to the extent required by such bidders.

63. Section 365 of the Bankruptcy Code authorizes a debtor to assume and/or assign their executory contracts and unexpired leases, subject to approval of the court, ***provided*** that defaults under such contracts and leases are cured and adequate assurance of future performance is provided. The Debtor's decision to assume or reject an executory contract or unexpired lease must only satisfy the "business judgment rule" and will not be subject to review unless such decision is clearly an unreasonable exercise of such judgment. *See*, *e.g.*, *Grp. of Inst'l Invrs. v. Chicago, M., St. P. & P.R. Co.*, 318 U.S. 523 (1943) (applying Bankr. Act section 77(b), predecessor to Bankruptcy Code section 365, and rejecting test of whether executory contract was burdensome in favor of whether rejection is within debtor's business judgment); *Sharon Steel Corp. v. Nat'l Fuel Gas Distrib. Corp.*, 872 F.2d 36, 43 (3d Cir. 1989) (describing deference to a debtor's business judgment as "breathing space afforded [to] the debtor to consider whether to reject or assume executory contracts under the [Bankruptcy] Code"); *Off. Comm. of Unsecured Creditors v. Aust* (*In re Network Access Sols., Corp.*), 330 B.R. 67, 75 (Bankr. D. Del. 2005) ("The standard for approving the assumption of an executory contract is the business judgment rule").

64. Here, the Court should approve the decision to assume and assign the Assigned Contracts in connection with the Sale Transaction as a sound exercise of the Debtor's business judgment. *First,* the Assigned Contracts are necessary to operate the Assets and, as such, they are essential to inducing the best offer for the Assets. *Second,* it is unlikely that any purchaser would want to acquire the Assets unless a significant number of the contracts and leases needed to manage the day-to-day operations were included in the transaction. *Third,* the Stalking Horse APA provides that the assumption and assignment of the Assigned Contracts is integral to, and inextricably integrated in, the Sale Transaction. *Fourth,* the Assigned Contracts will be assumed and assigned though the process approved by the Court pursuant to the Bidding Procedures Order and, thus, will be reviewed by key constituents in these Chapter 11 Cases.

65. Accordingly, the Debtor submits that the assumption and assignment of the Assigned Contracts by way of the Assumption and Assignment Procedures should be approved as an exercise of its business judgment.

(ii) Defaults Under the Assigned Contracts Will Be Cured Through the Sale Transaction.

66. Upon finding that a debtor has exercised its business judgment in determining that assuming an executory contract is in the best interests of its estate, courts must then evaluate whether the assumption meets the requirements of section 365(b) of the Bankruptcy Code, specifically that a debtor (i) cure, or provide adequate assurance of promptly curing, prepetition defaults in the executory contract, (ii) compensate parties for pecuniary losses arising therefrom, and (iii) provide adequate assurance of future performance thereunder. This requirement "attempts to strike a balance between two sometimes competing interests, the right of the contracting non-debtor to get the performance it bargained for and the right of the debtor's creditors to get the benefit of the debtor's bargain." *In re Luce Indus., Inc.*, 8 B.R. 100, 107 (Bankr. S.D.N.Y. 1980).

67. The Debtor submits that the statutory requirements of section 365(b)(1)(A) of the Bankruptcy Code will be promptly satisfied because the Stalking Horse APA requires that the Stalking Horse Bidder cures all defaults associated with, or that are required to properly assume, the Assigned Contracts (up to an agreed upon cap). Because the Assumption and Assignment Procedures provide a clear process by which to resolve disputes over cure costs or other defaults, the Debtor is confident that if defaults exist that must be cured, such cure will be achieved fairly, efficiently, and properly, consistent with the Bankruptcy Code and with due respect to the rights of non-debtor contract counter-parties.

(iii) Non-Debtor Parties Will Be Adequately Assured of Future Performance.

68. Similarly, the Debtor submits that the third requirement of section 365(b) of the Bankruptcy Code—adequate assurance of future performance—is also satisfied given the facts and circumstances present here. "The phrase 'adequate assurance of future performance' was adopted from Uniform Commercial Code section 2-609" and is to be given a practical, pragmatic construction based upon the facts and circumstances of each case. *See In re U.L. Radio Corp.*, 19 B.R. 537, 542 (Bankr. S.D.N.Y. 1982). Although no single solution will satisfy every case, "the degree of assurance necessary falls considerably short of an absolute guaranty." *In re Decora Indus., Inc.*, No. 00-4459 (JJF), 2002 WL 32332749, at *8 (D. Del. May 20, 2002) (citing *In re Prime Motor Inn, Inc.*, 166 B.R. 993, 997 (Bankr. S.D. Fla. 1994)). Among other things, adequate assurance may be given by demonstrating the assignee's financial health and experience in managing the type of enterprise or property assigned. *See In re Dura Auto. Sys.*, No. 06-11202 (KJC), 2007 WL 7728109, at *97 (adequate assurance of future performance present where a prospective assignee has financial resources and has expressed a willingness to devote sufficient

funding to a business to give it a strong likelihood of succeeding); *In re Bygaph, Inc.*, 56 B.R. 596, 605–06 (Bankr. S.D.N.Y. 1986) (same).

69. The Debtor believes that it can and will demonstrate that the requirements for assumption and assignment of the Assigned Contracts to the Stalking Horse Bidder (or other Successful Bidder arising from the Auction, if any) will be satisfied. As required by the Bidding Procedures, the Debtor will evaluate the financial wherewithal of potential bidders (in addition to the proposed Adequate Assurance Information) before designating such party as a Qualified Bidder (*e.g.*, financial credibility, willingness, and ability of the interested party to perform under the Assigned Contracts) and will demonstrate such financial wherewithal, willingness, and ability to perform under the Assigned Contracts assigned to the Stalking Horse Bidder or any Successful Bidder arising from the Auction. Further, the Assumption and Assignment Procedures provide the Court and other interested parties ample opportunity to evaluate and, if necessary, challenge the ability of the Stalking Horse Bidder or any Successful Bidder arising from the Auction to provide adequate assurance of future performance and object to the assumption of the Assigned Contracts or proposed cure costs. The Court therefore should have a sufficient basis to authorize the Debtor to reject or assume and assign the Assigned Contracts as set forth in the Stalking Horse APA.

WAIVER OF BANKRUPTCY RULES 6004(h) AND 6006(d)

70. Bankruptcy Rule 6004(h) provides that an "order authorizing the use, sale, or lease of property . . . is stayed until the expiration of fourteen days after the entry of the order, unless the court orders otherwise." Additionally, Bankruptcy Rule 6006(d) provides that an "order authorizing the trustee to assign an executory contract or unexpired lease . . . is stayed until the expiration of fourteen days after the entry of the order, unless the court orders otherwise." The

Debtor requests that the sale order be effective immediately upon its entry by providing that the fourteen-day stays under Bankruptcy Rules 6004(h) and 6006(d) are waived.

71. The purpose of Bankruptcy Rules 6004(h) and 6006(d) is to provide sufficient time for an objecting party to appeal before an order can be implemented. *See* Advisory Committee Notes to Fed. R. Bankr. P. 6004(h) and 6006(d). Although Bankruptcy Rules 6004(h) and 6006(d) and the Advisory Committee Notes are silent as to when a court should "order otherwise" and eliminate or reduce the fourteen-day stay period, the leading treatise on bankruptcy suggests that the fourteen-day stay should be eliminated to allow a sale or other transaction to close immediately "where there has been no objection to procedure." 10 COLLIER ON BANKRUPTCY ¶ 6004.11 (16th ed. 2023). Furthermore, if an objection is filed and overruled, and the objecting party informs the court of its intent to appeal, the stay may be reduced to the amount of time actually necessary to file such appeal. *Id*.

72. To maximize the value received for the assets, the Debtor seeks to close the Alternative Sale Transaction as soon as possible after the Sale Hearing. Accordingly, the Debtor hereby requests that the Court waive the fourteen-day stay period under Bankruptcy Rules 6004(h) and 6006(d).

NOTICE

73. The Debtor will provide notice of this motion to the following parties: (i) the Office of the United States Trustee for the District of Delaware; (ii) the holders of the twenty (20) largest unsecured claims against the Debtor; (iii) counsel to the administrative agent under the Debtor's prepetition credit facility; (iv) the United States Attorney's Office for the District of Delaware; (v) the Internal Revenue Service; (vi) the Securities and Exchange Commission; (vii) counsel to the DIP Lender; (viii) the state attorneys general for states in which the Debtor conducts business; (ix) regulatory agencies having a regulatory or statutory interest in the chapter 11 case; and (x) any

party that has requested notice pursuant to Bankruptcy Rule 2002. The Debtor submits that, in light of the nature of the relief requested, no other or further notice need be given.

74. A copy of this Motion is available on (i) the Court's website, at https://www.deb.uscourts.gov, and (ii) the website maintained by the Debtor's proposed claims and noticing agent, Stretto, Inc., at https://cases.stretto.com/Norcold.

[*Remainder of page intentionally left blank*]

WHEREFORE, the Debtor requests that the Court (i) enter the Bidding Procedures Order, substantially in the form attached hereto, (ii) after the Sale Hearing has taken place, the Sale Order, and (iii) grant such other relief as the Court deems appropriate under the circumstances.

Dated: November 3, 2025
Wilmington, Delaware

YOUNG CONAWAY STARGATT & TAYLOR, LLP

<u>/s/ Jared W. Kochenash</u>
Sean M. Beach (No. 4070)
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Proposed Counsel for the Debtor and Debtor in Possession

Exhibit A

Bidding Procedures Order

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:	Chapter 11
NORCOLD LLC,[1]	Case No. 25-11933 (TMH)
Debtor.	**Ref. Docket No. __**

ORDER (I) APPROVING BIDDING PROCEDURES FOR THE SALE OF SUBSTANTIALLY ALL OF THE DEBTOR'S ASSETS, (II) AUTHORIZING THE DEBTOR'S ENTRY INTO THE STALKING HORSE APA, (III) SCHEDULING AN AUCTION AND A SALE HEARING AND APPROVING THE FORM AND MANNER OF NOTICE THEREOF, (IV) APPROVING ASSUMPTION AND ASSIGNMENT PROCEDURES AND (V) GRANTING RELATED RELIEF

Upon consideration of the motion (the "Motion")[2] of the debtor and debtor in possession in the above-captioned case (the "Debtor") for the entry of an order (this "Order"), (i) authorizing and approving the proposed bidding procedures attached hereto as **Exhibit 1** (the "Bidding Procedures") for the sale of substantially all of the Debtor's Assets; (ii) authorizing the Debtor to enter into the Stalking Horse APA for the Purchased Assets (as such term is defined in the Stalking Horse APA), attached hereto as **Exhibit 4**; (iii) scheduling an Auction and, if the Debtor seeks to consummate an Alternative Sale Transaction, a Sale Hearing and approving the form and manner of notice of the Auction, the Alternative Sale Transaction, and the Sale Hearing, substantially in the form attached hereto as **Exhibit 2**; (iv) approving procedures for assuming and assigning the Debtor's executory contracts and unexpired leases in connection with the Sale Transaction (the

[1] The Debtor in this chapter 11 case, along with the last four digits of the Debtor's federal tax identification number, is: Norcold LLC (6081). For purposes of this chapter 11 case, the Debtor's service address is 7101 Jackson Road, Ann Arbor, MI 48103.

[2] Capitalized terms used herein and not otherwise defined shall have the meaning ascribed to them in the Motion or Bidding Procedures, as applicable.

"Assumption and Assignment Procedures"), including the Assumption and Assignment Notice, substantially in the form attached hereto as **Exhibit 3**; and (v) granting related relief; all as more fully set forth in the Motion; and this Court having considered the Motion, the First Day Declaration; and this Court having jurisdiction over this matter pursuant to 28 U.S.C. § 1334; and this Court having found that this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2); and this Court having found that it may enter a final order consistent with Article III of the United States Constitution; and this Court having found that venue of this proceeding and the Motion in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and this Court having found that the relief requested in the Motion is in the best interests of the Debtor's estate, its creditors, and other parties in interest; and this Court having found that the Debtor's notice of the Motion and opportunity for a hearing on the Motion were appropriate under the circumstances and no other notice need be provided; and this Court having reviewed the Motion and having heard the statements in support of the relief requested therein at a hearing, if any, before this Court; and this Court having determined that the legal and factual bases set forth in the Motion and on the record at the hearing establish just cause for the relief granted herein; and upon all of the proceedings had before this Court; and after due deliberation and sufficient cause appearing therefor,

THIS COURT FINDS THAT:

A. The findings of fact and conclusions of law herein constitute this Court's findings of fact and conclusions of law for the purposes of Bankruptcy Rule 7052, made applicable pursuant to Bankruptcy Rule 9014. To the extent any findings of facts are conclusions of law, they are adopted as such. To the extent any conclusions of law are findings of fact, they are adopted as such.

B. As reflected in the certificate of service filed on [●] [Docket No. [●]], the Motion and the notice of the Bidding Procedures Hearing was filed and served on the Court's electronic filing system as set forth in the Motion. The notice of the Motion and of the Bidding Procedures Hearing is reasonable and sufficient in light of the circumstances and nature of the relief requested in the Motion, and no other or further notice of the Motion or the Bidding Procedures Hearing is necessary. A reasonable and fair opportunity to object to the Motion and the relief granted in this Order has been afforded to those parties entitled to notice pursuant to Bankruptcy Rule 2002 and all other interested parties under the circumstances.

C. This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334 and the Amended Standing Order.

D. Venue in this Court is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

E. The statutory bases for the relief requested in the Motion and provided for herein are sections 105(a), 363, and 365 of the Bankruptcy Code, Bankruptcy Rules 2002, 6004, 6006, 9007, 9008, and 9014 and Local Rules 2002-1 and 6004-1.

F. The Debtor has articulated good and sufficient reasons for this Court to: (i) approve the Bidding Procedures attached hereto as **<u>Exhibit 1</u>**; (ii) approve the Debtor's entry into the Stalking Horse Purchase APA; (iii) schedule the Auction and Sale Hearing (to consider granting the other relief requested in the Motion); (iv) approve the forms and manner of notice of the Auction, Alternative Sale Transaction, and Sale Hearing; and (v) approve the procedures for the assumption and assignment of the Contracts, including notice of proposed Cure Costs. The best interests of the Debtor, its estate, creditors, and other parties in interest will be served by such approval and authorization.

G. The Bidding Procedures and the Stalking Horse APA were negotiated at arm's length and in good faith by the Debtor and the Stalking Horse Bidder. The Bidding Procedures are fair, appropriate, and reasonably designed to promote active bidding at and participation in the Auction to ensure that the highest or otherwise best value is generated for the Assets. The Debtor and its advisors engaged in a robust and extensive marketing and sale process prior to the commencement of this chapter 11 case. The Bidding Procedures are designed to continue that robust and extensive marketing and sale process following entry of this Order in order to solicit the highest or otherwise best value for the Assets. The Bidding Procedures represent the best method for maximizing the realizable value of the Assets for the benefit of the Debtor's estate.

H. The Stalking Horse Bid represents the highest and best offer the Debtor has received to date to purchase the Purchased Assets. The Stalking Horse APA provides the Debtor the opportunity to sell the Purchased Assets in a manner designed to preserve and maximize their value and provide a floor for a further marketing and auction process, to the benefit of the Debtor's estate, its creditors, and all other parties in interest. The Stalking Horse Bidder has provided a material benefit to the Debtor and its creditors by increasing the likelihood that the best possible purchase price for the Purchased Assets will be realized.

I. The Stalking Horse Bidder and its counsel and advisors have acted in "good faith" within the meaning of Section 363(m) of the Bankruptcy Code in connection with the Stalking Horse Bidder's negotiation of the Bidding Procedures and entry into the Stalking Horse Purchase Agreement.

J. The Sale Notice, substantially in the form attached hereto as **Exhibit 2**, is reasonably calculated to provide interested parties with timely and proper notice of the proposed Sale, including, without limitation: (i) the date, time, and place of the Auction (if one is held); (ii) the Bidding Procedures; (iii) the deadline for filing objections to the Sale Transaction and entry of the Sale Order, and the date, time, and place of the Sale Hearing; (iv) reasonably specific identification of the Assets to be sold; (v) instructions for obtaining copies of the Stalking Horse Purchase Agreement; and (vi) a description of the Sale Transaction as being free and clear of liens, claims, encumbrances, and other interests (except as set forth in the Stalking Horse Purchase Agreement or another Successful Bidder's purchase agreement, if any), with all such liens, claims, encumbrances, and other interests attaching with the same validity and priority to the Sale proceeds. No other or further notice of the Sale shall be required.

K. The Assumption and Assignment Notice, substantially in the form attached hereto as **Exhibit 3**, is appropriate and reasonably calculated to provide all interested parties with timely and proper notice of the assumption and assignment of the Assigned Contracts to the Stalking Horse Bidder pursuant to the Stalking Horse Purchase Agreement (or to another Successful Bidder arising from the Auction, if any), including with respect to Cure Costs. No other or further notice of the Assumption and Assignment of the Assigned Contracts shall be required.

L. The Assumption and Assignment Procedures set forth herein are fair, reasonable, appropriate, and comply with the provisions of section 365 of the Bankruptcy Code and Bankruptcy Rule 6006.

M. The Motion and this Order are reasonable and appropriate, and the Bidding Procedures comply with the requirements set forth by Local Rule 6004-(1)(c).

N. The legal and factual bases set forth in the Motion establish just cause for the relief granted herein. Entry of this Order is in the best interests of the Debtor and its estates, creditors, interest holders, and all other parties in interest.

IT IS HEREBY ORDERED THAT:

1. The Motion is GRANTED as provided herein.

2. All objections to the relief requested in the Motion that have not been withdrawn with prejudice, waived, or settled are overruled and denied on the merits with prejudice.

I. The Bidding Procedures

3. The Bidding Procedures attached hereto as **Exhibit 1** are hereby approved, are incorporated herein by reference, and shall govern the bids and proceedings related to the sale of the Assets and the Auction. The procedures and requirements set forth in the Bidding Procedures, including those associated with submitting a "Qualified Bid," are fair, reasonable and appropriate, and are designed to maximize recoveries for the benefit of the Debtor's estate, creditors, and other parties in interests. The Debtor is authorized to take all actions necessary or appropriate to implement the Bidding Procedures.

4. The failure to specifically include or reference any particular provision of the Bidding Procedures in the Motion or this Order shall not diminish or otherwise impair the effectiveness of such procedures, it being the Court's intent that the Bidding Procedures are approved in their entirety, as if fully set forth in this Order.

5. Subject to this Order and the Bidding Procedures, the Debtor, in the exercise of its reasonable business judgment and in a manner consistent with their fiduciary duties and applicable law, subject to prior consultation with the Consultation Parties, shall have the right to (i) determine which bidders qualify as Qualified Bidders and which bids qualify as Qualified Bids; (ii) make final determinations as to Auction Packages; (iii) select the Baseline Bid for each Auction Package; (iv) determine the amount of each Minimum Overbid; (v) determine the Leading Bid for each Auction Package; (vi) determine which Qualified Bid is the Successful Bid and which Qualified Bid is the Backup Bid after the Successful Bid for an Auction Package; (vii) reject any bid that is

(a) inadequate or insufficient, (b) not in conformity with the requirements of this Order or any other applicable order of the Court, the Bidding Procedures, the Bankruptcy Code or other applicable law, and/or (c) contrary to the best interests of the Debtor and its estates; (viii) cancel the Auction in accordance with the Bidding Procedures; and (ix) adjourn or reschedule the Sale Hearing with respect to an Alternative Sale Transaction in accordance with the Bidding Procedures.

6. The Stalking Horse Bidder is a Qualified Bidder and the bid reflected in the Stalking Horse Bid (including as it may be increased at the Auction (if any)) is a Qualified Bid, as set forth in the Bidding Procedures. The Stalking Horse Bidder is, and will be deemed to be, a Qualified Bidder for all purposes under the Bidding Procedures, without regard to any of the requirements or conditions set forth herein and without any further action by the Stalking Horse Bidder.

7. Without prejudice to the rights of the Stalking Horse Bidder under the Stalking Horse APA, the Debtor shall have the right to, in its reasonable business judgment, and in a manner consistent with their fiduciary duties and applicable law, modify the Bidding Procedures, including to, among other things, (i) extend or waive deadlines or other terms and conditions set forth therein, (ii) adopt new rules and procedures for conducting the bidding and Auction process, (iii) if applicable, provide reasonable accommodations to a Qualified Bidder, or (iv) otherwise modify the Bidding Procedures to further promote competitive bidding for and maximizing the value of the Assets.

II. The Stalking Horse Bid

8. Dave Carter & Associates, Inc. ("DCA"), together with each of its permitted successors, assigns and designees, is approved as the Stalking Horse Bidder for the Purchased Assets pursuant to the terms of the Stalking Horse APA.

9. The Debtor's entry into the Stalking Horse APA is authorized and approved, subject to higher or better Qualified Bids, in accordance with the terms of this Order and the Bidding Procedures.

10. The Debtor is authorized to perform any obligations under the Stalking Horse APA that are required to be performed prior to the entry of the Sale Order.

III. Bid Deadline and Auction

11. Any Prospective Bidder (as defined in the Bidding Procedures) that intends to participate in the Auction must submit in writing to the Bid Notice Parties (as defined in Section X.A of the Bidding Procedures) a Bid on or before **January 15, 2026, at 4:00 p.m. (ET)** (the "Bid Deadline").

12. Subject to the terms of the Bidding Procedures, if the Debtor receives more than one Qualified Bid for an Asset or combination of Assets, the Debtor shall conduct an Auction for such Assets. If the Debtor receives only one Qualified Bid by the Bid Deadline, the Debtor may, in its reasonable business judgment, subject to prior consultation with the Consultation Parties, determine to consummate an Alternative Sale Transaction with the Qualified Bidder (subject to Court approval) without conducting an Auction.

13. The Auction, if required, will be conducted on **January 20, 2026 at 9:00 a.m. (ET)**, at the offices of Young Conaway Stargatt & Taylor, LLP, 1000 N King St, Wilmington, DE 19801, or (ii) at such other date, time or location as designated by the Debtor. If the Debtor conducts the Auction virtually, the Debtor will provide instructions setting forth how to attend the Auction to the participants or other attendees via electronic mail. The Debtor will provide notice (via electronic mail or otherwise) of any change in the date, time or location of the Auction to Qualified Bidders. If held, the Auction proceedings shall be transcribed or video recorded.

14. Only a Qualified Bidder that has submitted a Qualified Bid shall be eligible to participate in the Auction, subject to any other limitations as the Debtor may reasonably impose in accordance with the Bidding Procedures. Qualified Bidders participating in the Auction must appear at the Auction or through a duly authorized representative. The Debtor may establish a reasonable limit on the number of representatives and/or professional advisors that may appear on behalf of or accompany each Qualified Bidder at the Auction. Notwithstanding the foregoing, the Auction shall be conducted openly, and all creditors shall be permitted to attend provided they compile with the notice requirements in the Bidding Procedures.

15. Each Qualified Bidder participating in the Auction shall confirm in writing on the record at the Auction that (i) it has not engaged in any collusion with respect to the Auction or the submission of any bid for any of the Assets and (ii) its Qualified Bid that gained the Qualified Bidder admission to participate in the Auction and each Qualified Bid submitted by the Qualified Bidder at the Auction constitutes a binding, good-faith and *bona fide* offer to purchase the Assets identified in such bids.

16. In the event the Debtor determine not to hold an Auction, the Debtor shall file with the Court, serve on the Sale Notice Parties and cause to be published on the website maintained by Stretto, at https://cases.stretto.com/Norcold (the "Claims Agent Website"), a notice containing the following information: (i) a statement that the Auction for the applicable Assets has been canceled, (ii) the identity of the Successful Bidder, (iii) a copy of the Successful Bid or a summary of the material terms of such Successful Bid, including any assumption and assignment of Contracts contemplated thereby, and (iv) the date, time and location of the Sale Hearing.

17. As soon as practicable after the conclusion of the Auction, the Debtor will file with the Court, serve on the Sale Notice Parties and cause to be published on the Claims Agent Website,

a notice setting forth the results of the Auction (the "Notice of Auction Results"), which shall (i) identify each Successful Bidder and each Backup Bidder, (ii) include a copy of each Successful Bid and each Backup Bid or a summary of the material terms of such bids, including any proposed assumption and assignment of Contracts (as defined in the Bidding Procedures) contemplated thereby, and (iii) set forth the Post-Auction Objection Deadline, the date, time and location of the Sale Hearing and any other relevant dates or other information necessary to reasonably apprise the Sale Notice Parties of the outcome of the Auction.

IV. Credit Bidding

18. Any bidder holding a perfected security interest in any of the Assets may seek to credit bid all, or a portion of, such bidder's claims for its respective collateral in accordance with section 363(k) of the Bankruptcy Code (each such bid, a "Credit Bid"); *provided*, that such Credit Bid complies with the terms of the Bidding Procedures.

19. Pursuant to the terms and conditions of the DIP Order, DCA is permitted to credit bid any outstanding DIP Obligations or Adequate Protection Obligations in accordance with 363(k) of the Bankruptcy Code in any sale of Assets. DCA shall have the unqualified right to credit bid on a dollar-for-dollar basis up to the full amount of the DIP Obligations pursuant to section 363(k) of the Bankruptcy Code.

V. Sale Hearing and Objection Procedures

20. Consummation of any Alternative Sale Transaction pursuant to a Successful Bid shall be subject to Court approval. The Sale Hearing shall be held before the Court on **January 27, 2026**, **at [●] (ET)**; *provided*, that the Debtor may seek an adjournment or rescheduling of the Sale Hearing, consistent with the Bidding Procedures and without prejudice to the rights of the Stalking Horse Bidder under the Stalking Horse APA.

21. All general objections to any Alternative Sale Transaction (each, a "Sale Objection") shall be (i) in writing and state, with specificity, the legal and factual bases thereof and include any appropriate documentation in support thereof, (ii) be filed with the Court, and (iii) served on the Objection Notice Parties (as defined in Section X.D of the Bidding Procedures) by no later than **January 15, 2026 at 4:00 p.m. (ET)** (the "Sale Objection Deadline").

22. Following service of the Notice of Auction Results, parties with requisite standing may object to the conduct of the Auction and/or the particular terms of the Alternative Sale Transaction to a Successful Bidder (each such objection, a "Post-Auction Objection"). Objections to the Alternative Sale Transaction to the Stalking Horse Bidder shall filed and served so as to be actually received by no later than the Sale Objection Deadline. Any Post-Auction Objection shall be (i) in writing and state, with specificity, the legal and factual bases thereof and include any appropriate documentation in support thereof, (ii) be filed with the Court, and (iii) served on the Objection Notice Parties (as defined in Section X.D of the Bidding Procedures) by no later than **January 22, 2026 at 4:00 p.m. (ET)** (the "Post-Auction Objection Deadline").

23. Any party who fails to file and serve a timely Sale Objection or Post-Auction Objection in accordance with the terms of this Order shall be forever barred from asserting, at the Sale Hearing or thereafter, any objection to the relief requested in the Motion, or to the consummation or performance of the Alternative Sale Transaction, including the transfer of Assets to the Successful Bidder free and clear of liens, claims, interests and encumbrances pursuant to section 363(f) of the Bankruptcy Code, and shall be deemed to "consent" to such sale for purposes of section 363(f) of the Bankruptcy Code.

VI. Notice of Sale Transaction

24. The Sale Notice, substantially in the form attached hereto as **Exhibit 2**, is approved, and no other or further notice of the proposed sale of the Assets, the Auction, the Sale Hearing, the Sale Objection Deadline or the Post-Auction Objection Deadline shall be required.

25. The Debtor shall serve and publish the Sale Notice in the manner provided in the Bidding Procedures and this Order.

26. Within three (3) business days, or as soon as reasonably practicable after the entry of this Order, the Debtor shall file with this Court, serve on the Sale Notice Parties and cause to be published on the Claims Agent Website, the Sale Notice.

27. Within three (3) business days, or as soon as reasonably practicable after the entry of this Order, the Debtor will publish the Sale Notice in the national edition of *The Wall Street Journal*, *The New York Times*, or *USA Today* or another publication with similar national circulation (the "Publication Notice") and, if the Debtor deems appropriate, such other local or trade publications the Debtor may choose in its business judgment.

28. The Publication Notice complies with the provisions of Bankruptcy Rule 9008 and is deemed sufficient and proper notice of the proposed sale of the Assets, the Auction, the Sale Hearing, the Sale Objection Deadline, and the Post-Auction Objection Deadline to any other interested parties whose identities are unknown to the Debtor.

VII. Assumption and Assignment Procedures

29. The Assumption and Assignment Procedures are reasonable and appropriate under the circumstances, fair to all non-Debtor parties, comply in all respects with the Bankruptcy Code, Bankruptcy Rules and Local Rules, and are approved.

30. The Assumption and Assignment Notice, substantially in the form attached hereto as **Exhibit 3**, is approved, and no other or further notice of the Debtor's proposed Cure Costs (as

defined below) with respect to Contracts listed on an Assumption and Assignment Notice is necessary or required.

31. Within three (3) business days of entry of this Order, the Debtor shall file with this Court, serve of the Counterparties, and cause to be published on the Claims Agent Website, the Assumption and Assignment Notice. Any objection to the Debtor's proposed Cure Costs or assumption and assignment on any basis (each such objection, a "Contract Objection") (except objections solely related to adequate assurance of future performance by a Successful Bidder other than the Stalking Horse Bidder) shall (i) be in writing and state, with specificity, the legal and factual bases thereof and include any appropriate documentation in support thereof, (ii) be filed with the Court, and (iii) be served on the Objection Notice Parties by no later than the date that is **14 calendar days after service of the Assumption and Assignment Notice** (the "Contract Objection Deadline").

32. In the event that a Counterparty that was not served with the Assumption and Assignment Notice is later identified, the Debtor may subsequently serve such Counterparty with the Assumption and Assignment Notice substantially in the form attached hereto as **Exhibit 3** (each, a "Supplemental Assumption Notice"), and the Assumption and Assignment Procedures will nevertheless apply to such Counterparty; *provided*, that the Contract Objection Deadline with respect to such Counterparty listed on a Supplemental Assignment Notice shall be the later of the Contract Objection Deadline (defined below) or fourteen (14) days following the date of service of a Supplemental Assignment Notice (each, a "Supplemental Contract Objection Deadline"). Each Supplemental Assignment Notice shall (i) identify the relevant Contract(s), (ii) set forth a good faith estimate of the Cure Cost(s), (iii) include a statement that assumption and assignment

of each such Contract is not required nor guaranteed, and (iv) inform such Counterparty of the requirement to file any Contract Objection(s) by the Supplemental Contract Objection Deadline.

33. The Debtor and any objecting Counterparty shall first confer in good faith to attempt to resolve the Contract Objection without Court intervention. If the parties are unable to consensually resolve the Contract Objection prior to the commencement of the Sale Hearing, the Court shall make all necessary determinations relating to the Cure Costs or assumption and assignment and the Contract Objection at a hearing scheduled pursuant to paragraph 35 of this Order. If a Contract Objection is resolved in a manner that is not in the best interests of the Debtor and its estates, whether or not such resolution occurs prior to or after the closing of the Sale Transaction, the Debtor may determine that any Contract subject to such resolved Contract Objection no longer will be assumed and assigned in connection with the Sale Transaction (subject to the terms of the Sale Transaction). All other objections to the Debtor's proposed assumption and assignment of the Debtor's right, title and interest in, to and under a Contract shall be heard at the Sale Hearing.

34. No later than three (3) business days prior to the Sale Hearing, the Debtor will file with the Court a "Closing Assignment Notice," which shall (i) identify the Successful Bidder, and (ii) list all Cure Costs and corresponding Contracts which are proposed to be assumed and assigned in the Successful Bid at the closing of the sale (the "Closing Assigned Contracts") which may exclude contracts which were previously the subject of an Assumption and Assignment Notice or Supplemental Assignment Notice. For the avoidance of doubt, the Closing Assignment Notice may include Contracts that were not previously designated as Contracts that may be assumed and assigned (such contracts, a "Previously Omitted Contract") and may exclude Contracts that were previously the subject of an Assumption and Assignment Notice; *provided* that the Closing

Assignment Notice shall serve as a Supplemental Assignment Notice for each Previously Omitted Contract Counterparty pursuant to the terms in paragraph 32 of this Order.

35. If a timely Contract Objection cannot otherwise be resolved by the parties, the Contract Objection may be heard at the Sale Hearing or, at the Debtor's option and with the consent of the Successful Bidder, be adjourned to a subsequent hearing (each such Contract Objection, an "Adjourned Contract Objection"). An Adjourned Contract Objection may be resolved after the closing date of the Sale Transaction, and may also be resolved by the Debtor and the Counterparty meeting and conferring in good faith to attempt to resolve any such objection without Court intervention. Upon resolution of an Adjourned Contract Objection and the payment of the Cure Cost or resolution of the assumption and assignment issue, if any, the Contract that was the subject of such Adjourned Contract Objection shall be deemed assumed and assigned to the Successful Bidder as of the closing date of the Sale Transaction.

36. If a Counterparty fails to file with this Court and serve on the Objection Notice Parties a timely Contract Objection, the Counterparty forever shall be barred from asserting any objection with regard to the proposed assumption and assignment of such Contract and the cost to cure any defaults under the applicable Contract and shall be deemed to have consented to the assumption and assignment of the Contract in connection therewith. The Cure Costs set forth in the Closing Assignment Notice shall be controlling and will be the only amount necessary to cure outstanding defaults under the Contract and satisfy the requirements of section 365(b) of the Bankruptcy Code, and the Counterparty to the Contract shall be bound by and deemed to have consented to the Cure Costs.

37. In accordance with the Bidding Procedures, Qualified Bids shall be accompanied by Adequate Assurance Information (as defined in the Bidding Procedures).

38. Any objection to the proposed assumption and assignment of a Contract, the subject of which objection is: a Successful Bidder's (or any other relevant assignee's) proposed form of adequate assurance of future performance with respect to the Contract (each, such objection, an "Adequate Assurance Objection"), shall (i) be in writing and state, with specificity, the legal and factual bases thereof and include any appropriate documentation in support thereof, (ii) be filed with the Court, and (iii) served on the Objection Notice Parties by no later than the Post-Auction Objection Deadline.

39. The Debtor and any Counterparty that has filed an Adequate Assurance Objection shall first confer in good faith to attempt to resolve the Adequate Assurance Objection without Court intervention. If the parties are unable to consensually resolve the Adequate Assurance Objection prior to the commencement of the Sale Hearing, the Adequate Assurance Objection and all issues of adequate assurance of future performance of the Successful Bidder shall be determined by the Court at the Sale Hearing.

40. If a Counterparty fails to file with the Court and serve on the Objection Notice Parties a timely Adequate Assurance Objection, the Counterparty shall be forever barred from asserting any objection to the assumption and/or assignment of a Contract with regard to adequate assurance of future performance. The Successful Bidder (or any other relevant assignee) shall be deemed to have provided adequate assurance of future performance with respect to a Contract in accordance with sections 365(b)(1)(C) and 365(f)(2)(B) of the Bankruptcy Code and, if applicable, section 365(b)(3) of the Bankruptcy Code, notwithstanding anything to the contrary in the Contract or any other document.

41. Successful Bidders (including the Stalking Horse Bidder or Backup Bidder ultimately named a Successful Bidder) may, pursuant to the terms of the asset purchase agreement

executed with the Debtor (including the Stalking Horse APA), designate (a) for assumption and assignment Contracts that were not originally included in the Assets to be acquired in connection with the Successful Bid and (b) Contracts that previously were included among the Assets to be acquired in connection with the Successful Bid as "excluded assets" that will not be assigned to or otherwise acquired by the Successful Bidder. The Debtor shall use commercially reasonable efforts to, as soon as reasonably practicable after the Debtor receives notice of any such designation, file with the Court, serve on the Counterparties and cause to be published on the Claims Agent Website, a notice of such designation containing sufficient information to apprise Counterparties of the designation of their respective Contracts.

42. As soon as reasonably practicable after the closing of an Alternative Sale Transaction, the Debtor shall file with the Court, serve on the Counterparties and cause to be published on the Claims Agent Website, a notice containing the list of Contracts that the Debtor assumed and assigned pursuant to any asset purchase agreement with a Successful Bidder.

43. The inclusion of a Contract or Cure Costs with respect to any Contract on any Assumption and Assignment Notice or any Notice of Auction Results, shall not constitute or be deemed a determination or admission by the Debtor, any Successful Bidder or any other party that such Contract is an executory contract or an unexpired lease within the meaning of the Bankruptcy Code, and shall not be a guarantee that such Contract ultimately will be assumed or assigned. The Debtor reserves all of their rights, claims and causes of action with respect to each Contract listed on any Assumption and Assignment Notice.

VIII. Other Related Relief

44. All persons and entities that participate in the Auction or bidding for any Asset during the Alternative Sale Transaction process shall be deemed to have knowingly and voluntarily (i) consented to the core jurisdiction of this Court to enter any order related to the Bidding

Procedures, the Auction or any other relief requested in the Motion or granted in this Order or the construction or enforcement of any agreement or any other document relating to any Alternative Sale Transaction, (ii) waived any right to a jury trial in connection with any disputes relating to the Bidding Procedures, the Auction, the construction or enforcement of any agreement or any other document relating to any Alternative Sale Transaction, or any other relief requested in the Motion or granted in this Order, and (iii) consented to the entry of a final order or judgment in connection with any disputes relating to the Bidding Procedures, the Auction, the construction or enforcement of any agreement or any other document relating to any Alternative Sale Transaction, or any other relief requested in the Motion or granted in this Order, if it is determined that the Court would lack Article III jurisdiction to enter such a final order or judgment absent the consent of the relevant parties.

45. The Debtor is authorized to take all steps and pay all amounts necessary or appropriate to implement the relief granted in this Order.

46. This Order shall be binding on the Debtor and its successors and assigns, including any chapter 7 or chapter 11 trustee or other fiducially appointed for the estate of the Debtor.

47. All time periods set forth in this Order shall be calculated in accordance with Bankruptcy Rule 9006(a).

48. To the extent any provisions of this Order are inconsistent with the Motion or the Bidding Procedures, the terms of this Order shall control.

49. Notwithstanding the applicability of any of Bankruptcy Rules 6004(h), 6006(d), 7062, 9014, or any other provisions of the Bankruptcy Rules or the Local Rules stating the contrary, the terms and provisions of this Order shall be immediately effective and enforceable

upon its entry, and any applicable stay of the effectiveness and enforceability of this Order is hereby waived.

50. The Debtor is authorized to make non-substantive changes to the Bidding Procedures, the Assumption and Assignment Procedures, and any related documents, including the notices approved by this Order, without further order of the Court, including, without limitation, changes to correct typographical and grammatical errors.

51. This Court shall retain jurisdiction over any and all matters arising from or related to the implementation, interpretation, and/or enforcement of this Order.

Exhibit 1

Bidding Procedures

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re: NORCOLD LLC,[1] Debtor.	Chapter 11 Case No. 25-11933 (TMH)

BIDDING PROCEDURES

On November 3, 2025, the above-captioned debtor and debtor in possession (the "Debtor") filed a voluntary petition for relief under chapter 11 of title 11 of the United States Code (the "Bankruptcy Code") in the United States Bankruptcy Court for the District of Delaware (the "Court").

On [●], 2025, the Court entered an order [D.I. [●]] (the "Bidding Procedures Order"), by which the Court approved the following procedures (the "Bidding Procedures"). These Bidding Procedures set forth the process by which the Debtor is authorized, in consultation with the Consultation Parties, to conduct an auction (the "Auction"), if any, for the sale (the "Sale") of all or substantially all of the Debtor's assets (collectively, the "Assets").

Copies of the Bidding Procedures Order or other documents related thereto available at the website maintained by the Debtor's proposed claims and noticing agent, Stretto, Inc. ("Stretto") at https://cases.stretto.com/Norcold. Parties with questions can contact the Stretto, by calling telephone at 1 (833) 256-5483 (toll free) or (b) email at TeamNorcold@stretto.com.

I. ASSETS FOR SALE

The Debtor intends to sell all or substantially all of its Assets. The sale of the Assets shall be subject to a competitive bidding process as set forth herein and approval by the Court pursuant to sections 105, 363, and 365 of the Bankruptcy Code, Bankruptcy Rules 2002, 6004, 6006, 9007, 9008, and 9014, and Local Rules 2002-1, 6004-1 and 9006-1.

The ability to undertake and consummate any sale of the Assets shall be subject to competitive bidding as set forth herein and approval by the Court. In addition to the Stalking Horse Bid, and as set forth herein, the Debtor will consider bids for any or all of the Assets in a single bid from a single bidder or in multiple bids from multiple bidders. Any party interested in submitting a bid for any of the Debtor's Assets should contact Hilco Corporate Finance, LLC, Attn: Teri Stratton (tstratton@hilcocf.com).

[1] The Debtor in this chapter 11 case, along with the last four digits of the Debtor's federal tax identification number, is: Norcold LLC (6081). For purposes of this chapter 11 case, the Debtor's service address is 7101 Jackson Road, Ann Arbor, MI 48103.

II. STALKING HORSE PROCEDURES

A. The Stalking Horse Bidder

On [●], 2025, the Debtor entered into that certain stalking horse asset purchase agreement with Dave Carter & Associates, Inc. (together with each of its permitted successors, assigns and designees) ("DCA" or the "Stalking Horse Bidder" and such stalking horse asset purchase agreement, the "Stalking Horse APA"), whereby the Stalking Horse Bidder will serve as the stalking horse bidder for the Purchased Assets (as defined in the Stalking Horse APA). Pursuant to the Bidding Procedures Order, the Debtor obtained approval of the Stalking Horse APA as a Stalking Horse Bid for the Purchased Assets (the "Stalking Horse Bid").

III. KEY DATES AND DEADLINES

These Bidding Procedures provide interested parties with the opportunity to qualify for and participate in the Auction to be conducted by the Debtor and to submit competing bids for the Assets. The key dates for the sale process are as follows:

ALTERNATIVE SALE PROCESS KEY DATES AND DEADLINES[2]	
Deadline	**Event**
December 8, 2025, subject to the Court's availability	Entry of Bidding Procedures Order
Three (3) business day after the entry of the Bidding Procedures Order	Deadline for the Debtor to file and serve Sale Notice
Three (3) business days after the entry of the Bidding Procedures Order	Deadline for the Debtor to publish the Publication Notice
4:00p.m. (ET) on the date that is 14 days after the service of the Assumption and Assignment Notice	Contract Objection Deadline[3]
January 15, 2026, at 4:00 p.m. (ET)	Sale Objection Deadline[4]
January 15, 2026, at 4:00 p.m. (ET)	Bid Deadline
January 16, 2026 at 4:00 p.m. (ET)	Deadline for the Debtor to Notify Bidders of Status as Qualified Bidders

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2 References to "days" means calendar days unless business days are expressly specified. If any time period referring to business days expires on a day which is a Saturday, Sunday, or legal holiday on which banking institutions in New York City, New York or governmental entities in the State of Delaware are authorized or obligation by law or executive order to close, the time period shall be automatically extended to the business day immediately following such Saturday, Sunday, or holiday.

3 Deadline for any objection to the Debtor's proposed Cure Costs (as defined herein) or assumption and assignment on any basis (except objections solely related to adequate assurance of future performance by a Successful Bidder other than the Stalking Horse Bidder).

4 Deadline for any objection to a sale of the Assets, including (i) any objection to a sale of the Assets free and clear of all liens, claims, interests, and encumbrances pursuant to section 363(f) of the Bankruptcy Code and (ii) entry of the Sale Order.

ALTERNATIVE SALE PROCESS KEY DATES AND DEADLINES[2]	
Deadline	**Event**
January 20, 2026, at 9:00 a.m. (ET)	Auction (if any)
Within one day after the conclusion of the Auction	Deadline for the Debtor to file Notice of Auction Results
January 22, 2026 at 4:00 p.m. (ET)	Post-Auction Objection Deadline[5]
January 23, 2026 at 4:00 p.m. (ET)	Debtor's Reply Deadline to Post-Auction Objections
January 27, 2026, subject to the Court's availability	Sale Hearing
February 12, 2026	Sale Closing

IV. DUE DILIGENCE

The Debtor has posted copies of material documents related to the Assets to the Debtor's confidential electronic data room (the "Data Room"). Each person or entity (other than the Stalking Horse Bidder identified in Section II.A above) that desires to participate in the Auction process (each, a "Prospective Bidder") and seeks access to the Data Room must first deliver to each of the Bid Notice Parties (as defined in Section X.A below) the following:

A. An executed confidentiality agreement, in form and substance satisfactory to the Debtor and the Purchaser (unless such party is already a party to an existing confidentiality agreement with the Debtor for this due diligence process, in which case such agreement shall govern); and

B. Sufficient information, as reasonably determined by the Debtor, to allow the Debtor to determine that the interested party intends to access the Data Room for a purpose consistent with these Bidding Procedures.

The Debtor will grant the Stalking Horse Bidder and, upon execution of a valid confidentiality agreement and up to and including the Bid Deadline, any Prospective Bidder, access to the Data Room or additional information allowing such Prospective Bidder to conduct due diligence on the potential acquisition of some or all of the Assets. Neither the Debtor nor any of its representatives shall be obligated to furnish any information of any kind whatsoever relating to the Assets (a) to any person or entity who (i) is not a Prospective Bidder, (ii) does not comply with the participation requirements set forth above, or (iii) in the case of competitively sensitive information, is a competitor of the Debtor and (b) if and to the extent doing so would (i) violate any law to which the Debtor are subject, including any privacy law, (ii) result in the disclosure of any trade secrets of third parties in breach of any contract with such third party, (iii) violate any legally-binding obligation of any Debtor with respect to confidentiality, non-disclosure or privacy

[5] Deadline for any objection to the conduct of the Auction, the particular terms of the proposed Alternative Sale Transaction in a Successful Bid, and/or the ability of the Successful Bidder (each as defined in Section VII.C.1 of the Bidding Procedures) to provide adequate assurance of future performance with respect to any Assigned Contract (as defined herein).

or (iv) jeopardize protections afforded to any Debtor under the attorney-client privilege or the attorney work product doctrine (provided that, in case of each of clauses (i) through (iv), the Debtor shall use commercially reasonable efforts to (x) provide such access as can be provided (or otherwise convey such information regarding the applicable matter as can be conveyed) without violating such privilege, doctrine, contract, obligation or law and (y) provide such information in a manner without violating such privilege, doctrine, contract, obligation or law). Notwithstanding the foregoing, the Debtor reserves the right, in its discretion, to withhold or limit access to any information that the Debtor determines to be sensitive or otherwise not appropriate to disclose to any Prospective Bidder. The Debtor shall provide the Stalking Horse Bidder with any information provided to a Prospective Bidder that has not already been provided to the Stalking Horse Bidder.

The Debtor may terminate access to the Data Room and any other non-public information in its reasonable discretion at any time, including if (a) a Prospective Bidder fails to become a Qualified Bidder (as defined below) or (b) these Bidding Procedures are terminated. The Prospective Bidder shall return or destroy any non-public information the Debtor or its advisors provided to the Prospective Bidder in accordance with the terms of the confidentiality agreement executed by the Debtor and the Prospective Bidder.

The Debtor will work to accommodate all reasonable requests from the Stalking Horse Bidder and any Prospective Bidders for additional information and due diligence access. Each Prospective Bidder shall be required to acknowledge that it has had an opportunity to conduct any and all due diligence regarding the Assets in conjunction with submitting its Bid (as defined below). All due diligence requests shall be directed to Hilco Corporate Finance, LLC, Attn: Teri Stratton (tstratton@hilcocf.com).

V. BID DEADLINE

Any Prospective Bidder that intends to participate in the Auction must submit in writing to the Bid Notice Parties a bid (a "Bid") on or before **January 15, 2026 at 4:00 p.m. (ET)** (the "Bid Deadline").

The Debtor may, in its reasonable judgment, and in consultation with the Consultation Parties, extend the Bid Deadline for all or certain Prospective Bidders (provided that the Bid Deadline for Assets shall not be extended beyond the deadline set forth the DIP Order)..

VI. BID REQUIREMENTS

A. Qualified Bid Requirements

To qualify as a "Qualified Bid," (the holder of which is a "Qualified Bidder") a Bid must be in writing and determined by the Debtor, after consultation with the Consultation Parties, to satisfy the following requirements:

1. Identification of Bidder. A Qualified Bidder must fully disclose the following: (a) the legal identity of each person or entity bidding for the applicable Assets and/or otherwise sponsoring, financing (including through the issuance of debt in connection with such Bid) or participating in (including through license or similar arrangement

with respect to the Assets to be acquired in connection with such Bid) the Auction in connection with such Bid and the complete terms of any such participation and (b) any past or present connections or agreements with the Debtor or its non-Debtor affiliates, the Stalking Horse Bidder, any other known Prospective Bidder or Qualified Bidder, the Prepetition Lenders (as defined in the DIP Motion) or any officer or director of any of the foregoing (including any current or former officer or director of the Debtor or its non-Debtor affiliates).

2. Purchased Assets. A Qualified Bid must identify the following:

a. the Assets to be purchased (including any causes of action and Contracts) such Prospective Bidder wishes to bid on;

b. the liabilities (including applicable Cure Costs (as defined in the Stalking Horse APA), if any, to be assumed by the Prospective Bidder in the Sale Transaction, including any debt to be assumed; and

c. if a Bid is for less than all of the Assets contemplated by the Stalking Horse Bid, then, an allocation of the purchase price across the individual Assets.

3. Form of Consideration.

a. Credit Bidding. Unless otherwise ordered by the Court, any Prospective Bidder holding a perfected security interest in any of the Assets may seek to credit bid all or a portion of the Prospective Bidder's claims for the collateral in which it holds a perfected security interest (each such Bid, a "Credit Bid") in accordance with section 363(k) of the Bankruptcy Code. A Credit Bid may be applied only with respect to those Assets in which the party submitting such Credit Bid holds a perfected security interest.

As set forth in the DIP Order, DCA is permitted to credit bid any of the outstanding DIP Obligations or Adequate Protection Obligations in accordance with section 363(k) of the Bankruptcy Code in any sale of the Assets, and may assign such right to credit bid in whole or in part to any of its affiliates.

For the avoidance of doubt, DCA, as the Stalking Horse Bidder, will be deemed to be a Qualified Bidder, for all purposes and requirements pursuant to the Bidding Procedures, notwithstanding the requirements that a

Prospective Bidder must satisfy to be a Qualified Bidder, and any Bid submitted by any party identified in this paragraph will be deemed to be a Qualified Bid, for all purposes and requirements pursuant to the Bidding Procedures, notwithstanding the requirements that a Bid must satisfy to be a Qualified Bid, including the requirements, among others, that each Bid must be irrevocable and to deliver a confidentiality agreement and post a Good Faith Deposit (as defined herein).

b. Form of Consideration and Allocation. A Bid must specify whether the Bid is an all cash offer (including confirmation that the cash component is in U.S. Dollars) or consists of certain non-cash components, such as a credit bid, assumption of liabilities, or other forms of consideration (and including a detailed analysis of the value of any non-cash component of the Bid) as well as the allocation of the purchase price among the Assets to be acquired and the liabilities to be assumed.

4. Minimum Bid for Stalking Horse Assets. Each Bid submitted in connection with Assets that are the subject of the Stalking Horse Bid (any such Assets, the "Stalking Horse Assets") must either (a) (i) be a Bid for all of the Assets that are the subject of the Stalking Horse Bid, (ii) include cash consideration of not less than the sum of the purchase price set forth in the Stalking Horse APA (excluding, for the avoidance of doubt, any "Assumed Liabilities" to be assumed by the Stalking Horse Bidder pursuant to the Stalking Horse APA) plus (A) $275,000 (the "Initial Bid Increment", plus (B) Excluded Cash (as defined in the Stalking Horse APA), and (iii) assume the Assumed Liabilities (as defined in the Stalking Horse APA) or (b) propose an alternative transaction that, in the Debtor's business judgment, provides higher value or better terms than the Stalking Horse Bid, including by exceeding the purchase price of the Stalking Horse Bid plus any Initial Bid Increment, and after taking into account, among other things, in light of all the Bids submitted for the Assets, whether there is sufficient cash to pay (x) the amounts required to fund the wind-down of the Debtor's estate, and (y) the DIP financing amount (the "DIP Financing Amount").

5. Proposed Asset Purchase Agreement and Sale Order: A Qualified Bid must constitute a *binding and irrevocable offer* and be in the form of an asset purchase agreement reflecting the terms and conditions of the Bid (each, a "Proposed Asset Purchase Agreement"). A Proposed Asset Purchase Agreement shall (a) be duly authorized and executed, (b) be based on, and marked against,

the Stalking Horse APA to reflect the proposed Sale Transaction and to show all modifications to the Stalking Horse APA, (c) specify the proposed purchase price for the Assets, and (d) identify any then-known Contracts proposed for or that may be proposed for assumption and assignment in connection with the proposed Sale Transaction. A Qualified Bid must also contain a sale order based on, and marked against, the sale order (which will be provided by the Debtor to bidders prior to the Bid Deadline) for the assets to reflect the proposed Sale Transaction and to show any other proposed modifications to the sale order.

6. Financial Information. A Qualified Bid must include the following:

   a. a statement that the Prospective Bidder is financially capable of timely consummating the Sale Transaction contemplated by the Prospective Bidder's Proposed Asset Purchase Agreement;

   b. sufficient evidence, as reasonably determined by the Debtor (in consultation with the Consultation Parties), to determine that the Prospective Bidder has, or can obtain, the financial wherewithal to timely consummate the Sale Transaction contemplated by the Prospective Bidder's Proposed Asset Purchase Agreement; and

   c. Adequate Assurance Information (as defined herein) with respect to any Contracts included or that may be included in the Prospective Bidder's Bid.

7. Good Faith Deposit. Each Qualified Bid must be accompanied by a good faith deposit (each, a "Good Faith Deposit") in the form of cash in an amount equal to ten percent (10%) of the proposed purchase price for the Assets (inclusive of any amount thereof comprising any Credit Bid consideration); provided, that no Good Faith Deposit shall be required for any Qualified Bid from the Stalking Horse Bidder.

   Good Faith Deposits shall be deposited into a trust account maintained on behalf of the Debtor (and to be designated by the Debtor) and handled in accordance with Section VII.E of the Bidding Procedures. To the extent a Qualified Bidder increases the purchase price before, during, or after the Auction, the Debtor reserves the right to require that such Qualified Bidder adjust its Good Faith Deposit so that it equals ten percent (10%) of the increased purchase price. The Debtor reserves the right to increase or decrease the Good Faith Deposit for one or more Qualified

Bidders in its sole discretion except with respect to any Qualified Bid from the Stalking Horse Bidder; provided, the Debtor may not decrease or waive any Good Faith Deposit without consulting with the Consultation Parties.

8. Adequate Assurance. A Qualified Bid must include evidence of the Prospective Bidder's (or any other relevant assignee's) ability to comply with section 365 of the Bankruptcy Code (to the extent applicable), including providing adequate assurance of such Prospective Bidder's (or any other relevant assignee's) ability to perform future obligations arising under any Contracts included in its Bid. The Debtor may require the following information in connection with demonstrating adequate assurance of future performance: information evidencing the Prospective Bidder's (or any other relevant assignee's) financial wherewithal and willingness to perform under any Contracts included in the Bid, which information may include (i) a corporate organizational chart or similar disclosure identifying corporate ownership and control, (ii) financial statements, (iii) tax returns, and (iv) annual reports (the "Adequate Assurance Information"). All Adequate Assurance Information must be in a form that will permit its immediate dissemination to the applicable contract counterparties (the "Counterparties").

9. Representations and Warranties. A Qualified Bid must include the following representations and warranties:

a. a statement that the Prospective Bidder has had an opportunity to conduct any and all due diligence regarding the Debtor's business and the Assets prior to submitting its bid;

b. a statement that the Prospective Bidder has relied solely upon its own independent review, investigation and/or inspection of any relevant documents and the Assets in making its bid and did not rely on any written or oral statements, representations, promises, warranties or guaranties whatsoever, whether express or implied, by operation of law or otherwise, regarding the Debtor's businesses or the Assets or the completeness of any information provided in connection therewith, except as expressly stated in the representations and warranties contained in the Stalking Horse APA;

c. a statement that all proof of financial ability to consummate the Sale Transaction in a timely manner and all information provided to support adequate assurance of future performance is true and correct; and

d. a statement that the Prospective Bidder agrees to be bound by the terms of the Bidding Procedures.

10. Authorization. A Qualified Bid must (a) include evidence of authorization and approval from the Prospective Bidder's board of directors (or comparable governing body) with respect to the submission, execution and delivery of any bid for the Assets, participation in the Auction and closing of the Sale Transaction contemplated by the Prospective Bidder's Proposed Asset Purchase Agreement or (b) if the Prospective Bidder is an entity formed for the purpose of effecting the proposed Sale Transaction, a Qualified Bid must provide written evidence acceptable to the Debtor of authorization and the approval by the equity holder(s) of such Prospective Bidder.

11. Reservation of Rights to Modify Bidding Procedures. Without prejudice to the rights of the Stalking Horse Bidder under the Stalking Horse APA, the Debtor reserves the right to, in its business judgment, in a manner consistent with its fiduciary duties and applicable law, modify the Bidding Procedures, including to, among other things, (a) extend or waive deadlines or other terms and conditions set forth herein, (b) adopt new rules and procedures for conducting the bidding and Auction process, or otherwise modify the Bidding Procedures to further promote competitive bidding for and maximizing the value of the Assets (c) provide reasonable accommodations to the Stalking Horse Bidder, or (d) otherwise modify the Bidding Procedures to further promote competitive bidding for and maximizing the value of the Assets; provided, that such extensions, waivers, new rules and procedures, accommodations and modifications (i) do not conflict with and are not inconsistent with the Bidding Procedures Order, the Bidding Procedures, the Bankruptcy Code or any order of the Bankruptcy Court, (ii) do not frustrate or otherwise impair the Stalking Horse's ability to close the Sale Transaction, (iii) are promptly communicated to each Qualified Bidder, and (iv) do not extend the Bid Deadline, the date of the Auction, the closing of the Auction or any other Sale Milestones (as defined in the Stalking Horse APA), in consultation with DCA.

12. Joint Bids. The Debtor will be authorized to approve joint Bids in its discretion, subject to prior consultation with the Consultation Parties, on a case-by-case basis, so long as a joint bid meets the Qualified Bid requirements and the applicable bidders otherwise

comply with these Bidding Procedures. Approved joint Bids shall be treated as bids for all purpose. In addition to the other requirements of these Bidding Procedures, a joint Bid shall include a concise description of the nature of such partnership or joint Bid to the extent reasonably practicable.

13. Other Requirements. A Qualified Bid must:

a. state that the Prospective Bidder agrees to serve as a backup bidder (a "Backup Bidder") if such bidder's Qualified Bid is selected at the Auction as the next highest or next best bid after the Successful Bid (as defined in Section VII.C.1 below) for the Assets (each such bid, a "Backup Bid");

b. state that the bid, as may be modified before or during the Auction, represents a binding, irrevocable, good-faith and *bona fide* offer to purchase the applicable Assets and is not subject to or conditioned on any due diligence, financing, or other contingency (other than the conditions to closing under the applicable agreement), and is irrevocable until the later of (i) the applicable outside date for consummation of the applicable Sale Transaction or (ii) the Backup Bid Expiration Date (as defined in Section VII.C.2 of the Bidding Procedures);

c. expressly state and acknowledge that the Prospective Bidder shall not be entitled to a break-up fee, termination fee, expense reimbursement or other "bidding protection" in connection with the submission of a bid for the Assets or otherwise participating in the Auction or the Sale Transaction process, unless otherwise granted by the Debtor and approved by an order of the Court;

d. state that the Prospective Bidder is committed to closing the Sale Transaction contemplated in its Bid as soon as practicable and in any case no later than the deadline to consummate an approved Sale Transaction set forth herein;

e. expressly waive any claim or right to assert any substantial contribution administrative expense claim under section 503(b) of the Bankruptcy Code or the payment of any broker fees or costs in connection with bidding for any of the Assets and/or otherwise participating in the Auction or the Sale Transaction process;

f. include a covenant to cooperate with the Debtor (i) to provide pertinent factual information regarding the Prospective Bidder's operations reasonably required to analyze issues arising with respect to any applicable antitrust laws and any other applicable regulatory requirements and (ii) to obtain Court approval of the Sale Transaction;

g. state or otherwise estimate the types of transition services, if any, the Prospective Bidder would require of and/or provide to the Debtor, including an estimate of the time any such transition services would be required of and/or provided to the Debtor, if the Prospective Bidder's Bid were selected as the Successful Bid for the Assets;

h. certify that the Prospective Bidder did not collude with any other bidders and is not otherwise a partnership, joint venture or other entity in which more than one bidder (or any affiliates of a bidder) has a direct or indirect interest, unless consented to in writing by the Debtor;

i. include a covenant to comply with the terms of these Bidding Procedures and the Bidding Procedures Order;

j. include contact information for the specific person(s) the Debtor should contact in the event they have any questions about the Prospective Bidder's bid; and

k. provide any other evidence the Debtor may reasonably request to evaluate such party's fitness, interest or motives for participating in the bidding process.

B. Bid Review Process

The Debtor, in consultation with the Consultation Parties, will review each Bid received from a Prospective Bidder to determine whether it meets the requirements set forth above. Based upon its evaluation of the content of each Bid, the Debtor may, as it deems appropriate in its business judgment and in a manner consistent with its fiduciary duties and applicable law, subject to prior consultation with the Consultation Parties, engage in negotiations with any Prospective Bidder for the purposes of (i) curing any deficiencies in a Bid that prevents it from constituting a Qualified Bid, (ii) improving the terms of the Prospective Bidder's Bid, or (iii) otherwise promoting a more competitive bidding and Auction process with the ultimate goal of maximizing the value of the Assets.

A Bid received from a Prospective Bidder for all or any portion of the Assets that the Debtor determines in its discretion, subject to prior consultation with the Consultation Parties, meets the requirements set forth in Section V and VI above, and is otherwise satisfactory to the Debtor, will be considered a "Qualified Bid" and each Prospective Bidder that submits a Qualified

Bid will be considered a "Qualified Bidder." The Debtor shall inform Qualified Bidders that its Bids have been designated as Qualified Bids as reasonably far in advance of the commencement of the Auction as is practicable.

For the avoidance of doubt, the Stalking Horse APA will be deemed a Qualified Bid, and the Stalking Horse Bidder will be deemed a Qualified Bidder, for all purposes and requirements pursuant to the Bidding Procedures, notwithstanding the requirements that a Prospective Bidder must satisfy to be a Qualified Bidder. The Debtor shall, prior to the commencement of the Auction, inform the Stalking Horse Bidder and the other Qualified Bidders of the Baseline Bid (as defined in Section VII.B.2) received relevant to the Assets under the Stalking Horse APA and shall provide copies of the Baseline Bid at the same time other Qualified Bidders receive such information.

In evaluating a Bid, the Debtor may take into consideration any and all factors that the Debtor deem reasonably pertinent, including, without limitation:

(i) the amount of the proposed purchase price and proposed form of consideration;

(ii) any Assets and liabilities included in, or excluded from, the Bid, including any Contracts marked for assumption and assignment;

(iii) the value to be provided to the Debtor under the Bid, including the net economic effect on the Debtor's estate (taking into account any amounts necessary to fund a wind-down of the Debtor's estate);

(iv) any benefit to the Debtor's estate from any assumption or waiver of liabilities contemplated by the Bid;

(v) any benefit to the Debtor's estate arising from the avoidance of additional costs that may be incurred as a result of the Bid;

(vi) the structure of the proposed Sale Transaction and any attendant execution risk, including conditions to, timing of and certainty of closing, termination provisions, financing contingencies, availability of financing and general financial wherewithal to meet all commitments, and any required governmental approvals;

(vii) the impact of the proposed Sale Transaction on the Debtor's trade creditors, licensees, customers and any other parties in interest; and

(viii) any other factors the Debtor may reasonably deem relevant and consistent with its fiduciary duties.

The Debtor will make a determination in its discretion, subject to prior consultation with the Consultation Parties, regarding the Bids that qualify as Qualified Bids and the Baseline Bid and will notify bidders whether they have been selected as Qualified Bidders as reasonably far in advance of the commencement of the Auction as is practicable. A Qualified Bidder shall not (without the consent of the Debtor) modify, amend or withdraw its Qualified Bid, unless for the purposes of increasing the purchase price or otherwise improving the terms of the bid, as determined by the Debtor in its business judgment.

The Debtor, in its business judgment, subject to prior consultation with the Consultation Parties, reserves the right to reject any Bid (other than the Stalking Horse Bid) if such Bid, among other things, (i) is on terms that are more burdensome or conditional than the terms of the Stalking Horse APA, (ii) requires any indemnification of the Prospective Bidder in its asset purchase agreement, (iii) is not received by the Bid Deadline, (iv) is subject to any contingencies (including representations, warranties, covenants and timing requirements) of any kind or any other conditions precedent to such party's obligation to acquire the relevant Assets, (v) seeks any bidding protections, or (vi) does not, in the Debtor's determination, include a fair and adequate price or the acceptance of which would not be in the best interests of the Debtor's estate.

Without prejudice to the rights of the Stalking Horse Bidder under the Stalking Horse APA, the Debtor may, in its sole discretion, among other things (i) amend or waive the conditions precedent to qualifying as a Qualified Bidder, (ii) extend the Bid Deadline as to any party or with respect to any Assets (provided that the Bid Deadline may not be extended beyond the deadline Provided in the DIP Order), (iii) with respect to any Bid that is not a Qualified Bid, the Debtor may provide (but shall not be obligated to provide) the Bidder with the opportunity to remedy any deficiencies prior to the Auction, and/or (iv) postpone or cancel the Auction and terminate the proposed sale for any Assets.

VII. THE AUCTION

If the Debtor receives more than one Qualified Bid (including the Stalking Horse Bid) for an Asset or combination of Assets, the Debtor will conduct an Auction for such Assets.

In the event the Debtor determines not to hold an Auction, the Debtor will file with the Court, serve on the Sale Notice Parties and cause to be published on the Claims Agent Website, a notice containing the following information: (i) a statement that the Auction for the applicable Assets has been canceled, (ii) the identity of the Successful Bidder, (iii) a copy of the Successful Bid or a summary of the material terms of such Successful Bid, including any assumption and assignment of Contracts contemplated thereby, and (iv) the date, time and location of the Sale Hearing.

The Auction, if required, will be conducted if required, will be conducted on January 20, 2026, at 9:00 a.m. (ET), at the offices of Young Conaway Stargatt & Taylor, LLP, 1000 N King St, Wilmington, DE 19801 (or at any other location or electronically as the Debtor may hereafter designate on proper notice), after providing notice to the Sale Notice Parties; provided, however, the Debtor shall have the right to hold the Auction remotely, including telephonically or by other electronic means (including, without limitation, video conferencing) as the Debtor may choose in its sole discretion. If held, the Auction proceedings will be transcribed and/or video recorded.

A. Participants and Attendees

Only Qualified Bidders are eligible to participate in the Auction, subject to other limitations as may be reasonably imposed by the Debtor in accordance with these Bidding Procedures. At least one (1) day prior to the Auction, each Qualified Bidder must inform the Debtor in writing whether it intends to participate in the Auction. Qualified Bidders participating in the Auction must appear at the Auction, as applicable, or through a duly authorized representative. Subject to the Auction procedures set forth in Section VII of these Bidding Procedures, all Qualified Bidders and the Consultation Parties are permitted to attend the Auction; provided, that the Debtor may, in its sole discretion, establish a reasonable limit on the number of representatives and/or professional advisors that may appear on behalf of or accompany each Qualified Bidder at the Auction. Any creditor and its advisors wishing to attend the Auction may do so by contacting, no later than one (1) day prior to the start of the Auction, the Debtor's advisors.

Each Qualified Bidder participating in the Auction will be required to confirm in writing and on the record at the Auction, as applicable, that (i) it has not engaged in any collusion with respect to the Auction or the submission of any bid for any of the Assets and (ii) its Qualified Bid that gained the Qualified Bidder admission to participate in the Auction and each Qualified Bid submitted by the Qualified Bidder at the Auction is a binding, good-faith and bona fide offer to purchase the Assets identified in such bids.

All Prospective Bidders and Qualified Bidders (including the Stalking Horse Bidder, Successful Bidder and Backup Bidder) shall be deemed to have (i) consented to the core jurisdiction of the Court to enter any order related to these Bidding Procedures, the Auction or, any other relief granted pursuant to the Bidding Procedures Order or the construction or enforcement of any agreement or any other document relating to any Sale Transaction, (ii) waived any right to a jury trial in connection with any disputes relating to these Bidding Procedures, the Auction or the construction or enforcement of any agreement or any other document relating to any Sale Transaction, and (iii) consented to the entry of a final order or judgment in connection with any disputes relating to these Bidding Procedures, the Auction, the construction or enforcement of any agreement or any other document relating to any Sale Transaction, if it is determined that the Court would lack Article III jurisdiction to enter such a final order or judgment absent the consent of the relevant parties.

B. Auction Procedures

The Auction shall be governed by the following procedures, subject to the Debtor's right to modify such procedures in its business judgment, subject to and in accordance with these Bidding Procedures and the applicable parties' rights under the Stalking Horse APA:

1. Auction Packages. Prior to the commencement of the Auction, the Debtor will make a determination regarding the Assets for which the Debtor will conduct an Auction (each such Asset or group of Assets, an "Auction Package"). For the avoidance of doubt, the Debtor may, in its business judgment determine to (i) include an individual Asset in more than one Auction Package and (ii) have an Auction Package for all or substantially all of the Debtor's Assets.

2. Baseline Bids. Prior to the commencement of the Auction, the Debtor will determine, in its business judgment, after consultation with the Consultation Parties, the highest and/or best Qualified Bid

submitted for each Auction Package by the Bid Deadline (each such Qualified Bid, a "Baseline Bid"). Bidding for each Auction Package at the Auction shall commence at the amount of the Baseline Bid. The Debtor shall, prior to the commencement of the Auction, inform the Stalking Horse Bidder and the other Qualified Bidders of the Baseline Bid received relevant to the applicable Assets under the Stalking Horse APA and shall provide copies of the Baseline Bid at the same time other Qualified Bidders receive such information.

3. Minimum Overbid. Bidding at the Auction for an Auction Package (or subset thereof) that is subject to Qualified Bids will begin with the Baseline Bid and continue, in one or more rounds of bidding, so long as during each round at least one subsequent bid (a "Subsequent Bid") is submitted by a Qualified Bidder that (i) improves on such Qualified Bidder's immediately prior Qualified Bid and (ii) the Debtor determines, after consultation with the Consultation Parties, that such Subsequent Bid is (A) for the first round, a higher or otherwise better offer than the Baseline Bid, and (B) for subsequent rounds, a higher or otherwise better offer than the Leading Bid (as defined below).

The Debtor will announce at the outset of the Auction the minimum required increments for successive Bids (each, such Bid, a "Minimum Overbid"). The Debtor may, in its discretion, after consultation with the Consultation Parties, announce increases or reductions to Minimum Overbids at any time during the Auction.

Upon a Qualified Bidder's declaration of a Bid at the Auction, the Qualified Bidder must state on the record its commitment to pay within two (2) business days following the Auction, if such Bid were to be selected as the Successful Bid or as the Backup Bid for the applicable Auction Package, the incremental amount of the Qualified Bidder's Good Faith Deposit calculated based on the increased purchase price of such bid (such Good Faith Deposit so increased, the "Incremental Deposit Amount"). Except as specifically set forth herein, for the purpose of evaluating the value of the consideration provided by any Bid subsequent to a Baseline Bid, the Debtor will, at each round of bidding, consider and/or give effect to (a) any additional liabilities to be assumed by a Qualified Bidder under the Bid, including whether such liabilities are secured or unsecured, (b) any additional costs that may be imposed on the Debtor, (c) the provision of any amounts necessary to fund a wind-down of the Debtor's estate, and (d) treatment of the DIP Financing Amount.

4. Leading Bid. After the first round of bidding and between each subsequent round of bidding, the Debtor, after consultation with the

Consultation Parties, will announce the bid that it believes to be the highest or otherwise best offer for the applicable Auction Package (each such bid, a "Leading Bid") and describe the material terms thereof. Each round of bidding will conclude after each participating Qualified Bidder has had the opportunity to submit a Subsequent Bid with full knowledge of the material terms of the Leading Bid, subject to the Debtor's authority to revise the Auction procedures to the extent permitted hereby.

The Auction will be conducted by open bidding in the presence of all other Qualified Bidders and each Qualified Bidder shall have the right to be present for all rounds of open bidding and to submit additional bids and make modifications to its Proposed Asset Purchase Agreement at the Auction to improve its bid. The Debtor may, in its business judgment, after consultation with the Consultation Parties, engage in discussions and negotiate with any and all Qualified Bidders participating in the Auction outside the presence of other bidders before each round of bidding, including to improve or clarify the terms of bids made.

The Debtor shall have the right to determine, in its business judgment, following consultation with the Consultation Parties, which bid is the highest or otherwise best bid with respect to the Auction Package (including, without limitation, with respect to an Auction Package that includes all or substantially all of the Debtor's Assets) and, in accordance with the terms of these Bidding Procedures, reject, at any time, without liability, any bid that the Debtor deems to be inadequate or insufficient, not in conformity with the requirements of the Bankruptcy Code, the Bankruptcy Rules, the Local Rules, these Bidding Procedures, any order of the Court, or the best interests of the Debtor and its estate, including, without limitation, the provision of any amounts necessary to fund a wind-down of the Debtor's estate and treatment of the DIP Financing Amount.

C. Auction Results

1. Successful Bids. Immediately prior to the conclusion of the Auction for an Auction Package, the Debtor will in consultation with the Consultation Parties, (a) determine, consistent with these Bidding Procedures, which Qualified Bid constitutes the highest or otherwise best bid (or bids) for the Auction Package (each such bid, a "Successful Bid") and (b) notify all Qualified Bidders at the Auction of the identity of the bidder that submitted the Successful Bid for the Auction Package (each such bidder, a "Successful Bidder") and the amount of the purchase price and other material terms of the Successful Bid. As a condition to remaining the

Successful Bidder, the Successful Bidder shall, within two (2) business days after the conclusion of the Auction, (i) if applicable, wire to the Debtor in immediately available funds the Incremental Deposit Amount, calculated based on the purchase price in the Successful Bid (or bids) and (ii) submit to the Debtor fully executed documentation memorializing the terms of the Successful Bid(s).

2. Backup Bid. Immediately prior to the conclusion of the Auction for an Auction Package, the Debtor will in consultation with the Consultation Parties (a) determine, in a manner consistent with these Bidding Procedures, which Qualified Bid is the Backup Bid for the Auction Package and (b) notify all Qualified Bidders at the Auction for the Auction Package of the identity of the Backup Bidder for the Auction Package and the amount of the purchase price and other material terms of the Backup Bid. Within two (2) business days after the Auction, the Backup Bidder shall submit to the Debtor execution versions of the documentation memorializing the terms of the Backup Bid(s).

A Backup Bid will remain binding on a Backup Bidder until the earlier of (a) the first business day after the closing of a Sale Transaction with the Successful Bidder for the applicable Auction Package and (b) 60 days after the Sale Hearing (or such other date as may be set forth in the Stalking Horse APA, the "Backup Bid Expiration Date"). If the Sale Transaction with the Successful Bidder is terminated prior to the Backup Bid Expiration Date, the Backup Bidder shall be deemed the new Successful Bidder for the Auction Package and shall be obligated to consummate the Backup Bid as if it were the Successful Bid at the Auction; provided, that the Debtor may, in its business judgment and after providing notice to the Sale Notice Parties, elect not to pursue the Sale Transaction contemplated by the Backup Bid.

3. Notice of Auction Results. Within one (1) day after the conclusion of the Auction, or as soon as is reasonably practicable thereafter, the Debtor will file with the Court, serve on the Sale Notice Parties and cause to be published on the Claims Agent Website, a notice setting forth the results of the Auction (the "Notice of Auction Results"), which will (a) identify each Successful Bidder and each Backup Bidder, (b) include a copy of each Successful Bid and each Backup Bid or a summary of the material terms of such bids, including any proposed assumption and assignment of Contracts contemplated thereby, and (c) set forth the Post-Auction Objection Deadline (as defined in Section X.D below), the date, time and location of the Sale Hearing and any other relevant dates or other information

necessary to reasonably apprise the Sale Notice Parties of the outcome of the Auction.

4. The Debtor's submission to the Bankruptcy Court for approval of a selected Qualified Bid as a Successful Bid does not constitute the Debtor's acceptance of such Bid. The Debtor will have accepted a Successful Bid only when such Successful Bid has been approved by the Bankruptcy Court at the Sale Hearing.

D. Additional Auction Procedures

The Debtor, after consultation with the Consultation Parties, may announce at the Auction additional procedural rules *(e.g.,* among other things, the amount of time to make Subsequent Bids, the amount of the Minimum Overbid, or the requirement that parties submit "best and final" Bids) for conducting the Auction or otherwise modify these Bidding Procedures; provided, that such rules (i) are not materially inconsistent with the Bidding Procedures Order, the DIP Orders, these Bidding Procedures, the Bankruptcy Code or any order of the Bankruptcy Court, and (ii) are disclosed to each Qualified Bidder during the Auction. For the avoidance of doubt, any bid for any Assets included in any Auction Package shall be subject to a determination by the Debtor, in its business judgment after consultation with the Consultation Parties, and in accordance with the other provisions of these Bidding Procedures, that (i) a bid for substantially all of the Debtor's Assets or (ii) a combination of bids that groups the Assets together differently is the highest or otherwise best offer for such Assets.

E. Disposition of Good Faith Deposit

1. Prospective Bidders. Within five (5) business days after the Debtor make final determinations in consultation with the Consultation Parties as to which Prospective Bidders qualify as Qualified Bidders, a Prospective Bidder's Good Faith Deposit shall be returned to any such Prospective Bidder that did not qualify as a Qualified Bidder, as confirmed by the Debtor. Upon the authorized return of a Prospective Bidder's Good Faith Deposit in accordance with this Section VII.E, the bid of such Prospective Bidder shall be deemed terminated and no longer binding against the Prospective Bidder.

2. Qualified Bidders.

a. Shall state that the Prospective Bidder agrees to serve as a backup bidder (a "Backup Bidder") if such bidder's Qualified Bid is selected at the Auction as the next highest or next best bid after the Successful Bid (as defined in Section VII.C.1 below) for the Assets (each such bid, a "Backup Bid") provided, that as to the Stalking Horse Bidder, the terms of the Stalking Horse APA shall control as to any Backup Bidder and Backup Bid requirement, and the

Stalking Horse Bidder shall not be required to serve as a Backup Bidder, notwithstanding such Stalking Horse Bidder's Stalking Horse Bid being the next highest or next best bid after a Successful Bid for the applicable Assets, without its prior written consent;

b. Forfeiture of Good Faith Deposit. The Good Faith Deposit of a Qualified Bidder shall be forfeited if the Qualified Bidder attempts to withdraw its Qualified Bid, except as may be permitted by these Bidding Procedures, during the time the Qualified Bid remains binding and irrevocable under these Bidding Procedures. The Debtor and its estate shall be entitled to retain the Qualified Bidder's Good Faith Deposit as partial compensation for the damages caused to the Debtor and its estate as a result of the Qualified Bidder's failure to adhere to the terms of these Bidding Procedures and/or the relevant Qualified Bid. In the event that a Qualified Bidder's Good Faith Deposit is deemed forfeited, such Qualified Bidder's Good Faith Deposit shall be released by wire transfer of immediately available funds to an account designated by the Debtor within two (2) business days after receipt of written notice by an authorized officer of the Debtor stating that the applicable Qualified Bidder has breached or otherwise failed to satisfy its obligations in accordance with these Bidding Procedures and the applicable Qualified Bid.

c. Return of Good Faith Deposit. With the exception of the Good Faith Deposits of a Successful Bidder and a Backup Bidder, and any forfeiture of a Good Faith Deposit as described above, any other Qualified Bidder's Good Faith Deposit shall be returned within five (5) business days after the conclusion of the Auction for the applicable Auction Package.

d. Backup Bidder. Any Backup Bidder's Good Faith Deposit shall be returned within five (5) business days after the occurrence of the Backup Bid Expiration Date.

e. Successful Bidder. At the closing of a Sale Transaction, the Successful Bidder shall be entitled to a credit against the purchase price for the applicable Assets in the amount of the Successful Bidder's Good Faith Deposit. The Good Faith Deposit of a Successful Bidder shall be forfeited if the Successful Bidder fails to consummate the applicable Sale Transaction because of a breach that entitles the Debtor to terminate the applicable asset purchase agreement with such Successful Bidder, and the Debtor and its estate shall be entitled to retain the Successful Bidder's Good Faith Deposit as partial compensation for the damages caused to the Debtor and its estate as a result of such breach. In the event that a Successful Bidder's Good Faith Deposit is deemed forfeited, such Good Faith Deposit shall be released by wire transfer of immediately available funds to an account designated by the Debtor within two (2) business days after receipt of written notice by an authorized officer of the Debtor stating that the applicable Successful Bidder has breached or otherwise failed to satisfy its obligations in accordance with these Bidding Procedures and the applicable Successful Bid.

VIII. SALE HEARING

Each Successful Bid (including any Backup Bid that is subsequently deemed a Successful Bid) will be subject to approval by the Bankruptcy Court. The hearing to approve any Sale Transaction consummated in accordance with these Bidding Procedures (except in the case of a Sale Transaction contemplated by a Backup Bid that subsequently is deemed a Successful Bid) shall take place on **January 27, 2026, at [●] (ET)** (the "Sale Hearing") before the Honorable [●], United States Bankruptcy Judge, in the United States Bankruptcy Court for the District of Delaware.

At the Sale Hearing, the Debtor will seek entry of one or more orders (each, a "Sale Order") approving, among other things, one or more sales of the Assets to the Successful Bidder.

Without prejudice to the rights of the Stalking Horse Bidder under the Stalking Horse APA, the Debtor may, in its business judgment (after consulting with the Successful Bidder(s)), adjourn or reschedule the Sale Hearing with sufficient notice to the Sale Notice Parties, including by announcing such adjournment or rescheduling at the Auction or in Court on the date of the originally scheduled Sale Hearing, provided that such later date is consistent with the Milestones, or the Debtor obtained the necessary consents under the DIP Order.

At the Sale Hearing, the Debtor will seek entry of an order that, among other things: (i) authorizes and approves the Sale Transaction(s) to the Successful Bidder(s) and/or the Backup Bidder(s), (ii) includes a finding that the Successful Bidder is a good faith purchaser pursuant to section 363(m) of the Bankruptcy Code, and (iii) as appropriate, exempts the Sale Transaction(s) and conveyance of the applicable Assets from any transfer tax, stamp tax or similar tax, or deposit under any applicable bulk sales statute to the extent permissible under applicable law.

IX. RESERVATION OF RIGHTS TO MODIFY BIDDING PROCEDURES

Without prejudice to the rights of the Stalking Horse Bidder under the Stalking Horse APA, the Debtor reserves the right to, in its business judgment, in a manner consistent with its fiduciary duties and applicable law, modify these Bidding Procedures, including to, among other things, (a) extend or waive deadlines or other terms and conditions set forth herein, (b) adopt new rules and procedures for conducting the bidding and Auction process, (c) provide reasonable accommodations to the Stalking Horse Bidder, or (d) otherwise modify these Bidding Procedures to further promote competitive bidding for and maximizing the of value of the Assets; provided, that such extensions, waivers, new rules and procedures, accommodations and modifications (i) do not conflict with and are not inconsistent with the Bidding Procedures Order, these Bidding Procedures, the Bankruptcy Code or any order of the Bankruptcy Court, (ii) are promptly communicated to each Qualified Bidder, and (iii) do not extend the Bid Deadline, the date of the Auction, the closing of the Auction, or any other Sale Milestones (as defined in the Stalking Horse APA), in consultation with DCA.

X. NOTICING

A. Bid Notice Parties

Qualified Bids must be submitted in writing to the following parties (collectively, the "Bid Notice Parties"):

- the Debtor, c/o Norcold LLC, 7101 Jackson Road, Ann Arbor, MI 48103, Attn: Richard Wu, Chief Restructuring Officer;

- counsel for the Debtor, (a) Young Conaway Stargatt & Taylor, LLP, Rodney Square, 1000 North King Street, Wilmington, DE 19801, Attn: Sean M. Beach (sbeach@ycst.com) and Matthew B. Lunn (mlunn@ycst.com);

- the Debtor's investment banker, Hilco Corporate Finance, LLC, Attn: Teri Stratton (tstratton@hilcocf.com); and

- counsel for any official committee appointed in this chapter 11 case.

B. Sale Notice Parties

The "Sale Notice Parties" shall include the following persons and entities:

- counsel for the DIP Lender, Ropes & Gray LLP, 191 N. Wacker, 32nd Floor, Chicago, IL 60606, Attn: Chris Dickerson (chris.dickerson@ropesgray.com) and Conor McNamara (conor.mcnamara@ropesgray.com);

- all persons and entities known by the Debtor to have asserted any lien, claim, interest or encumbrance in the Assets (for whom identifying information and addresses are available to the Debtor), including, for the avoidance of doubt, the Prepetition Secured Parties[6];

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[6] As Defined in the *Debtor's Motion for Entry of Interim and Final Orders (I) Authorizing the Debtor to (A) Obtain Postpetition Financing and (B) Utilize Cash Collateral, (II) Granting Senior Secured Priming Liens and Superpriority Administrative Expense Claims, (III) Granting Adequate Protection to the Prepetition Senior Secured Parties, (IV) Modifying the Automatic Stay, (V) Scheduling a Final Hearing, and (VI) Granting Related Relief* [Docket No. 10].

- all relevant non-debtor parties (each, a "Counterparty") to any Contract that may be assumed or rejected in connection with a Sale Transaction;
- all of the Debtor's known creditors (for whom identifying information and addresses are available to the Debtor);
- all persons and entities known by the Debtor to have expressed an interest to the Debtor in a Sale Transaction involving any of the Assets during the past 12 months, including any person or entity that has submitted a Bid or any of the Assets;
- any governmental authority known to have a claim against the Debtor in this chapter 11 case;
- the Federal Trade Commission;
- the Office of the United States Trustee for the District of Delaware;
- all applicable federal, state and local taxing authorities, including the Internal Revenue Service;
- the United States Securities and Exchange Commission;
- the United States Attorney's Office for the District of Delaware;
- the Office of the Attorney General and the Secretary of State in each state in which the Debtor operates;
- counsel for any official committee appointed in this chapter 11 case;
- all of the parties entitled to notice pursuant to Bankruptcy Rule 2002; and
- all other parties as directed by the Court.

C. Sale Notice and Publication Notice

Within one (1) business day after entry of the Bidding Procedures Order, or as soon as reasonably practicable thereafter, the Debtor will file with the Court, serve on the Sale Notice Parties and cause to be published on the Claims Agent Website a notice (the "Sale Notice") setting forth (A) a description of the Assets available for sale in accordance with these Bidding Procedures, (B) the date, time and location of the Auction and Sale Hearing, (C) the Sale Objection Deadline and Post-Auction Objection Deadline (each as defined in Section X.D below) and the procedures for filing such objections, and, (D) a summary of the material terms of the Stalking Horse APA as of the date of the Sale Notice.

Within three (3) business days after entry of the Bidding Procedures Order, or as soon as reasonably practicable thereafter, the Debtor will cause the information contained in the Sale

Notice to be published once in the national edition of *The Wall Street Journal*, *The New York Times*, or *USA Today*.

D. Sale Objection and Post-Auction Objections

Objections to a sale of the Assets, including (i) any objection to a sale of the Assets free and clear of all liens, claims, interests and encumbrances pursuant to section 363(f) of the Bankruptcy Code and (ii) entry of any Sale Order shall, by **4:00p.m. (ET) on January 15, 2026** (the "Sale Objection Deadline"), be filed with the Court and served on the following parties (collectively, the "Objection Notice Parties"):

- the Debtor, c/o Norcold LLC, 7101 Jackson Road, Ann Arbor, MI 48103, Attn: Richard Wu, Chief Restructuring Officer;
- counsel for the Debtor, (a) Young Conaway Stargatt & Taylor, LLP, Rodney Square, 1000 North King Street, Wilmington, DE 19801, Attn: Sean M. Beach (sbeach@ycst.com) and Matthew B. Lunn (mlunn@ycst.com);
- counsel for any official committee appointed in this chapter 11 case;
- counsel to the DIP Lender, Ropes & Gray LLP, 191 N. Wacker, 32nd Floor, Chicago, IL 60606, Attn: Chris Dickerson (chris.dickerson@ropesgray.com) and Conor McNamara (conor.mcnamara@ropesgray.com);
- if applicable, counsel for any Successful Bidder(s); and
- if applicable, counsel for any Backup Bidder(s).

Following service of the Notice of Auction Results, parties with requisite standing may object to the conduct of the Auction and/or the particular terms of the proposed Sale Transaction in a Successful Bid (each such objection, a "Post-Auction Objection") by no later than the later of (i) **January 22, 2026 at 4:00 p.m. (ET)** (the "Post-Auction Objection Deadline"). Each Post-Auction Objection shall be filed with the Court and served on the Objection Notice Parties.

E. Notices Regarding Assumption and Assignment of Contracts

The Debtor will provide all notices regarding the proposed assumption and assignment of Contracts in accordance with the Assumption and Assignment Procedures (as defined in the Bidding Procedures Order).

XI. CONSULTATION BY THE DEBTOR

Throughout the Sale Transaction process, the Debtor and its advisors will consult with the following parties (collectively, the "Consultation Parties"), as provided in these Bidding Procedures, or as is otherwise necessary or appropriate, as determined in the Debtor's business judgment: (i) the legal and financial advisors for any official committee appointed in this chapter

11 case and (ii) solely to the extent they are not an active or prospective bidder with respect to the relevant Assets, or are participating in any way in any active or prospective bid with respect to such relevant Assets, the legal advisors for the DIP Lenders.

Notwithstanding the foregoing, the Debtor will not consult with or provide copies of any Bids or other confidential information to any Consultation Party or any insider or affiliate of the Debtor if such party is an active or prospective bidder for the Assets at the applicable time. If, however, a member of an official committee appointed in this chapter 11 case submits a Qualified Bid for any of the Assets, the applicable committee will maintain its consultation rights as a Consultation Party, provided, that such committee excludes the bidding committee member from any discussions or deliberations regarding a transaction involving the Assets, and shall not provide any confidential information regarding the Assets or otherwise involving the Sale Transaction process to the bidding committee member.

For the avoidance of doubt, any consultation rights afforded to the Consultation Parties by these Bidding Procedures or the Bidding Procedures Order shall not in any way limit the Debtor's discretion and shall not include the right to veto any decision made by the Debtor in the exercise of its business judgment.

XII. FIDUCIARY OUT

Nothing in these Bidding Procedures shall require the directors and officers, board of managers, or such similar governing body of the Debtor to take any action, or to refrain from taking any action, with respect to these Bidding Procedures, to the extent such governing body determines, after consulting with counsel, that taking such action, or refraining from taking such action, as applicable, would be inconsistent with applicable law or its fiduciary obligations under applicable law.

Further, notwithstanding anything to the contrary in these Bidding Procedures, through the date of the Auction, nothing in these Bidding Procedures or the Bidding Procedures Order shall diminish the right of the Debtor and its respective managers, officers, employees, investment bankers, attorneys, accountants, consultants, and other advisors or representatives to: (a) consider, respond to, and facilitate alternate proposals for sales or other restructuring transactions involving any or all of the Assets (each an "Alternate Proposal"); (b) provide access to non-public information concerning the Debtor to any entity or enter into confidentiality agreements or nondisclosure agreements with any entity; (c) maintain or continue discussions or negotiations with respect to any Alternate Proposals; (d) otherwise cooperate with, assist, participate in, or facilitate any inquiries, proposals, discussions, or negotiation of Alternate Proposals; and (e) enter into or continue discussions or negotiations with holders of claims against or equity interests in the Debtor or any other party in interest in this chapter 11 case (including any official committee and the United States Trustee), or any other entity regarding any Alternate Proposals.

Exhibit 2

Sale Notice

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:	Chapter 11
NORCOLD LLC,[1]	Case No. 25-11933 (TMH)
Debtor.	

NOTICE OF SALE BY AUCTION AND SALE HEARING

PLEASE TAKE NOTICE that on November 3, 2025, The above-captioned debtor and debtor in possession (the "Debtor") filed the *Debtor's Motion for Entry of an Order (I)(A) Approving Bidding Procedures for the Sale of All or Substantially All of the Debtor's Assets, (B) Authorizing the Debtor's Entry Into the Stalking Horse APA, (C) Scheduling an Auction and a Sale Hearing and Approving the Form and Manner of Notice Thereof, (D) Approving Assumption and Assignment Procedures and (E) Granting Related Relief; and (II)(A) Approving the Sale of the Debtor's Assets Free and Clear of Liens, Claims, Interests and Encumbrances, (B) Approving the Assumption and Assignment of Executory Contracts and Unexpired Leases and (C) Granting Related Relief* [Docket No. [●]] (the "Bidding Procedures Motion")[2] with the United States Bankruptcy Court for the District of Delaware (the "Court") seeking, if the Debtor receives qualified competing bids to the Stalking Horse APA, among other things, entry of an order (the "Sale Order") authorizing and approving: (a) the sale of substantially all of the assets of the Debtor to Dave Carter & Associate, Inc. (the "Purchaser") (together with each of its permitted successors, assigns and designees) free and clear of liens, claims, encumbrances, and other interests, except as set forth in the Stalking Horse APA, or an alternative Successful Bidder selected at the auction (the "Sale"); and (b) the assumption and assignment of certain executory contracts and unexpired leases (collectively, the "Contracts").

PLEASE TAKE FURTHER NOTICE that the Debtor are soliciting offers for the purchase of all or substantially all of the assets of the Debtor consistent with the bidding procedures (the "Bidding Procedures") approved by the Court by entry of an order on [●], 2025 [Docket No. [●]] (the "Bidding Procedures Order"). **All interested bidders should carefully read the Bidding Procedures and Bidding Procedures Order**. To the extent that there are any inconsistencies between this notice and the Bidding Procedures or Bidding Procedures Order, the Bidding Procedures or Bidding Procedures Order, as applicable, shall govern in all respects.

PLEASE TAKE FURTHER NOTICE that, if the Debtor receive qualified competing bids within the requirements and time frame specified by the Bidding Procedures, the Debtor will

[1] The Debtor in this chapter 11 case, along with the last four digits of the Debtor's federal tax identification number, is: Norcold LLC (6081). For purposes of this chapter 11 case, the Debtor's service address is 7101 Jackson Road, Ann Arbor, MI 48103.

[2] Capitalized terms used herein but not otherwise defined shall have the meanings given to such terms in the Bidding Procedures Motion or Bidding Procedures Order, as applicable.

conduct an auction (the "Auction") of the Assets **on January 20, 2026 at 9:00 a.m. (ET)** at the offices of Young Conaway Stargatt & Taylor, LLP, 1000 N King St, Wilmington, DE 19801 (or at any other location or electronically as the Debtor may hereafter designate on proper notice).

PLEASE TAKE FURTHER NOTICE that the Debtor will seek approval of the Sale at a hearing scheduled to commence on or before **January 27, 2026 at [●] (ET)** (the "Sale Hearing") before the Honorable [●], United States Bankruptcy Judge for the Bankruptcy Court for the District of Delaware, 824 North Market Street, 3rd Floor, Courtroom No. [●], Wilmington, Delaware 19801.

PLEASE TAKE FURTHER NOTICE that, except as otherwise set forth in the Bidding Procedures Order with respect to any objections to proposed cure amounts or the assumption and assignment of Contracts, objections to the relief requested in the Sale Motion must: (a) be in writing, (b) conform to the applicable provisions of the Bankruptcy Rules and the Local Rules, (c) state with particularity the legal and factual bases for the objection and the specific grounds therefor, and (d) be filed with the Court and served so as to be actually received on or before **January 15, 2026 at 4:00 p.m. (ET)** by the following parties:

- the Debtor, c/o Norcold LLC, 7101 Jackson Road, Ann Arbor, MI 48103, Attn: Richard Wu, Chief Restructuring Officer (rwu@alvarezandmarsal.com);
- counsel for the Debtor, (a) Young Conaway Stargatt & Taylor, LLP, Rodney Square, 1000 North King Street, Wilmington, DE 19801, Attn: Sean M. Beach (sbeach@ycst.com); and Matthew B. Lunn (mlunn@ycst.com),;
- counsel for any official committee appointed in this chapter 11 case;
- counsel to the DIP Lender, Ropes & Gray LLP, 191 N. Wacker, 32nd Floor, Chicago, IL 60606, Attn: Chris Dickerson (chris.dickerson@ropesgray.com) and Conor McNamara (conor.mcnamara@ropesgray.com);
- if applicable, counsel for any Successful Bidder(s); and
- if applicable, counsel for any Backup Bidder(s).

CONSEQUENCES OF FAILING TO TIMELY MAKE AN OBJECTION

ANY PARTY OR ENTITY WHO FAILS TO TIMELY MAKE AN OBJECTION TO THE SALE ON OR BEFORE THE SALE OBJECTION DEADLINE IN ACCORDANCE WITH THE BIDDING PROCEDURES ORDER SHALL BE FOREVER BARRED FROM ASSERTING ANY OBJECTION TO THE SALE, INCLUDING WITH RESPECT TO THE TRANSFER OF THE DEBTOR'S ASSETS FREE AND CLEAR OF ALL LIENS, CLAIMS, ENCUMBRANCES, AND OTHER INTERESTS, EXCEPT AS SET FORTH IN THE PURCHASE AGREEMENT AND SALE ORDER.

PLEASE TAKE FURTHER NOTICE that copies of the Bidding Procedures Motion, Bidding Procedures, and Bidding Procedures Order, as well as all related exhibits, including the Stalking Horse APA and all other related documents, are available: (a) free of charge upon request to Stretto, Inc. (the notice and claims agent retained in this chapter 11 case) by calling (833) 256-5483 (Toll-Free), (b) by visiting the website maintained in this chapter 11 case at https://cases.stretto.com/Norcold, or (c) for a fee via PACER by visiting http://www.deb.uscourts.gov.

Dated: December [•], 2025
Wilmington, Delaware

YOUNG CONAWAY STARGATT & TAYLOR, LLP

____
Sean M. Beach (No. 4070)
Matthew B. Lunn (No. 4119)
Jared W. Kochenash (No. 6557)
Daniel Trager (No. 7465)
Roger L. Sharp (No. 7454)
Rodney Square
1000 N. King Street
Wilmington, Delaware 19801
Telephone: (302) 571-6600
Emails: sbeach@ycst.com
mlunn@ycst.com
jkochenash@ycst.com
dtrager@ycst.com
rsharp@ycst.com

Proposed Counsel for the Debtor and Debtor in Possession

Exhibit 3

Assumption and Assignment Notice

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re: NORCOLD LLC,[1] Debtor.	Chapter 11 Case No. 25-11933 (TMH)

NOTICE OF CURE COSTS AND POTENTIAL ASSUMPTION AND ASSIGNMENT OF EXECUTORY CONTRACTS AND UNEXPIRED LEASES IN CONNECTION WITH SALE OF ALL OR SUBSTANTIALLY ALL ASSETS

YOU ARE RECEIVING THIS NOTICE BECAUSE YOU OR ONE OF YOUR AFFILIATES IS A COUNTERPARTY TO AN EXECUTORY CONTRACT OR UNEXPIRED LEASE OF THE DEBTOR AS SET FORTH ON EXHIBIT A ATTACHED HERETO.

PLEASE TAKE NOTICE on November 3, 2025, the above-captioned debtor and debtor in possession (the "Debtor") filed the *Debtor's Motion for Entry of an Order (I)(A) Approving Bidding Procedures for the Sale of All or Substantially All of the Debtor's Assets, (B) Authorizing the Debtor's Entry Into the Stalking Horse APA, (C) Scheduling an Auction and a Sale Hearing and Approving the Form and Manner of Notice Thereof, (D) Approving Assumption and Assignment Procedures and (E) Granting Related Relief; and (II)(A) Approving the Sale of the Debtor's Assets Free and Clear of Liens, Claims, Interests and Encumbrances, (B) Approving the Assumption and Assignment of Executory Contracts and Unexpired Leases and (C) Granting Related Relief* [Docket No. [●]] (the "Bidding Procedures Motion"),[2] requesting entry of an order to (i) conduct an auction (the "Auction") to select the party to purchase the Debtor's assets and (ii) designate Dave Carter & Associates, Inc., the DIP Lenders and an affiliate of the Debtor, as the stalking horse bidder (the "Stalking Horse Bidder") for the Sale Transaction. The Auction will be governed by the bidding procedures approved pursuant to the Bidding Procedures Order (attached to the Bidding Procedures Order as Exhibit 1, the "Bidding Procedures").

PLEASE TAKE FURTHER NOTICE that, pursuant to the Bidding Procedures and the terms of any Successful Bid, the Debtor **may** assume and assign to the Successful Bidder the contract or agreement listed on **Exhibit A** attached hereto to which you are a counterparty, upon approval of the Sale. The Debtor has conducted a review of its books and records and has

[1] The Debtor in this chapter 11 case, along with the last four digits of the Debtor's federal tax identification number, is: Norcold LLC (6081). For purposes of this chapter 11 case, the Debtor's service address is 7101 Jackson Road, Ann Arbor, MI 48103.

[2] All capitalized terms used but not otherwise defined herein shall have the meaning given to them in the Bidding Procedures Order.

determined that the cure amount for unpaid monetary obligations under such Assigned Contracts is as set forth on **Exhibit A** attached hereto (the "Cure Amounts").

PLEASE TAKE FURTHER NOTICE that if you disagree with the proposed Cure Amounts, object to a proposed assignment to the Successful Bidder of any Assigned Contract, your objection must: (i) be in writing; (ii) comply with the applicable provisions of the Bankruptcy Rules, Local Rules, and any order governing the administration of the Chapter 11 Case; (iii) state with specificity the nature of the objection and, if the objection pertains to the proposed Cure Amounts, state the correct cure amount alleged to be owed to the objecting Contract Counterparty, together with any applicable and appropriate documentation in support thereof; and (iv) be filed with the Court and served and **actually received no later than [●], at 4:00 p.m. (ET) (the "Contract Objection Deadline")** by the Court and the Objection Notice Parties:

- the Debtor, c/o Norcold LLC, 7101 Jackson Road, Ann Arbor, MI 48103, Attn: Richard Wu, Chief Restructuring Officer (rwu@alvarezandmarsal.com);

- counsel for the Debtor, (a) Young Conaway Stargatt & Taylor, LLP, Rodney Square, 1000 North King Street, Wilmington, DE 19801, Attn: Sean M. Beach (sbeach@ycst.com); and Matthew B. Lunn (mlunn@ycst.com),;

- counsel for any official committee appointed in this chapter 11 case;

- counsel to the DIP Lender, Ropes & Gray LLP, 191 N. Wacker, 32nd Floor, Chicago, IL 60606, Attn: Chris Dickerson (chris.dickerson@ropesgray.com) and Conor McNamara (conor.mcnamara@ropesgray.com);

- if applicable, counsel for any Successful Bidder(s); and

- if applicable, counsel for any Backup Bidder(s).

PLEASE TAKE FURTHER NOTICE that if you object to the ability of the Successful Bidder to provide adequate assurance of future performance with respect to any Assigned Contract, your objection must: (i) be in writing; (ii) comply with the applicable provisions of the Bankruptcy Rules, Local Bankruptcy Rules, and any order governing the administration of the Chapter 11 Case; (iii) state with specificity the nature of the objection; and (iv) be filed with the Court and served and **actually received no later than January 22, 2026, at 4:00 p.m. (ET) (the "Post-Auction Objection Deadline")** by the Court and the Objection Notice Parties (as listed above).

PLEASE TAKE FURTHER NOTICE that if no objection to (i) the Cure Amounts(s), or (ii) the proposed assignment and assumption of any Assigned Contract, is filed by the Contract Objection Deadline, and if no objection the adequate assurance of the Successful Bidder's ability is filed by the Post-Auction Objection Deadline, then (i) you will be deemed to have stipulated that the Cure Amounts as determined by the Debtor are correct, (ii) you will be forever barred, estopped, and enjoined from asserting any additional cure amount under the proposed Assigned Contract, and (iii) you will be forever barred, estopped, and enjoined from objecting to such proposed assignment to the Successful Bidder on the grounds that the Successful Bidder has not provided adequate assurance of future performance as of the closing date of the Sale.

PLEASE TAKE FURTHER NOTICE that, if the Debtor seeks Court approval of a Sale Transaction pursuant to the Bidding Procedures, the Debtor will seek to assume and assign the Assigned Contracts that have been selected by the Successful Bidder (which, for the avoidance of doubt, may be the Stalking Horse Bidder) at a hearing before the Honorable [●], in the United States Bankruptcy Court for the District of Delaware, 824 North Market Street, Wilmington, DE 19801, 3rd Floor, Courtroom [●], (a "Sale Hearing") on **January 27, 2026 at [●] (ET),** or such other date as determined by the Debtors in accordance with the terms of the Bidding Procedures Order, subject to the Court's availability.

PLEASE TAKE FURTHER NOTICE that any objection to the proposed assumption and assignment of an Assigned Contract or related Cure Amounts in connection with the Successful Bid that otherwise complies with these procedures yet remains unresolved as of the commencement of the Sale Hearing, shall be heard at a later date as may be fixed by the Court.

PLEASE TAKE FURTHER NOTICE that, notwithstanding anything herein, the mere listing of any Assigned Contract on the Cure Notice does not require or guarantee that such Assigned Contract will be assumed by the Debtor at any time or assumed and assigned, and all rights of the Debtor and the Successful Bidder with respect to such Executory Contracts and/or Unexpired Leases are reserved.

PLEASE TAKE FURTHER NOTICE that, the Debtor may later identify Counterparties that were not served with the Assumption and Assignment Notice, and may subsequently serve such Counterparties with a new notice (the "Supplemental Assignment Notice") which shall (i) identify the relevant Contract(s), (ii) set forth a good faith estimate of the Cure Amounts, (iii) include a statement that assumption and assignment of each such Contract is not required nor guaranteed, and (iv) inform such Counterparties of the requirement to file any Contract Objection(s) by the Supplemental Contract Objection Deadline (defined herein) and the Assumption and Assignment Procedures will nevertheless apply to such Counterparties; provided, that the Contract Objection Deadline with respect to such Counterparty listed on a Supplemental Assignment Notice shall be the later of the Contract Objection Deadline or fourteen (14) days following the date of service of a Supplemental Assignment Notice (the "Supplemental Contract Objection Deadline").

PLEASE TAKE FURTHER NOTICE that, no later than (3) business days prior to the Sale Hearing, the Debtors will file with the Court a "Closing Assignment Notice," which shall (i) identify the Successful Bidder, and (ii) list all Cure Amounts and corresponding Contracts which are proposed to be assumed and assigned by the Successful Bidder at the closing of the sale (the "Closing Assigned Contracts") which may exclude contracts which were previously the subject of an Assumption and Assignment Notice or any Supplemental Assignment Notice.

PLEASE TAKE FURTHER NOTICE that, the Closing Assignment Notice may include Contracts not previously designated as Contracts that may be assumed and assigned in the Assumption and Assignment Notice or any Supplemental Assignment Notice (such contracts, a "Previously Omitted Contract"), and the Closing Assignment Notice shall serve as a Supplemental Assignment Notice for each Previously Omitted Contract Counterparty.

PLEASE TAKE FURTHER NOTICE that, nothing herein (i) alters in any way the prepetition nature of the Assigned Contracts or the validity, priority, or amount of any claims of a counterparty to any Assigned Contract against the Debtor that may arise under such Assigned Contract, (ii) creates a postpetition contract or agreement, or (iii) elevates to administrative expense priority any claims of a counterparty to any Assigned Contract against the Debtor that may arise under such Assigned Contract.

PLEASE TAKE FURTHER NOTICE that you may obtain additional information concerning the above-captioned chapter 11 case (a) free of charge upon request to Stretto, Inc. (the notice and claims agent retained in this chapter 11 case) by calling (833) 256-5483 (Toll-Free), (b) by visiting the website maintained in this chapter 11 case at https://cases.stretto.com/Norcold, or (c) for a fee via PACER by visiting http://www.deb.uscourts.gov.

Dated: December [•], 2025
Wilmington, Delaware

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mlunn@ycst.com
jkochenash@ycst.com
dtrager@ycst.com
rsharp@ycst.com

Proposed Counsel for the Debtor and Debtor in Possession

<u>Exhibit A</u>

Cure Amounts

<u>Exhibit 4</u>

Stalking Horse APA

ASSET PURCHASE AGREEMENT

DATED AS OF [●], 2025

BY AND BETWEEN

DAVE CARTER & ASSOCIATES, INC.

AND

NORCOLD, LLC

[THIS DOCUMENT IS INTENDED SOLELY TO FACILITATE DISCUSSIONS BETWEEN THE PARTIES IDENTIFIED HEREIN. IT IS NOT INTENDED, AND WILL NOT BE DEEMED, TO CREATE A LEGALLY BINDING OR ENFORCEABLE OFFER OR AGREEMENT OF ANY TYPE OR NATURE PRIOR TO EXECUTION HEREOF BY ALL OF THE PARTIES HERETO.]

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EXHIBITS

Exhibit A	Form of Assignment and Assumption Agreement
Exhibit B	Bidding Procedures
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Exhibit D	Form of Bill of Sale
Exhibit E	Form of Joinder
Exhibit F	Disclosure Schedules

ASSET PURCHASE AGREEMENT

THIS ASSET PURCHASE AGREEMENT (this "Agreement"), dated as of [●], 2025 (the "Execution Date"), is made and entered into by and between Dave Carter & Associates, Inc., a Florida corporation ("Buyer") and Norcold, LLC, a Delaware limited liability company ("Seller").

RECITALS

WHEREAS, Seller is engaged in the business of developing, designing, assembling, inspecting, testing, labeling, selling and distributing gas absorption refrigerators and cooling units to original manufacturers and distributors for installation in recreational vehicles and boats throughout the United States (such business of Seller, including any other business currently conducted or proposed to be conducted by Seller, the "Business");

WHEREAS, on [●], 2025 (the "Petition Date"), Seller commenced a voluntary case under chapter 11 of title 11 of the United States Code, 11 U.S.C. §§ 101 *et seq* (the "Bankruptcy Code"), in the United States Bankruptcy Court for the [●] (the "Bankruptcy Court"), under Case No. [●] (the "Bankruptcy Case");

WHEREAS, in accordance with the Bidding Procedures and subject to the terms and conditions set forth in this Agreement and the entry of the Sale Order, Seller desires to sell to Buyer, all of the Acquired Assets, and Buyer desires to purchase from Seller all of the Acquired Assets, and Seller desires to assign, and Buyer desires to assume, all of the Assumed Liabilities, and the Parties intend to effectuate the transactions contemplated by this Agreement (the "Transactions"), upon the terms and conditions hereinafter set forth;

WHEREAS, the Acquired Assets and the Assumed Liabilities shall be purchased and assumed by Buyer, pursuant to the Sale Order, free and clear of any and all Liens (other than Assumed Liens), pursuant to §§ 105, 363 and 365 of the Bankruptcy Code, and Rules 4001, 6004 and 6006 of the Federal Rules of Bankruptcy Procedure; and

WHEREAS, Seller's ability to consummate the Transactions is subject to, among other things, the entry of the Sale Order by the Bankruptcy Court.

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

ARTICLE 1
DEFINITIONS

1.1 Definitions.

For purposes of this Agreement, the following terms have the meaning specified or referenced below.

"Accounts Payable" means, with respect to the Seller, all obligations for the payment of money, including trade payables, accrued expenses (exclusive of any litigation and product liability reserves), and other amounts due and owing to any third party or to any Affiliate, whether or not invoiced, arising out of or in connection with the conduct of the Business, including payables in respect of goods or services received, intercompany account balances, employee-related liabilities, and other similar obligations.

"Accounts Receivable" means, with respect to Seller, all accounts receivable, notes receivable, purchase orders, negotiable instruments, completed work or services that have not been billed, chattel paper, notes and other rights to payment, including (a) those consisting of all accounts receivable in respect of services rendered or products sold by Seller, any other miscellaneous accounts receivable of Seller, and any claim, remedy or other right of Seller related to any of the foregoing, together with all unpaid financing charges accrued thereon and any payments with respect thereto, and (b) all accounts and accounts receivable of Seller existing at the Closing Date arising out of the operation of the Business and all rights to bill and receive payment (including all accounts and accounts receivable that have been "written off" or charged against or to any bad debt reserve of Seller), and any security held by Seller for the payment thereof, in each case.

"Action" means any legal action, suit, petition, plea, charge, claim, demand, arbitration, audit, complaint, grievance, summons, litigation, mediation, suit, proceeding (including any civil, criminal, administrative, investigative or appellate proceeding), prosecution, contest, hearing, inquiry, inquest, audit, examination or investigation commenced, brought, conducted, or heard by or before, or otherwise involving, any Governmental Authority.

"Affiliate" has the meaning set forth in 11 U.S.C. § 101(2).

"Approved Budget" has the meaning set forth in the DIP Order.

"Assignment and Assumption Agreement" means the Assignment and Assumption Agreement in substantially the form attached hereto as **Exhibit A**, with any modifications thereto to be acceptable to each of Seller and Buyer.

"Assumed Liens" means (i) Liens for Taxes not yet delinquent or that are being contested in good faith by appropriate proceedings and arising or incurred in the Ordinary Course of Business; (ii) mechanic's, workmen's, repairmen's, warehousemen's, carrier's, or other similar Liens, including all statutory liens, arising, or incurred in the Ordinary Course of Business for amounts that are not delinquent and that are not, individually or in the aggregate, material to the business of Seller; (iii) with respect to leased or licensed real or personal property, the terms and conditions of the lease, license, sublease, or other occupancy agreement applicable thereto that are customary; (iv) with respect to any leased real property, usual, and customary zoning, building codes, and other land use laws regulating the use or occupancy of such leased real property or the activities conducted thereon that are imposed by any Governmental Authority having jurisdiction over such leased real property; and (v) all Liens specifically set forth on Section 1.1(a)(i) of the Disclosure Schedules.

"Assumed Taxes" means only (a) Washington state excise taxes arising from the operation of the Business and attributable to Pre-Closing Tax Periods to the extent set forth on Section 2.4(f) of the Disclosure Schedules, (b) customs duties and tariffs arising from the importation of goods for the Business and attributable to Pre-Closing Tax Periods, in each case solely to the extent not included in the Wind-Down Budget, and (c) taxes set forth on Section 1.1(a)(ii) of the Disclosure Schedules.

"Avoidance Action" means any claim, right or cause of action of Seller arising under chapter 5 of the Bankruptcy Code (including sections 544, 545, 547, 548, 549, 550 and 553) and any analogous state law claims relating to the Acquired Assets or the Business.

"Backup Bidder" has the meaning set forth in the Bidding Procedures.

"Benefit Plan" means (a) any "employee benefit plan" within the meaning of Section 3(3) of ERISA, and (b) any other compensation or benefit plan, program, practice, arrangement or agreement, whether or not subject to ERISA, whether or not reduced to writing, and whether covering a single individual or group of individuals, including, but not limited to, any bonus, commission, employment, consulting, equity or equity-based, incentive compensation profit-sharing, deferred compensation, employee loan, life insurance, pension, retirement, supplemental retirement, tax gross-up, expense reimbursement, medical, hospital, disability, "cafeteria" or "flexible" benefit, welfare or fringe benefit, change of control, transaction, severance or retention, post-termination or post-employment health and welfare, salary continuation, paid time-off, or other compensation or benefit policy, practice, program, plan, contract, agreement or arrangement, in each case, (i) under which any current or former employee or service provider (or any of their respective beneficiaries) has any present or future right to benefits, and (ii) with respect to which Seller sponsors, maintains or contributes to, or has any obligation to maintain or contribute to, or has or could reasonably be expected to have any Liability.

"Bidding Procedures" means those certain bidding procedures substantially in the form attached hereto as **Exhibit B**, to be approved by the Bankruptcy Court pursuant to the Bidding Procedures Order, with any modifications thereto to be acceptable to each of Seller and Buyer.

"Bidding Procedures Order" means that certain Order of the Bankruptcy Court substantially in the form attached hereto as **Exhibit C**, with any modifications thereto to be acceptable to Buyer.

"Bill of Sale" means the Bill of Sale substantially in the form attached hereto as **Exhibit D**, with any modifications thereto to be acceptable to each of Seller and Buyer.

"Business Day" means any day of the year on which national banking institutions in New York, New York are open to the public for conducting business and are not required or authorized to close.

"Cash" means all cash and cash equivalents, including checks, commercial paper, treasury bills, certificates of deposit and marketable securities, and any bank accounts, lockbox arrangements, cash in transit (including uncleared checks, ACH payments, and wire transfers) and other liquid investments of Seller as of the Closing. For the avoidance of doubt, any Cash that is an "Excluded Asset" pursuant to this Agreement shall remain subject to all Liens.

"Claim" means a "claim" as defined in section 101(5) of the Bankruptcy Code, against Seller.

"COBRA" means the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended.

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

"Contract" means any agreement, contract, obligation, promise, undertaking, lease (including Leases and Lessor Leases), sublease, purchase order, arrangement, license, commitment, insurance policy or other binding arrangement or understanding (in each case, whether written or oral), and any amendments, modifications or supplements thereto.

"<u>Confirmation Order</u>" means the order of the Bankruptcy Court confirming the Plan.

"<u>Copyrights</u>" means all United States and foreign copyright rights in any original works of authorship, whether registered or unregistered, including all copyright registrations and applications.

"<u>Credit Bid</u>" means a bid made pursuant to section 363(k) of the Bankruptcy Code using some or all of the outstanding obligations under the DIP Term Sheet.

"<u>Cure Costs</u>" means all monetary liabilities as of the effective date of Seller's assignment of a Contract to Buyer, including pre-petition monetary liabilities, of Seller that must be paid or otherwise satisfied to cure all of Seller's monetary defaults under the Assigned Contracts pursuant to section 365 of the Bankruptcy Code at the time of the assumption thereof and assignment to Buyer as provided hereunder as such amounts are determined by the Bankruptcy Court.

"<u>DIP Financing</u>" means the senior secured superpriority debtor-in-possession financing provided to Seller pursuant to the DIP Term Sheet, as approved by the DIP Order, including all loans, advances, obligations, fees, interest, expenses and other amounts thereunder, and any amendments, restatements, supplements, modifications, renewals, replacements, refinancings or refundings thereof.

"<u>DIP Term Sheet</u>" means that certain Senior Secured Superpriority Debtor-in-Possession Term Loan Facility Term Sheet, dated as of [●], by and among Seller and the lenders from time to time party thereto, as the same may be amended, restated, supplemented or otherwise modified, together with all annexes, exhibits and schedules thereto.

"<u>DIP Order</u>" means the interim order and the final order entered by the Bankruptcy Court approving, among other things, Seller's entry into the DIP Term Sheet and the DIP Facility (as defined in the DIP Order).

"<u>Disclosure Schedules</u>" means the Disclosure Schedules attached hereto, dated as of the Execution Date, delivered by Seller to Buyer in connection with the execution of this Agreement.

"<u>Documents</u>" means all of the documents of, generated by, used in, or held for use in the operation of the Business as conducted by Seller.

"<u>Effective Time</u>" means 12:01 a.m. prevailing Eastern Time on the Closing Date.

"<u>Employee Retention Credit</u>" means an estimated amount of approximately $1,300,000.00, including all rights to claim, receive, or enforce payment thereof.

"<u>Environmental Laws</u>" means any and all Legal Requirements concerning or relating to public health and safety, the protection of worker or occupational health from exposure to Hazardous Substances and employee safety in the workplace, and pollution or protection of the environment, including those relating to the presence, use, manufacturing, refining, production, generation, handling, transportation, treatment, recycling, storage, disposal, distribution, importing, labeling, testing, processing, discharge, Release, threatened Release, control, cleanup, or other action or failure to act involving Hazardous Substances.

"Equipment" means all furniture, fixtures, equipment, scaffolding and related materials, computers, machinery, tools, molds, vehicles, apparatus, appliances, implements, telephone systems, management information systems (including all software and hardware related thereto), signage, supplies and all other tangible personal property of every kind and description, and improvements and tooling of, used in, or held for use in, the operation of the Business as conducted by Seller, wherever located, including communications equipment, information technology assets, and any attached and associated hardware, routers, devices, panels, cables, manuals, cords, connectors, cards, and vendor documents, and including all warranties of the vendor applicable thereto.

"ERISA" means the Employee Retirement Income Security Act of 1974, as amended.

"Estimated Wind-Down Expenses" means the out-of-pocket administrative costs and expenses to be funded by Seller or its Affiliates and which Seller expects to incur in connection with winding down its bankruptcy estate after the Closing Date (whether incurred prior to, at or following Closing), as, and solely to the extent, set forth in the Wind-Down Budget as mutually agreed and as may be adjusted pursuant to Section 2.7; provided, however, that such Estimated Wind-Down Expenses shall include: (i) all disbursements in the Approved Budget that have not been disbursed as of the date of approval of the Wind-Down Budget; (ii) all prepetition claims entitled to priority under section 507(a) of the Bankruptcy Code; and (iii) the amounts in the Professional Fees Escrow (as defined in the DIP Order) on the Closing Date. For the avoidance of doubt, to the extent a cost or expense would fall into multiple of the foregoing categories, it will only be included once in the calculation of the Estimated Wind-Down Expenses.

"Event of Default" has the meaning set forth in the DIP Term Sheet.

"Excess Cash" means all Cash of the Seller or its bankruptcy estate remaining as of the date that is seventy-five (75) days after the Closing Date, after giving effect to (i) the payment or reservation of all Cure Costs, Estimated Wind-Down Expenses, and other expenses permitted or required to be paid by the Seller or its bankruptcy estate pursuant to the Sale Order or otherwise in connection with the Bankruptcy Case, and (ii) the establishment of a reasonable reserve for any remaining wind-down or professional expenses as determined in accordance with Section 2.7(b).

"Excluded Causes of Action" means any and all Actions, claims, causes of action, rights, counterclaims, defenses or assertions against, of, by or on behalf of Seller, whether known or unknown, choate or inchoate, foreseen or unforeseen, contingent or fixed, in law or in equity, arising out of, relating to, or in connection with any act, omission, event, circumstance, condition, product, practice, service, or other conduct occurring, arising, or alleged to have occurred or arisen prior to the Closing Date, including for the avoidance of doubt any such Actions or claims that are asserted under, arise under, or are brought pursuant to any Assigned Contract to the extent based on pre-Closing Date facts, events, or conduct, and including those relating to the matters set forth on Section 1.1(b) of the Disclosure Schedules.

"Final Order" means an Action taken or Order issued by the applicable Governmental Authority as to which: (a) no request for stay of the Action or Order is pending, no such stay is in effect, and, if any deadline for filing any such request is designated by statute or regulation, it is passed, including any extensions thereof; (b) no petition for rehearing or reconsideration of the Action or Order, or protest of any kind, is pending before the Governmental Authority, and the time for filing any such petition or protest is passed; (c) the Governmental Authority does not have the Action or Order under reconsideration or review on its own motion, and the time for such reconsideration or review has passed; and (d) the Action or Order is not then under judicial review, there is no notice of appeal or other application for judicial review pending, and the deadline for filing such notice of appeal or other application for judicial review has passed, including any extensions thereof; provided, however, that the possibility that a motion under Rule 60 of the Federal Rules of Civil Procedure, or any analogous rule under the Bankruptcy Code, may be filed relating to such order, shall not cause such order not to be a Final Order.

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

"Governmental Authority" means any United States federal, state or local or any foreign government, governmental authority or regulatory or administrative authority, agency or commission or any court, tribunal or judicial body having jurisdiction, including the Bankruptcy Court, or any mediator, arbitrator or arbitral body.

"Governmental Authorization" means any approval, consent, license, Permit, waiver or other authorization issued, granted or otherwise made available by or under the authority of any Governmental Authority.

"Hazardous Substance" means any substance, material or waste (including chemicals, compounds, mixtures, pollutants and contaminants) which is regulated because of its effect or potential effect on public health or the environment, including (a) any substance, material or waste which is defined as a "pollutant", "contaminant", "hazardous waste", "hazardous material" or "hazardous substance" under any Environmental Law; (b) petroleum or any fraction thereof, or petroleum products, (c) natural gas, (d) asbestos and asbestos-containing materials, (e) radioactive material, (f) urea formaldehyde, and (g) polychlorinated biphenyls.

"Improvements" means the buildings, structures, systems, facilities and improvements located on the Real Property.

"Indebtedness" means, at any time and with respect to any Person, all: (a) indebtedness of such Person for borrowed money; (b) indebtedness of such Person for the deferred purchase price of property or services (other than trade payables, other expense accruals and deferred compensation items arising in the Ordinary Course of Business); (c) obligations of such Person evidenced by notes, bonds, debentures or other similar instruments (other than performance, surety and appeal bonds arising in the Ordinary Course of Business in respect of which such Person's liability remains contingent); (d) indebtedness of such Person created or arising under any conditional sale or other title retention agreement with respect to property acquired by such Person (even though the rights and remedies of the seller or lender under such agreement in the event of default are limited to repossession or sale of such property); (e) obligations of such Person under leases which have been or should be, in accordance with GAAP, recorded as finance leases, to the extent required to be so recorded; (f) reimbursement, payment or similar obligations of such Person, contingent or otherwise, under acceptance, letter of credit or similar facilities (but only to the extent drawn); (g) vendor financing arrangements; (h) obligations of such Person under interest rate or currency swap transactions or commodity hedges (valued at the termination value thereof); (i) Indebtedness of others referred to in clauses (a) through (h) above guaranteed directly or indirectly by such Person, or in effect guaranteed directly or indirectly by such Person, through an agreement (i) to pay or purchase such Indebtedness or to advance or supply funds for the payment or purchase of such Indebtedness, (ii) to supply funds to or in any other manner invest in the debtor (including any agreement to pay for property or services irrespective of whether such property is received or such services are rendered), or (iii) otherwise to assure a creditor against loss in respect of such Indebtedness; and (j) Indebtedness referred to in clauses (a) through (i) above secured by (or for which the holder of such Indebtedness has an existing right, contingent or otherwise, to be secured by) any Lien upon or in property (including accounts and contract rights) owned by such Person, even though such Person has not assumed or become liable for the payment of such Indebtedness.

"Intellectual Property" means all intellectual property rights, including all Trademarks, service marks, trade names, mask works, inventions, Patents, Trade Secrets, Copyrights, know-how or any other similar type of proprietary intellectual property right and all applications for, and registrations of, any of the foregoing, in each case, owned, used or licensed by Seller and used in, held for use in, or necessary for the operation of the Business or the Acquired Assets.

"IRS" means the United States Internal Revenue Service.

"Joinder" means a joinder substantially in the form attached hereto as **Exhibit E**.

"Klein Settlement Amount" means an estimated amount of $100,000, including all rights to claim, receive, or enforce payment thereof.

"Knowledge" means, with respect to any matter in question, in the case of Seller, the actual knowledge, as of the Execution Date, of the Richard Wu, the Chief Restructuring Officer of Seller.

"Leased Real Property" means the real property and Improvements let, leased or subleased by Seller, as tenant, subtenant, lessee or sublessee, or in which Seller has been granted a possessory interest or right to use or occupy all or any portion of the same, in each case, which is subject to a written lease to which Seller is a party, which is used in or held for use in the operation of the Business as conducted by Sellers or on which any Improvements that constitute Acquired Assets are located (each such real property lease a "Lease", and collectively, the "Leases").

"Legal Requirement" or "Law" means any federal, state, local or foreign law, constitution, treaty, convention, ordinance, code, rule, regulation, order, injunction, judgment, decree, ruling or other similar requirement enacted, adopted, promulgated or applied by a Governmental Authority.

"Liability" means any liabilities, Liens or obligations of any kind or nature whatsoever (whether direct or indirect, known or unknown, asserted or unasserted, absolute or contingent, accrued or unaccrued, matured or unmatured, determined or determinable, disputed or undisputed, liquidated or unliquidated, or due or to become due, and whether in contract, tort, strict liability or otherwise), including all costs and expenses relating thereto (including all fees, disbursements and expenses of legal counsel, experts, engineers and consultants and costs of investigation).

"Lien" means any "interest" as that term is used in section 363(f) of the Bankruptcy Code, mortgage, deed of trust, pledge, assignment, security interest, encumbrance, lien, mechanics lien, charge, hypothecation, deemed trust, action, easement, charge or otherwise, or claim of any kind or nature whatsoever in respect of any property, including any of the foregoing created by, arising under, or evidenced by any conditional sale or other title retention agreement, the interest of a lessor under a finance lease, any financing lease having substantially the same economic effect as any of the foregoing, or the filing of a financing statement naming the owner of the property as to which such lien relates as the debtor under the Uniform Commercial Code or any comparable Legal Requirement in any other jurisdiction.

"Material Adverse Effect" means any change, effect, event, state of facts, development or occurrence that, individually or in the aggregate (taking into account all other such changes, events, state of facts or occurrences), has had, or would be reasonably expected to have, a material adverse change in or material adverse effect on (a) the Acquired Assets, taken as a whole, or the assets, properties, financial conditions or results of operations of the Business, taken as a whole, or (b) the ability of Seller to consummate the Transactions or to perform any of their obligations under this Agreement, but, with respect to clause (a), excluding any change or effect to the extent that it results from or arises, following the Execution Date, out of (i) the commencement of the Bankruptcy Case or operations of Seller as a debtor and debtor-in-possession; (ii) any global, national, international, foreign, domestic or regional economic, financial, social, military, political or business conditions (including changes therein) or events in general, including the results of any primary or general elections, the appointment, resignation, or removal of any Person or persons at any Governmental Authority, hostilities, acts of war, sabotage or terrorism or military actions or any escalation, worsening or diminution of any such hostilities, acts of war, sabotage or terrorism or military actions existing or underway; (iii) any changes in any financial, credit, debt, capital or banking markets or conditions (including any disruptions thereof), in each case, in the United States of America or anywhere else in the world; (iv) any changes in interest, currency or exchange rates or the price of any commodity, security or market index; (v) any changes in applicable Legal Requirements, GAAP or other accounting principles or requirements, or standards, interpretations or enforcement thereof (including the effect of the implementation of ASC 842); (vi) changes that are the result of factors generally affecting the industries in which the Business operates; (vii) any failure of Seller to meet, any internal or public projections, forecasts, budgets or estimates of or relating to the Business for any period prior to the Closing, including with respect to revenue, earnings, cash flow or cash position (provided that this clause (vii) shall not preclude any change, effect, event, occurrence, state of facts or development that may have contributed to or caused such failures and is not otherwise excluded from this definition of "Material Adverse Effect" from being taken into account in determining whether a Material Adverse Effect has occurred); (viii) any stoppage or shutdown of any Governmental Authority; (ix) earthquakes, floods, tornadoes, food-borne illness, pandemics (including with respect to COVID-19), avalanches, tsunamis, blizzards, hurricanes, tropical storms, mudslides, fires or other natural disasters or any national, international or regional calamity or any man-made disaster and other force majeure events in the United States of America or any other country or region in the world; (x) the imposition of new tariffs or increases in the rate of existing tariffs, or (xi) the taking of any action expressly required by this Agreement or any other Transaction Document; provided, however, that in the case of the foregoing clauses, such effects, changes, conditions, circumstances, developments or events shall be taken into account in determining whether any material adverse effect or material adverse change has occurred solely to the extent that any such effects, changes, conditions, circumstances, developments or events have had, or are reasonably expected to have, a disproportionate effect on the Business (excluding the

Excluded Assets and the Excluded Liabilities) or the Acquired Assets relative to other participants operating in the industries in which Seller operates.

"Material Contract" means any material Contract of the Business, including any Contract to which Seller is a party or bound or otherwise of or related to the Business that constitutes: (a) a Contract for a joint venture, strategic alliance, partnership, licensing arrangement, franchise agreement, or sharing of profits of the Business; (b) a Contract relating to any pending or consummated acquisition of all or a substantial portion of the equity securities, assets or business of any Person where Seller has any continuing contractual obligations; (c) a Contract with respect to Real Property, including any Lessor Leases; (d) a Contract under which Seller is lessee of, or holds or operates, any personal property owned by any other Person, for which the annual rental rate exceeds $50,000; (e) a Contract under which Seller is lessor of or permits any third party to hold or operate any property, real or personal of Seller, for which the annual rental rate exceeds $50,000; (f) a license of Intellectual Property (except an Intellectual Property license implied by the sale of goods, or pursuant to which Seller licenses software generally commercially available with a replacement cost or total annual license and maintenances fees of less than $50,000); (g) a Contract with a customer of the Business which resulted in, or is reasonably expected to result in, aggregate annual payments to Seller in excess of $50,000 or obligates the customer to make aggregate payments to Seller of more than $50,000 over the remaining stated term of such Contract (including any renewal or extension that may be effected at a counterparty's option); (h) a Contract limiting the right of the Business or Seller to (A) engage in or compete with any Person in any business or in any geographical area, or (B) solicit or hire any Person or customers with respect to the Business (other than pursuant to any restriction imposed by any applicable Legal Requirement or Permit); (i) a Contract that is a settlement or similar agreement pursuant to which Seller is obligated to pay consideration after the Execution Date in excess of $50,000; (j) a Contract or group of related Contracts with the same party or its Affiliates pursuant to which consideration in excess of $50,000 is paid or payable; (k) a Contract evidencing Indebtedness in excess of $50,000; (l) a Collective Bargaining Agreement; or (m) a Contract that contains any indemnification, hold harmless, defense, contribution, or reimbursement obligation of the Seller in favor of any distributor, dealer, reseller, sales representative, agent, customer, end user, original equipment manufacturer, component supplier, logistics provider, or other Person involved in the Seller's distribution, sales, or supply chain (including obligations relating to product liability, warranty, recall, retrofit, repair, replacement, refunds, credits, chargebacks, safety notices, intellectual property infringement, or compliance with Law).

"Multiemployer Plan" means a "multiemployer plan" as defined in Section 3(37) or 4001(a)(3) of ERISA.

"Order" means any award, writ, injunction, judgment, order, ruling, decision, subpoena, mandate, precept, command, directive, decree or similar determination or finding entered, issued, made or rendered by any Governmental Authority, or any arbitrator, mediator, or other quasi-judicial or judicially sanctioned Person or body.

"Ordinary Course of Business" means, with respect to any Person, the ordinary and usual course of normal day to day operations of such Person and its business, consistent with its past practices during the period immediately preceding the Execution Date, in each case taking into consideration Seller's recent financial distress, insolvency, bankruptcy, or restructuring activities or efforts, including any material changes to operational practices, vendor or supplier relationships, payment terms, credit policies, inventory management, or cash management practices, resulting from or influenced by such financial distress.

"Other Rights" means easements, rights of way, privileges, licenses, hereditaments, appurtenances and all other rights and benefits appurtenant or in any way related to, or demised under any lease of or other contact or agreement for the use of, the Leased Real Property.

"Parent" means Thetford LLC, a Delaware liability company.

"Party" or "Parties" means, individually or collectively, Buyer, Seller and any Buyer Designee that becomes party hereto pursuant to a Joinder.

"Patents" means United States and foreign patents and patent applications, as well as any continuations, continuations-in-part, divisions, extensions, reexaminations, reissues, renewals and patent disclosures related thereto.

"Permits" means all approvals, permits, licenses, franchises, waivers, filings, consents, certificates, notices, qualifications, authorizations, registrations, clearances and Orders, together with all modifications, amendments, supplements and extensions thereof, of or from any Governmental Authority or any other Person that are necessary for Seller to own the Acquired Assets or operate the Business.

"Permitted Liens" means any: (a) easements, rights of way, restrictive covenants, encroachments and similar non-monetary Liens or non-monetary impediments against any of the Acquired Assets which do not, individually or in the aggregate, materially or adversely affect the operation of the Business; (b) applicable zoning, building and Environmental Laws, ordinances, codes, restrictions and regulations; (c) materialmen's, mechanics', artisans', shippers', warehouseman's or other similar common law or statutory liens incurred in the Ordinary Course of Business for sums not yet due and payable or that are due but may not be paid as a result of the commencement of the Bankruptcy Case; (d) statutory liens for current Taxes, assessments or other governmental charges not yet due and payable or the amount or validity of which are being contested in good faith and for which adequate reserves have been established in accordance with GAAP on the Financial Statements; (e) rights granted to any licensee of any Intellectual Property of Seller in the Ordinary Course of Business; (f) Liens that will be and are discharged or released either prior to, or simultaneously with the Closing; (g) such other Liens, title exceptions or imperfections of title as Buyer may approve in writing in its sole discretion; and (h) other Liens specifically set forth on Section 1.1(a)(iii) of the Disclosure Schedules.

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

"Plan" means the Chapter 11 Plan filed at Docket No. [●].

"Post-Closing COBRA Liabilities" means the continuation coverage requirements of COBRA arising on or following the Closing Date for all individuals who are M&A qualified beneficiaries (as such term is defined in Treasury Regulation Section 54.4980B-9, Q&A-4(a)).

"Pre-Closing Tax Period" means any Tax period or year, or portion thereof, that ends on or before the Closing Date.

"Pre-Closing Taxes" means any all Liabilities with respect to Taxes imposed on the Business or the Acquired Assets that are attributable to any Pre-Closing Tax Period.

"Pre-Paid Expenses" means all deposits (including customer deposits and security deposits (whether maintained in escrow or otherwise) for rent, electricity, telephone or otherwise), advances, pre-paid expenses, prepayments, vendor rebates and other refunds, claims, causes of action, rights of recovery, rights under warranties and guaranties, rights of set off and rights of recoupment of every kind and nature (whether or not known or unknown or contingent or non-contingent), in each case, excluding any deposits or prepayments of Pre-Closing Taxes including, for the avoidance of doubt, any rights to payment, refund or credit in respect of the Employee Retention Credit or similar Tax credit or incentive, whether or not received as of the Closing Date.

"Pre-Petition Debt Documents" means any prepetition credit, loan, indenture, note purchase, or similar agreements of Seller, including any guarantees thereof by Seller and Buyer, as identified on Schedule 1.1(c)).

"Qualified Bid" has the meaning set forth in the Bidding Procedures.

"Qualified Bidder" has the meaning set forth in the Bidding Procedures.

"Real Property" means: (a) the Leased Real Property; (b) all strips and gores and any land lying in the bed of any public road, highway or other access way, open or proposed, adjoining such real property to the extent that Seller has a legally recognized interest therein; and (c) all Other Rights.

"Release" means (a) any releasing, spilling, discharging, disposing, leaking, pumping, injecting, pouring, depositing, dispersing, emitting, leaching or migrating into the indoor or outdoor environment, including ambient air, surface water, groundwater and surface or subsurface strata, or into or out of any property, including the movement of Hazardous Substances through or in the air, soil, surface water, groundwater, surface or subsurface strata or property, but excludes (i) emissions from the engine exhaust of a motor vehicle, rolling stock, aircraft, vessel or pipeline pumping station engine, and (ii) the normal and appropriate application of fertilizer, and (b) the abandonment or discarding of barrels, tanks, containers or receptacles, whether or not sealed or closed, containing, or which formerly contained, Hazardous Substances.

"Representative" means, with respect to a particular Person, any director, officer, manager, employee, agent, consultant, advisor or other representative of such Person, including legal counsel, accountants and financial advisors.

"Sale Hearing" means the hearing to consider the entry of the Sale Order.

"Sale Order" means an Order of the Bankruptcy Court, in form and substance satisfactory to Buyer, pursuant to, *inter alia*, sections 105, 363, and 365 of the Bankruptcy Code authorizing and approving, *inter alia*, the sale of the Acquired Assets to Buyer, on the terms and conditions set forth herein, free and clear of any and all Liens (other than Assumed Liens) and Claims, and the assumption and assignment of the Assigned Contracts to Buyer, and containing findings of fact and conclusions of law that Buyer and its Affiliates have acted in "good faith" within the meaning of section 363(m) of the Bankruptcy Code and are not successors to Seller.

"Stalking Horse Agreement" has the meaning set forth in the Bidding Procedures.

"Stalking Horse Purchaser" has the meaning set forth in the Bidding Procedures.

"Subsidiary" means any entity with respect to which a specified Person (or a Subsidiary thereof) has the power, through the ownership of securities or otherwise, to elect a majority of the directors or similar managing body.

"Successful Bidder" has the meaning set forth in the Bidding Procedures.

"Tax" or "Taxes" means any federal, state, provincial, local, foreign or other income, alternative, minimum, add-on minimum, accumulated earnings, personal holding company, franchise, capital stock, net worth, capital, profits, intangibles, windfall profits, gross receipts, value added, sales, use, goods and services, excise, customs duties, transfer, conveyance, mortgage, registration, stamp, documentary, recording, premium, severance, environmental, natural resources, real property, personal property, ad valorem, intangibles, rent, occupancy, license, occupational, employment, unemployment insurance, social security, disability, workers' compensation, payroll, health care, withholding, estimated or other similar tax, duty, levy or other governmental charge or assessment or deficiency thereof (including all interest and penalties thereon and additions thereto whether disputed or not), in each case, in the nature of a tax.

"Tax Refund" means any Tax refund (including any interest paid with respect thereto) that is actually realized in cash and relates to any Taxes paid by Seller in any Tax period.

"Tax Return" means any return, declaration, report, claim for refund, information return or other document (including any related or supporting estimates, elections, schedules, statements, or information) filed or required to be filed in connection with the determination, assessment or collection of any Tax or the administration of any laws, regulations or administrative requirements relating to any Tax.

"Trade Payables" means Accounts Payable obligations of Seller incurred at any time, solely to the extent that such obligations (a) relate to the Acquired Assets, and (b) will not be payable by Buyer following the Closing pursuant to any Assigned Contract or Cure Costs.

"Trade Secrets" means trade secrets and other confidential and proprietary information and know-how.

"Trademarks" means United States, state and foreign trademarks, service marks, logos, slogans, trade dress and trade names, Internet domain names and any other similar designations of source of goods or services, whether registered or unregistered, and registrations and pending applications to register the foregoing, and all goodwill related to or symbolized by the foregoing.

"Transaction Documents" means this Agreement, the Assignment and Assumption Agreement, the Bill of Sale and any other agreements, instruments, certification, or documents entered into pursuant to this Agreement.

"Transfer Tax" means all transfer, documentary, sales, use, stamp, registration and other such Taxes, and all conveyance fees, recording charges and other fees and charges (including any penalties and interest) incurred in connection with the consummation of the Transactions that are not exempted under (a) applicable Legal Requirements, or (b) to the extent permitted by applicable Legal Requirements, the Sale Order.

"Transferable Insurance Policies" means any insurance policy of or for the benefit of Seller or the Business (a) which is transferable or assignable as an Acquired Asset pursuant to its terms or, notwithstanding its terms, is transferable or assignable as an Acquired Asset pursuant to the Sale Order, or (b) if not so transferable or assignable, the applicable counterparty has otherwise consented to the transfer or assignment as an Acquired Asset pursuant to the terms of this Agreement and, in each case, excluding any insurance policy providing for the payment of any benefits with respect to, or securing any Liabilities with respect to, any Benefit Plans;

provided, however, that any (i) D&O policy in effect as of the Execution Date, including any tail policy as in effect and (ii) policies providing products liability occurrence based or similar coverage (other than as it relates to the Warranty Claims) shall not, in each case, be considered Transferable Insurance Policies.

"USPTO" means the United States Patent and Trademark Office, or any successor agency or office thereto.

"Warranty Claims" means claims by end-customers or distributors arising from written product warranties covering units sold prior to the Petition Date, solely to the extent such claim amount is equal to the value of a refrigerator or less, determined in accordance with Seller's prepetition warranty policies as in effect on or prior to the Petition Date, and net of any applicable credits, recoveries or insurance to the extent actually received by Buyer following the Closing Date.

"WARN Act" means the Worker Adjustment and Retraining Notification Act of 1988, as amended, and any similar state or local Legal Requirement and the rules and regulations thereunder.

"Wind-Down Budget" means that certain budget providing for payment in full of the Estimated Wind-Down Expenses, which, pursuant to Section 2.7, shall otherwise be mutually agreed upon by Seller and Buyer prior to the Closing Date.

Additional Terms	Section
"Acquired Assets"	Section 2.2
"Agreement"	Preamble
"Assigned Contracts"	Section 2.6(a)(i)
"Assumed Liabilities"	Section 2.4
"Auction"	Section 2.2(q)
"Bankruptcy Case"	Recitals
"Bankruptcy Code"	Recitals
"Bankruptcy Court"	Recitals
"Business"	Recitals
"Buyer"	Preamble
"Buyer Designee"	Section 4.2(b)
"Closing Date"	Section 4.1
"Collective Bargaining Agreement"	Section 5.8(b)
"Excluded Assets"	Section 2.3
"Excluded Cash"	Section 2.3(i)
"Excluded Insurance Policies"	Section 2.3(e)
"Excluded Liabilities"	Section 2.5
"Execution Date"	Preamble
"Execution Date Contract Schedule"	Section 2.6(a)(i)
"Inventory"	Section 2.2(a)
"Lessor Leases"	Section 5.5(b)
"Outside Date"	Section 11.1(b)
"Petition Date"	Recitals
"Previously Omitted Contract"	Section 2.6(b)

“Previously Omitted Contract Notice” .... Section 2.6(b)
“Purchase Price” .... Section 3.1(a)
“Rejected Contract” .... Section 2.6(b)
“Released Buyer Parties” .... Section 12.17(a)
“Releasing Seller Parties” .... Section 12.17(a)
“Seller” .... Preamble
“Transferred Permit Fees” .... Section 7.3(b)
“Transferred Permits” .... Section 2.2(e)
“Union(s)” .... Section 5.8(b)

1.2 Other Definitions and Interpretive Matters.

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

(i) when calculating the period of time before which, within which or following which any act is to be done or step taken pursuant to this Agreement, the date that is the reference date in calculating such period shall be excluded. If the last day of such period is a day other than a Business Day, the period in question shall end on the next succeeding Business Day;

(ii) any reference in this Agreement to days (but not Business Days) means to calendar days;

(iii) any reference to “$” and dollars will be deemed to refer to United States currency unless otherwise specifically provided;

(iv) all Exhibits and Schedules attached or annexed hereto or referred to herein are hereby incorporated in and made a part of this Agreement as if set forth in full herein, and any capitalized terms used in any Schedule or Exhibit but not otherwise defined therein shall be defined as set forth in this Agreement;

(v) any reference in this Agreement to gender includes all genders, and words imparting the singular number only include the plural and vice versa;

(vi) the provision of a table of contents, the division of this Agreement into Articles, Sections and other subdivisions and the insertion of headings are for convenience of reference only and shall not affect or be utilized in the construction or interpretation of this Agreement;

(vii) all references in this Agreement to any “Section” or “Article” are to the corresponding Section or Article of this Agreement unless otherwise specified;

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

(ix) the word “including” or any variation thereof means without limitation and shall not be construed to limit any general statement that it follows to the specific or similar items or matters immediately following it;

(x) the word “and/or” means and includes “or”;

(xi) the words "earned" and "incurred" shall be interpreted in accordance with GAAP standards; and

(xii) capitalized terms used herein shall have the meanings ascribed to them in this Agreement as such terms are identified or defined in the definitions section hereof.

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

ARTICLE 2
PURCHASE AND SALE

2.1 Purchase and Sale.

Subject to the entry of the Sale Order and upon the terms and subject to the conditions of this Agreement, effective at the time of the Closing (a) Seller shall unconditionally sell, transfer, assign, convey and deliver, or cause to be sold, transferred, assigned, conveyed and delivered, to Buyer, and Buyer shall purchase, acquire and accept from Seller, free and clear of any and all Liens (other than Assumed Liens), all of the Acquired Assets, and (b) Buyer shall unconditionally assume and agree to discharge and perform when due, all of the Assumed Liabilities that are related to, associated with or pertaining to the Business and the Acquired Assets.

2.2 Acquired Assets.

For all purposes of and under this Agreement, the term "Acquired Assets" shall mean all of Seller's right, title and interest in, to or under the following (other than the Excluded Assets): (i) all of Seller's properties, rights, claims and assets of every kind and description (wherever situated or located, real, personal or mixed, tangible or intangible, whether identifiable or contingent, owned, leased, licensed) related to, associated with, pertaining to, or presently, historically or prospectively used in or held for use in the operation of the Business as conducted by Seller, whether or not reflected on the books and records of Seller, and (ii) without limiting the generality of Section 2.2(i) above, such Acquired Assets shall include, whether they relate to the Business or not (except where so noted in the following list or in any definition used in the following list), all of Seller's direct or indirect right, title and interest in, to and under the following (other than the Excluded Assets):

(a) all inventory of any kind or nature, merchandise and goods related to the Business or Acquired Assets and maintained, held or stored by or for Seller on the Closing Date, whether or not prepaid, and wherever located, held or owned, and any prepaid deposits for any of the same, including raw materials, components and other parts, work-in-process, finished goods or products, packaging materials and labels, and other stores, supplies, disposables and consumables used in or held for use in the operation of the Business as conducted by Seller, including any goods or products in transit ("Inventory");

(b) all Equipment;

(c) all Assigned Contracts;

(d) all (i) Real Property (other than Leased Real Property to the extent the Leases related thereto are not Assigned Contracts) and any such agreements and rights related thereto or under the applicable Leases, and (ii) the Lessor Leases (to the extent the Lessor Lease is an Assigned Contract), in each case, together with all interests in and to all Improvements located thereon or attached thereto, and other appurtenances thereto, and rights in respect thereof;

(e) subject to Section 2.6(c), all Permits and pending applications therefor of Seller used in, held for use in, or necessary for the operation of the Business or the Acquired Assets, including all Permits described in Section 2.2(e) of the Disclosure Schedules, in each case, to the extent transferable under applicable Legal Requirements (the "Transferred Permits");

(f) all Intellectual Property;

(g) all Accounts Receivable;

(h) all contribution or reimbursement Claims that Seller has or may have against any Affiliate of Buyer;

(i) all Pre-Paid Expenses except for those set forth Section 2.2(i) of the Disclosure Schedules;

(j) all goodwill and intangible property relating to, arising from or associated with any of the Acquired Assets (including the Intellectual Property), the Assumed Liabilities or the Business;

(k) to the extent permitted by Legal Requirements, and except to the extent related to the Excluded Assets or the Excluded Liabilities, all Documents and other books and records (financial, accounting and other), and correspondence, and all customer sales, marketing, advertising, packaging and promotional materials, files, data, owned software (whether written, recorded or stored on disk, film, tape or other media, and including all computerized data), drawings, engineering and manufacturing data and other technical information and data, and all other business and other records, in each case, arising under or relating to the Acquired Assets, the Assumed Liabilities or the Business;

(l) all rights, remedies and benefits of Seller arising under or relating to any of the Acquired Assets, the Assumed Liabilities or the Business, including rights, remedies and benefits arising out of express or implied warranties, representations and guarantees from suppliers, manufacturers, contractors or others to the extent relating to the operation of the Business or affecting the Inventory, Equipment, Real Property, or other tangible Acquired Assets or ordered by Seller prior to the Closing Date (and in any case, any component thereof), and all claims and causes of action arising or existing therefrom, in each case, other than as they relate to any Excluded Cause of Action;

(m) other than as they exclusively relate to any Excluded Causes of Action, which, for the avoidance of the doubt, shall be retained by Seller, and subject to Section 2.2(n) and Section 2.2(p), any and all Actions or other causes of action, and any rights, claims, demands, privileges, set offs, counterclaims, defenses, assertions or rights of any kind as against others (whether by contract or otherwise) of, or on behalf of, Seller with respect thereto, including (A) any and all causes of action, rights, claims, counterclaims, defenses or assertions of Seller against or with respect to any direct or indirect equityholders of Seller, (B) any and all causes of action, rights, claims, counterclaims, defenses or assertions of Seller against or with respect to any direct or indirect lender to Seller, (C) any and all causes of action, rights, claims, counterclaims, defenses or assertions of Seller against or with respect to any Affiliate of Seller (including any party or Affiliate of a party set forth on Section 2.2(m) of the Disclosure Schedules), and (D) any and all causes of action, rights, claims, counterclaims, defenses or assertions of Seller with respect to any Trade Payables;

(n) all Avoidance Actions, except for Excluded Causes of Action;

(o) after the deduction of all Excluded Cash, (x) to the extent transferable, all bank deposit accounts, control agreements and lockbox accounts of Seller associated with the collection of the Accounts Receivable or other proceeds from the Business, including all bank accounts that receive checks, ACH payments, and electronic payments (a complete list of all such accounts (including any deposit accounts, securities accounts and any sub-accounts) and amounts in such accounts are as set forth on Section 2.2(o) of the Disclosure Schedules); provided, that to the extent any such account is not transferable, at Closing, Seller shall grant access to and control over any such account to allow Buyer to sweep or otherwise withdraw any funds held in any non-transferable account, and (y) all Cash remaining, including (i) any checks, commercial paper, treasury bills, certificates of deposit and other bank deposits, instruments and investments of Seller, and (ii) any Cash held in any escrow account, trust account, or similar account, any rights thereto, any escrow agreements or other Contracts governing such funds and Seller's rights thereunder, and any other interests or rights with respect to any of the foregoing;

(p) all (i) rights under, with respect to, or arising out of any Transferable Insurance Policies relating to the Business or any of the Acquired Assets or Assumed Liabilities, (ii) returns and refunds of any premiums paid, or other amounts due back to Seller, with respect to any cancelled insurance policies, and (iii) third-party property and casualty insurance proceeds, to the extent receivable by Buyer or Seller in respect of the Business or the Acquired Assets after the Closing Date (whether under current or prior policies or under the Transferable Insurance Policies), in each case, other than under, with respect to, or receivable as a result of the Excluded Insurance Policies or with respect to such Transferable Insurance Policies that exclusively relate to Excluded Causes of Action;

(q) all rights, but not obligations, under non-disclosure or confidentiality, non-compete, no-hire or non-solicitation agreements or similar arrangements entered into in connection with or in contemplation of the auction contemplated by the Bidding Procedures (the "Auction"), in each case, to the extent transferrable and related to the Business;

(r) all telephone numbers and other directory listings, e-mail addresses, websites, URLs, internet domain names and social media sites and accounts (including the content contained therein and any usernames and passwords), owned or licensed by Seller;

(s) all other property and assets related to, associated with, pertaining to, or presently, historically or prospectively used in or held for use in the Business as conducted by Seller or the ownership of the Acquired Assets, in each case, of every kind and description and wherever located, and the proceeds thereof and all other tangible and intangible assets but, in each case, to the extent not expressly identified as Excluded Assets;

(t) all assets, if any, listed on Section 2.2(t) of the Disclosure Schedules (regardless of whether such assets are covered by any of the foregoing);

(u) any and all rights to Tax Refunds of Seller for any tax period, including, for the avoidance of doubt, any and all rights to the Employee Retention Credit; and

(v) the Tax records, work papers and other records of Seller as they pertain to ownership, organization, qualification to do business or existence of Seller;

(w) the Klein Settlement Amount;

(x) all Excess Cash; and

(y) all proceeds and products of any and all of the foregoing Acquired Assets.

2.3 Excluded Assets.

Notwithstanding anything to the contrary in this Agreement (including Section 2.2), nothing herein shall be deemed to sell, transfer, assign, convey or deliver any of the Excluded Assets to Buyer, and Seller shall retain all right, title and interest to, in and under, the Excluded Assets. For all purposes of and under this Agreement, the term "Excluded Assets" shall consist of only the following:

(a) the assets, if any, listed on Section 2.3(a) of the Disclosure Schedules;

(b) any shares of capital stock or other equity interest in or issued by Seller or any securities convertible into, exchangeable or exercisable for shares of capital stock or other equity interest in or issued by Seller;

(c) all Documents and other books and records (financial, accounting and other), and correspondence, and all customer sales, marketing, advertising, packaging and promotional materials, files, data, software (whether written, recorded or stored on disk, film, tape or other media, and including all computerized data), drawings, engineering and manufacturing data and other technical information and data, and all other business and other records, in each case, (A) that relate exclusively to the Excluded Assets or Excluded Liabilities, (B) that if transferred as an Acquired Asset would violate any Person's privacy rights under applicable Legal Requirements, or (C) that are subject to any attorney-client, work product or similar privilege with respect to work performed in anticipation of or in connection with the preparation or administration of the Bankruptcy Case, this Agreement or the Transactions;

(d) any Contract that is not an Assigned Contract;

(e) all rights of Seller under or arising out of any insurance policy set forth on Section 5.11 of the Disclosure Schedules that is not a Transferable Insurance Policy (the "Excluded Insurance Policies") or with respect to Excluded Causes of Action under Transferable Insurance Policies;

(f) Avoidance Actions that have been expressly excluded by Buyer in writing on or after the Effective Time;

(g) all Excluded Causes of Action;

(h) except as otherwise set forth herein, any rights, claims or causes of action of Seller arising under this Agreement or any other Transaction Document;

(i) all Cash of Seller in an amount equal to, and not in excess of, (i) the aggregate amount of remaining Cash included in the Wind-Down Budget *less* (ii) the aggregate amount of Estimated Wind-Down Expenses actually paid prior to the Closing, *plus* (iii) any portion of the Purchase Price actually paid by Buyer in Cash (together, the "Excluded Cash");

(j) all Benefit Plans, together with all funding arrangements related thereto (including all assets, trusts, insurance policies and administrative service Contracts related thereto), and all rights and obligations thereunder;

(k) all insurance policies other than the Transferable Insurance Policies; and

(l) all proceeds and products of any and all of the foregoing Excluded Assets.

2.4 Assumed Liabilities.

Except to the extent that any of the following are specified in Section 2.5 as Excluded Liabilities, the following Liabilities of Seller (and only the following Liabilities expressly set forth in this Section 2.4) shall constitute, without duplication, the "Assumed Liabilities":

(a) all Liabilities arising out of the ownership, possession or operation of the Acquired Assets; provided, that if an Action is brought after the Closing Date, but is related to conduct prior to the Closing Date, such Liability shall not be an Assumed Liability and shall be deemed an Excluded Liability unless Buyer consents in writing to assume such Action

(b) all Liabilities under the Assigned Contracts;

(c) all Cure Costs;

(d) any Accounts Payable (including Trade Payables) owed by Seller to any Person;

(e) those specific Liabilities of Seller, if any, set forth on Section 2.4(e) of the Disclosure Schedules;

(f) the Assumed Taxes; and

(g) the Warranty Claims.

The assumption by Buyer or Buyer Designee of any Assumed Liabilities shall not, in any way, enlarge the rights of any third parties relating thereto.

2.5 Excluded Liabilities.

Notwithstanding any provision in this Agreement to the contrary, Buyer shall not assume, and shall not be liable for, any of the following Liabilities, whether existing on or prior to the Closing Date or arising thereafter, and whether known or unknown, absolute or contingent, matured or unmatured, direct or indirect (collectively, the "Excluded Liabilities"), all of which shall remain the sole responsibility of Seller:

(a) any and all Liabilities arising under, or otherwise relating to, the Pre-Petition Debt Documents;

(b) all Liabilities relating to the Excluded Causes of Action other than Liabilities relating to the Warranty Claims;

(c) all Liabilities with respect to any Excluded Asset, including Contracts that are not Assigned Contracts;

(d) all Liabilities for costs and expenses: (i) incurred or owed in connection with the administration of the Bankruptcy Case (including all Estimated Wind-Down Expenses); and (ii) incurred in connection with the negotiation, execution and consummation of the Transactions.

(e) all Liabilities of the Seller arising under or in connection with any employee benefit plan providing compensation or benefits to any current or former employee of such Seller and all Liabilities arising out of, relating to, resulting from or with respect to the employment or engagement (or termination of employment or engagement) of any current or former officers, directors, employees, leased employees, managers, independent contractors, applicants or consultants (or their respective representatives or beneficiaries) of Seller, including, without limitation, any Liability under the WARN Act or associated with any claims for wages or other benefits, bonuses, accrued vacation, workers' compensation, or employee deferred compensation, including equity-based plans, grants and agreements, severance, retention, termination, or other payments, in each case, except as otherwise provided in this Agreement or arising out of or relating to workers' compensation benefits, obligations, or liabilities under any applicable workers' compensation statutes; and

(f) all Post-Closing COBRA Liabilities, whenever occurring;

(g) all Liabilities relating to any (x) Multiemployer Plan, pre-closing funding obligation, and penalties assessed by a Governmental Authority and (y) Benefit Plan, in the case of (x) and (y), whether arising prior to, at or after, the Closing Date;

(h) all pre-Closing Liabilities to the extent such Liabilities are not Assumed Liabilities; and

(i) all Liabilities for Taxes other than the Assumed Taxes and Transfer Taxes.

2.6 Assignment and Assumption of Contracts.

(a) Assignment and Assumption at Closing.

(i) Section 2.6(a) of the Disclosure Schedules sets forth a list of all executory Contracts (including all Leases, Lessor Leases and other Material Contracts) to which Seller is party and which are to be included in the Acquired Assets (the "Assigned Contracts") and Seller's good faith estimate of the Cure Costs as of the Execution Date (such Section 2.6(a) of the Disclosure Schedules, as such exists at the time of execution of this Agreement without any additions or deletions, the "Execution Date Contract Schedule"). From and after the Execution Date, Seller shall make such additions and deletions to Section 2.6(a) of the Disclosure Schedules as, and solely to the extent, requested by Buyer in writing. Any such added Contract shall be deemed an Assigned Contract and any such deleted Contract shall be deemed to no longer be an Assigned Contract. All Contracts of Seller that are not listed on Section 2.6(a) of the Disclosure Schedules shall not be considered an Assigned Contract or Acquired Asset and shall be deemed a Rejected Contract.

(ii) Seller shall take all actions required to seek an Order containing a finding that the proposed assumption and assignment of the Assigned Contracts to Buyer satisfies all applicable requirements of section 365 of the Bankruptcy Code; provided, however, that no material monetary amount shall be required to be paid or incurred by Seller in connection with any consent or approval from any Person that is required to assume and assign any Assigned Contract to Buyer.

(iii) At Closing, (x) Seller shall, pursuant to the Sale Order and the Assignment and Assumption Agreement, assume and assign to Buyer, in each case, as and solely to the extent Buyer is assuming (the consideration for which is included in the Purchase Price), each of the Assigned Contracts that is capable of being assumed and assigned and is being assumed and assigned by Buyer, and (y) Buyer shall pay promptly all Cure Costs (if any) as required by the Bankruptcy Code (as determined by the Bankruptcy Court) in connection with such assumption and assignment and assume and perform and discharge as due the Assumed Liabilities (if any) under such applicable Assigned Contracts, pursuant to this Agreement and the applicable Assignment and Assumption Agreement to which such Buyer is a party; provided, however, that, in no event shall Buyer be required to assume, be deemed to assume, or otherwise be liable for any Excluded Liabilities (including with respect to any Cure Costs applicable to any Contract that Buyer is not assuming). Notwithstanding anything in this Agreement, the Sale Order, any Transaction Document or the Disclosure Schedules (including Section 2.6(a)), Buyer is not assuming, and shall not be deemed to assume, any Contract to the extent that, upon assumption of such Contract by Buyer, Buyer shall also be deemed to assume any Liability in respect of any Excluded Cause of Action, and any such Contracts are hereby carved out, severed and excluded from the assumption and assignment to Buyer and shall remain Excluded Liabilities, and shall not be deemed to be "Assigned Contracts" hereunder.

(b) Previously Omitted Contracts. If prior to or following Closing, it is discovered that a Contract should have been listed on Section 2.6(a) of the Disclosure Schedules but was not listed on Section 2.6(a) of the Disclosure Schedules (any such Contract, a "Previously Omitted Contract"), Seller shall promptly following the discovery thereof notify Buyer of such omission and Buyer shall provide written notice to Seller designating such Previously Omitted Contract as "Assumed" or "Rejected". Seller shall, promptly following Buyer's written notice, serve a notice (the "Previously Omitted Contract Notice") on the counterparties to any such Previously Omitted Contract designated as "Assumed" by Buyer, notifying such counterparties of the Cure Costs with respect to such Previously Omitted Contract and Seller's intention to assume and assign such Previously Omitted Contract in accordance with this Section 2.6. The Previously Omitted Contract Notice shall provide the counterparties to such Previously Omitted Contract with fourteen (14) days to object, in writing to Seller and Buyer, to the Cure Costs or the assumption of its Contract. If the counterparties, Seller and Buyer are unable to reach a consensual resolution with respect to the objection, Seller will seek an expedited hearing before the Bankruptcy Court to determine the Cure Costs and approve the assumption. If no objection is served on Seller and Buyer, Seller shall obtain an order of the Bankruptcy Court fixing the Cure Costs and approving the assumption of the Previously Omitted Contract, and no further order or approval shall be required. Any Previously Omitted Contract that is assumed and assigned pursuant to this Section 2.6(b) shall be deemed an Assigned Contract and Buyer shall be liable for all Cure Costs associated with such Assigned Contract and any Previously Omitted Contract that is not assumed and assigned pursuant to this Section 2.6(b) shall not be considered an Assigned Contract or Acquired Asset and shall be deemed a "Rejected Contract".

(c) Non-Assignment of Contracts and Permits.

(i) Notwithstanding anything contained in this Agreement to the contrary but subject to the last sentence of this Section 2.6(c), this Agreement shall not constitute an agreement to assign or transfer any Contract or any Permit, if, notwithstanding the provisions of sections 363 and 365 of the Bankruptcy Code, an attempt at assignment or transfer thereof, without the consent or approval required or necessary for such assignment or transfer, would constitute a breach thereof or in any way adversely affect any of the rights of Buyer, as the assignee or transferee of such Contract or Permit (as the case may be), thereunder.

(ii) Nothing in this Agreement shall be construed as an attempt by Seller to assign any Assigned Contract or any other Acquired Asset to the extent that such Assigned Contract or Acquired Asset is not assignable under the Bankruptcy Code or otherwise without the consent of the other party or parties thereto or any Governmental Authority, if applicable Law would require such consent, and the consent of such other party or Governmental Authority has not been given or received, as applicable. With respect to any Assigned Contract or Acquired Asset for which the consent of a party thereto or any Governmental Authority to the assignment thereof shall not have been obtained at or prior to the Closing Date, Seller and Buyer shall use their commercially reasonable efforts for a period not to exceed sixty (60) days after the Closing Date to obtain such consent as expeditiously as reasonably possible. Unless and until any such consent, waiver, confirmation, novation or approval is obtained, upon Buyer's written request, Seller and Buyer shall reasonably cooperate to establish an arrangement reasonably satisfactory to Seller and Buyer under which Buyer would obtain the Claims, rights and benefits and assume the corresponding Liabilities and obligations thereunder (including by means of any subcontracting, sublicensing or subleasing arrangement). In such event, (i) Seller will hold in trust for and promptly pay to Buyer, when received, all moneys received by them under any such Assigned Contract or in respect of any such Acquired Asset, Claim, right or benefit arising thereunder, and (ii) Buyer will promptly pay, perform or discharge, when due, any and all obligations and Liabilities arising thereunder, other than those being contested in good faith. In the event any consent required with respect to any Assigned Contract or Acquired Asset for which the consent of a party thereto or any Governmental Authority to the assignment thereof is not obtained within the sixty (60) day period after the Closing Date, such Assigned Contract or Acquired Asset, as applicable, shall be deemed to be an Excluded Asset.

2.7 Wind-Down Budget.

(a) Seller agrees that no Assumed Liabilities will be included in or reflected on the Wind-Down Budget. At least two (2) Business Days prior to the Bid Deadline (as defined in the Bidding Procedures Order), Seller and Buyer shall mutually agree upon the Wind-Down Budget and the amount required to fund the Wind-Down Budget. Prior to Closing, Buyer may, in its sole and absolute discretion, agree to assume any Liability that is included in the Wind-Down Budget (including any or all of the 503(b)(9) claims set forth therein) by providing written notice to Seller and, in such event, (a) such Liability shall be deemed to be, and shall become, an Assumed Liability subject to the terms and conditions of this Agreement, (b) the Wind-Down Budget and the Estimated Wind-Down Expenses shall be reduced on a dollar-for-dollar basis for any such Liability that has been so assumed, and (c) the Wind-Down Budget shall be amended and restated to reflect such adjustment.

(b) The Seller (or any estate representative, liquidating trustee, or other fiduciary appointed pursuant to the Sale Order, Confirmation Order, or the Plan, the "Trustee, the "Trustee") shall, in consultation with Buyer, establish a reasonable reserve (the "Wind-Down Reserve") for the payment of post-Closing wind-down and professional expenses of the Seller and its bankruptcy estate. The amount of the Wind-Down Reserve shall be determined by the Trustee, each acting reasonably in consultation with the Buyer and shall be subject to the Buyer's consent in its sole discretion.

(c) On the date that is seventy-five (75) days after the Closing Date (or such later date as the Buyer and the Trustee may agree) (the "Excess Cash Payment Date"), the Seller or the Trustee shall pay, or cause to be paid, to Buyer by wire transfer of immediately available funds an amount equal to all Excess Cash then remaining, free and clear of all Liens (other than Permitted Liens) and Claims.

2.8 Further Assurances.

At and after the Closing, and without further consideration therefor, Seller shall execute and deliver to Buyer such further instruments and certificates as shall be necessary (a) to vest, perfect or confirm ownership (of record or otherwise) in Buyer, Seller's right, title or interest in, to or under any or all of the Acquired Assets and the Business, including the Real Property, free and clear of any and all Liens (other than Assumed Liens), or (b) to otherwise effectuate the purposes and intent of the Transaction Documents or for aiding, assisting, collecting and reducing to possession any of the Acquired Assets and exercising rights with respect thereto. Each of Seller, on the one hand, and Buyer, on the other hand, shall take, or cause to be taken, all actions and shall do, or cause to be done all things as may be reasonably requested by the other Party in order to vest, perfect or confirm any and all right, title and interest in, to and under such rights, properties or assets in Buyer, or otherwise to carry out this Agreement and shall execute and deliver all deeds, bills of sale, instruments of conveyance, powers of attorney, assignments, assumptions and assurances, and as may be reasonably required to consummate the Transactions.

2.9 Withholding.

Buyer and any other applicable withholding agent shall be entitled to deduct and withhold from the consideration otherwise payable pursuant to this Agreement to any Person such amounts as Buyer or such withholding agent is required to deduct and withhold under the Code, or any Tax law, with respect to the making of such payment. Prior to withholding any amounts (except with respect to compensatory payments to employees) pursuant to this Section 2.9, the Party on behalf of whom such amounts are withheld shall use commercially reasonable efforts to provide prior written notice to the other Party of such withholding.

2.10 Payments Following Closing.

Seller shall hold in trust and promptly pay over to Buyer any monies received by Seller following the Effective Time that is the property of Buyer by virtue of the purchase and sale of the Acquired Assets. Seller shall use reasonable best efforts to assist Buyer in the collection of Accounts Receivable included in the Acquired Assets and the reasonable transition of account information and notifying third parties for the purpose of effecting the transfer of the Business to Buyer in accordance with this Agreement.

ARTICLE 3
PURCHASE PRICE

3.1 Consideration.

The aggregate consideration (the "Purchase Price") for the purchase, sale, assignment and conveyance of Seller's right, title and interest in, to and under the Acquired Assets shall consist of:

(a) the assumption by Buyer of the Assumed Liabilities from Seller, including the assumption of the obligation to pay to the applicable counterparties of the applicable Assigned Contracts the Cure Costs payable by Buyer under Section 2.6; *plus*

(b) the Credit Bid in an aggregate amount equal to the outstanding obligations under the DIP Term Sheet as of the Closing (which amount shall not be less than $13,000,000.00 as of the Closing), exercised by Buyer or its designee in accordance with section 363(k) of the Bankruptcy Code and the DIP Order; *plus*

(c) such additional cash consideration, the use, allocation and amount of which shall be determined at the sole discretion of Buyer and by providing written notice to Sellers; provided, however, that if no such notice has been provided, then the amount of such cash consideration under this Section 3.1(a)(iv) shall be $0.

3.2 Limitation on Buyer Liability.

Except indirectly with respect to any expenses in the Wind-Down Budget that are or become an Assumed Liability pursuant to Section 2.7, neither Buyer nor any Buyer Designees shall have any liability with respect to the Estimated Wind-Down Expenses or with respect to any amounts that would have been such fees or expenses if not for the limitations contained in this Agreement.

ARTICLE 4
CLOSING AND DELIVERIES

4.1 Closing Date.

Upon the terms and subject to the conditions hereof, the closing of the sale of the Acquired Assets and the assumption of the Assumed Liabilities contemplated hereby (the "Closing", and the date and time as of which the Closing occurs, the "Closing Date") shall take place at the offices of Ropes & Gray LLP, 1211 Avenue of the Americas, New York, NY, or by exchanging documents and signature pages electronically or by other mutually acceptable means of exchange, on the Business Day that is neither less than three (3) Business Days, nor later than five (5) Business Days, following the date on which all the conditions set forth in ARTICLE 9 and ARTICLE 10 have been satisfied or (if permissible) waived by the Party entitled to waive such condition (other than the conditions which by their nature are to be satisfied at the Closing, but subject to the satisfaction or (if permissible) waiver of such conditions at the Closing), or on such other date and time as Seller and Buyer may mutually agree in writing. Upon consummation of the Closing, the purchase and sale of the Acquired Assets and the assumption of the Assumed Liabilities hereunder shall be deemed to have occurred as of the Effective Time.

4.2 Buyer's Deliveries.

(a) Subject to satisfaction or (if permissible) waiver of the conditions set forth in ARTICLE 9 and ARTICLE 10, at the Closing, Buyer shall deliver (or cause one or more of its Affiliates to deliver) to Seller:

(i) the Purchase Price as adjusted pursuant to Section 3.1.

(ii) one or more Assignment and Assumption Agreements, duly executed by Buyer;

(iii) each other Transaction Document to which Buyer is a party, duly executed by Buyer or Buyer Designee, as applicable;

(iv) the certificates of Buyer (signed by a duly authorized officer thereof) to be received by Seller pursuant to Sections 10.1 and 10.3;

(v) a certificate of an authorized officer, manager or managing member of Buyer, dated the Closing Date, in form and substance reasonably satisfactory to Seller, as to (i) Buyer's and each Buyer Designee's authorization to execute and perform its obligations under the Transaction Documents to which each of them is a party, and (ii) incumbency and signatures of the individuals executing the Transaction Documents on behalf of Buyer and any Buyer Designee;

(vi) Joinders duly executed by any Buyer Designees designated by Buyer to purchase any of the Acquired Assets or assume any of the Assumed Liabilities pursuant to the terms of this Agreement; and

(vii) such other documents as Seller may reasonably request that are customary for a transaction of this nature and necessary to evidence or consummate the Transactions.

Any amounts payable in cash pursuant to Section 4.2(a)(i) and 4.2(a)(ii) shall be paid in cash by wire transfer to the account or accounts designated by Seller to Buyer at least one (1) Business Day prior to Closing.

(b) Buyer shall be entitled to designate, in accordance with the terms and subject to the limitations set forth in this Section 4.2(b), one or more Affiliates of Buyer to (i) purchase specified Acquired Assets; or (ii) assume specified Assumed Liabilities, in each case, as of the Closing Date (any Person that shall be properly designated by Buyer in accordance with this clause, a "Buyer Designee"); it being understood and agreed, however, that any such right of Buyer to designate a Buyer Designee is conditioned upon (x) such Buyer Designee being able to perform the applicable covenants under this Agreement in all respects and, as applicable, any other Transaction Document to which Buyer is party, (y) such Buyer Designee being able to demonstrate satisfaction of the requirements of Section 365 of the Bankruptcy Code (to the extent applicable), including the provision of adequate assurance for future performance with respect to the Acquired Assets and Assumed Liabilities, and (z) such designation not, and not being reasonably expected to, cause a delay or prevent or hinder the consummation of the Transactions in any respect. At least five (5) Business Days prior to or at Closing, Buyer shall make any such designations of Buyer Designees by way of a written notice (email to suffice) to be delivered to Seller. No such designation shall relieve Buyer of any of its obligations hereunder and any breach hereof by a Buyer Designee shall be deemed a breach by Buyer. Buyer and Buyer Designees shall be jointly and severally liable for any obligations of Buyer and such Buyer Designees hereunder. For the avoidance of doubt, and notwithstanding anything to the contrary herein, all Buyer Designees appointed in accordance with this Section 4.2(b) shall be included in the definition of "Buyer" for all purposes under this Agreement and all such Buyer Designees shall be deemed to have made all of the representations and warranties of Buyer set forth in this Agreement.

4.3 Seller Deliveries.

At the Closing, Seller shall deliver to Buyer:

(a) possession of the Acquired Assets (except for Excess Cash which will be delivered on the Excess Cash Payment Date) and the Business;

(b) the Bills of Sale, the Assignment and Assumption Agreement and each other Transaction Document to which Seller is a party, duly executed by Seller;

(c) with respect to the Real Property included in the Acquired Assets, possession of such Real Property, together with any and all keys, access cards, security passcodes and combinations, and copies (and originals in Seller's possession) of all instruments, Leases and agreements evidencing Seller's interest in the same, and any existing surveys, legal descriptions and title policies concerning such Real Property that are in the possession of Seller, which shall be deemed to be delivered to the extent located at any Real Property;

(d) a certified copy of the Sale Order;

(e) the certificates of Seller (signed by a duly authorized officer thereof) to be received by Buyer pursuant to Sections 9.1, 9.2 and 9.8;

(f) releases and termination statements sufficient for Buyer to receive the Acquired Assets free and clear of any and all Liens (other than Assumed Liens); provided, however, that releases shall not be required with respect to Liens that are both (i) released by the Sale Order, and (ii) not required to be released at Closing pursuant to releases and termination statements in connection with a financing or debt facility obtained by Buyer; and

(g) such other documents as Buyer may reasonably request that are customary for a transaction of this nature and necessary to evidence or consummate the Transactions.

ARTICLE 5
REPRESENTATIONS AND WARRANTIES OF SELLER

Seller hereby represents and warrants to Buyer as follows, except as disclosed in the Disclosure Schedules attached hereto:

5.1 Organization and Good Standing.

Seller is a limited liability company duly organized, validly existing and in good standing under the laws of the jurisdiction of its organization. Seller has all requisite limited liability company power and authority to own or lease and to operate and use its properties and to carry on its business as now conducted, except for such failures to have such power or authority would not, individually or in the aggregate, have a Material Adverse Effect. Seller is duly qualified or licensed to do business and is in good standing in each jurisdiction where the character of its Business or the nature of its properties makes such qualification or licensing necessary, except for such failures to be so qualified or licensed or in good standing as would not, individually or in the aggregate, have a Material Adverse Effect.

5.2 Authority; Validity; Consents.

Seller has, subject to entry of the Sale Order, the requisite limited liability company power and authority necessary to enter into and perform its obligations under this Agreement and the other Transaction Documents to which Seller is a party and to consummate the transactions contemplated hereby and thereby, and, subject to entry of the Sale Order, the execution, delivery and performance of this Agreement and such other Transaction Documents by Seller and the consummation by Seller of the transactions contemplated hereby and thereby have been duly and validly authorized by all requisite limited liability company action. This Agreement has been duly and validly executed and delivered by Seller, and each other Transaction Document required to be executed and delivered by Seller at the Closing will be duly and validly executed and delivered by Seller at the Closing. Subject to entry of the Sale Order, this Agreement and the other Transaction Documents constitute, with respect to Seller, legal, valid and binding obligations of Seller, enforceable against Seller in accordance with their respective terms, except as such enforceability is limited by general principles of equity. Subject to entry of the Sale Order, except, in each case, (a) for entry of the Sale Order, (b) for notices, filings and consents required in connection with the Bankruptcy Case, and (c) for the notices, filings and consents set forth on Section 5.2 of the Disclosure Schedules, Seller is not required to give any notice to, make any registration, declaration or filing with or obtain any consent, waiver or approval from, any Person (including any Governmental Authority) in connection with the execution and delivery of this Agreement and the other Transaction Documents or the consummation or performance of any of the transactions contemplated hereby and thereby. Seller has determined that Buyer and this Agreement meet all of the requirements to be, and constitute, a Qualified Bidder and a Qualified Bid, respectively, pursuant to the terms of the Bidding Procedures.

5.3 Subsidiaries.

Seller does not (a) have any direct or indirect Subsidiaries; (b) have any direct or indirect interest in, and is not under any current or prospective obligation to receive an interest in, any shares or ownership interest in any other Person; or (c) participate in any partnership, joint venture or similar arrangement.

5.4 No Conflict.

Except as set forth in Section 5.4 of the Disclosure Schedules, neither the execution and delivery by Seller of this Agreement or any other Transaction Document to which it is (or will be) a party nor after giving effect to the Sale Order, the consummation of the transactions contemplated hereby or thereby nor, after giving effect to the Sale Order, compliance by it with any of the provisions hereof or thereof will (a) conflict with or result in a violation of (i) any provision of the certificate of formation or limited liability company agreement (or other organizational or governing documents) of Seller, or (ii) any Legal Requirement binding upon Seller or by which the Business or any Acquired Assets are subject or bound, (b) after giving effect to the Sale Order, violate, conflict with, or result in a breach of any of the terms of, or constitute a default under, or give rise to any right of termination, modification, cancellation or acceleration under (i) any Material Contract, or (ii) any Permit or Order, or (c) result in the creation of any Lien upon the properties or assets of Seller being sold or transferred hereunder, except, in each case, of clause (b)(i) and clause (c) above, as would not, individually or in the aggregate, have a Material Adverse Effect.

5.5 Real Property.

(a) Owned Real Property. Except as set forth on Section 5.5(a) of the Disclosure Schedules, Seller does not own any Real Property and has not owned any Real Property during the past three (3) years.

(b) Lessor Leases. Section 5.5(b) of the Disclosure Schedules lists, as of the Execution Date, all unexpired leases, subleases, licenses, occupancy or other agreements to which Seller is a party whereby Seller leases, subleases, licenses or grants an interest in any Leased Real Property to a third party (the "Lessor Leases").

(c) Leased Real Property. Section 5.5(c) of the Disclosure Schedules contains a list of all Leased Real Property held or used for, or necessary or important to the operation of the Business. To Seller's Knowledge, the Leases will continue to be legal, valid, binding, enforceable and in full force and effect on the same material terms immediately following the consummation of the Transactions.

5.6 Title to Acquired Assets.

Immediately prior to Closing, Seller will have, and, upon delivery to Buyer on the Closing Date of the instruments of transfer contemplated by Section 4.3, and upon entry of the Sale Order, Seller will thereby transfer to Buyer, and Buyer will (subject to Section 2.6(c)) be vested, to the maximum extent permitted by sections 363 and 365 of the Bankruptcy Code, with good, valid and marketable title to, or, in the case of property leased or licensed by Seller, a valid leasehold or licensed interest in, all of the Acquired Assets, free and clear of any and all Liens, except (a) for the Assumed Liabilities, and (b) for Assumed Liens.

5.7 Compliance with Legal Requirements.

The Permits set forth on Section 2.2(e) of the Disclosure Schedules (a) are all of the material Permits held by Seller with respect to the current operation and conduct of the Business and the Acquired Assets, and (b) constitute all materials Permits necessary for the current operation and conduct of the Business and the Acquired Assets.

5.8 Labor Matters.

(a) Seller does not currently employ, engage, or otherwise retain any employees, independent contractors, consultants, temporary workers, or other service providers, whether full-time, part-time, or otherwise. No individual or entity is entitled to any wages, compensation, benefits, severance, or other payments from Seller in respect of any employment or service relationship, and there are no outstanding offers of employment or engagement made by Seller.

(b) Seller is not party to or subject to any collective bargaining agreements, works council agreements, labor union contracts, trade union agreements or other similar agreements (each, a "Collective Bargaining Agreement") with any labor union, trade union, works council, labor organization or other employee representative body (each, a "Union" and collectively, "Unions"), nor is any such Collective Bargaining Agreement currently being negotiated by Seller. The consummation of the transactions contemplated by this Agreement will not give rise to, or trigger, any notice, consultation, bargaining, or similar obligations on the part of Seller with respect to any Union. In the past three (3) years, to the Knowledge of Seller, there have been no actual or threatened strikes, lockouts, slowdowns, work stoppages, organizing campaigns or efforts, demands or petitions for recognition, boycotts, handbilling, picketing, walkouts, demonstrations, leafleting, sit-ins, sick-outs or other material forms of organized labor disruption with respect to Seller.

5.9 Employee Benefits.

(a) As of the date hereof, Seller does not sponsor, maintain, contribute to or have any obligation to maintain or contribute to, or have any Liability in respect of any Benefit Plan.

(b) Seller does not maintain, contribute to or have any obligation to maintain or contribute to, or has ever maintained or contributed to, or has or ever had any direct or indirect Liability with respect to, (i) any plan subject to Title IV of ERISA or Section 412 of the Code, (ii) any plan maintained by more than one employer within the meaning of Section 413(c) of the Code, (iii) any plan subject to Sections 4063 or 4064 of ERISA, (iv) a Multiemployer Plan, or (v) a "multiple employer welfare arrangement" as defined in Section 3(40) of ERISA. No Liability under Title IV of ERISA has been incurred by Seller that has not been satisfied in full.

(c) Neither Seller, nor, to Seller's Knowledge, any other "party in interest" or "disqualified person" with respect to any Benefit Plan has engaged in a nonexempt "prohibited transaction" within the meaning of Section 406 of ERISA or Section 4975 of the Code.

(d) Seller has no obligation to provide or make available post-employment benefits under any Benefit Plan which is a "welfare plan" (as defined in Section 3(1) of ERISA) to any current or former employee or service provider, except as may be required under COBRA and at the sole expense of such individual.

5.10 Contracts.

The Execution Date Contract Schedule sets forth a complete list, as of the Execution Date, of all Material Contracts (including all Leases) to which Seller is a party and sets forth (a) Seller's good faith estimate of the Cure Costs with respect to each Material Contract listed thereon with respect to each such contract, and (b) the applicable category of such Material Contract. Seller has not assigned, delegated or otherwise transferred to any third party any of its rights or obligations with respect to any such Contract listed on the Execution Date Contract Schedule. Each such Contract listed on the Execution Date Contract Schedule is in full force and effect and is a legal, valid, binding and enforceable obligation of Seller in accordance with its terms and conditions, in each case, except (a) as such enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium or similar laws now or hereafter in effect relating to creditors' rights generally or general principles of equity, (b) as set forth on Section 5.10 of the Disclosure Schedules, and (c) as would not, individually or in the aggregate, have a Material Adverse Effect. Seller has made available, or, within fifteen (15) Business Days of the Execution Date but in any event no later than four (4) Business Days prior to the Auction, will make available correct and complete copies of all such Contracts set forth on the Execution Date Contract Schedule to Buyer, including any amendments thereto. Upon entry of the Sale Order and payment of the Cure Costs, (i) Seller will not be in material breach or default of its obligations under any Assigned Contract, and (ii) to Seller's Knowledge, no other party to any Assigned Contract is in material breach or default thereunder. To Seller's Knowledge, the Contracts set forth on the Execution Date Contract Schedule will continue to be legal, valid, binding and enforceable and in full force and effect on the same terms as immediately following the consummation of the transaction contemplated hereby.

5.11 Insurance.

Seller maintains the insurance policies set forth on Section 5.11 of the Disclosure Schedules, which sets forth all insurance policies covering the Acquired Assets, current (if applicable) or former employees of Seller and operation of the Business (including policies providing property, casualty, professional liability and workers' compensation coverage, but excluding insurance policies with respect to Benefit Plans). Such policies are in full force and effect. To the Knowledge of Seller, Seller has paid all premiums on such policies due and payable prior to the Closing Date. Seller has not done anything by way of action or inaction that invalidates any such policies in whole or in part. To Seller's Knowledge, all insurance policies maintained by Seller provide coverage appropriate in character and amount for the Acquired Assets, employees of Seller (if applicable), and operations of the Business as presently conducted. Furthermore, Seller has not received any written notice of cancellation of, premium increase with respect to, or alteration of coverage under, any such insurance policies. Except as set forth on Section 5.11 of the Disclosure Schedules, there are no claims related to the Business pending under any such insurance policies as to which coverage has been questioned, denied or disputed or in respect of which there is an outstanding reservation of rights.

5.12 "AS IS" Transaction.

Except as specifically provided in Section 5.1 through Section 5.11 above, Seller will convey the Acquired Assets to Buyer on an "As-Is, Where-Is" and "With All Faults" basis, without representations, warranties, or covenants, express or implied, of any kind or nature. Buyer hereby waives and relinquishes all rights and privileges arising out of, or with respect or in relation to, any representations, warranties, or covenants, whether express or implied, that may have been made or given, or that may have been deemed to have been made or given, by Seller or Seller's Representatives, except for those expressly set forth in this Agreement. None of Seller nor any other Person is making any representation or warranty of any kind or nature whatsoever, oral or written, express or implied, relating to Seller (including, but not limited to, any relating to financial condition, results of operations, assets or liabilities of such Seller), except as expressly set forth in this Article 5, and Seller hereby disclaims any such other representations or warranties.

ARTICLE 6
REPRESENTATIONS AND WARRANTIES OF BUYER

Buyer hereby represents and warrants to Seller as follows:

6.1 Organization and Good Standing.

Buyer is a corporation, duly incorporated, validly existing and in good standing under the laws of its jurisdiction of organization. Buyer has the requisite power and authority to own or lease and to operate and use its properties and to carry on its business as now conducted.

6.2 Authority; Validity; Consents.

Buyer has the requisite power and authority necessary to enter into and perform its obligations under this Agreement and the other Transaction Documents to which it is a party and to consummate the transactions contemplated hereby and thereby. The execution, delivery and performance of this Agreement by Buyer and the consummation by Buyer of the Transactions have been duly and validly authorized by all requisite limited liability company or corporate actions in respect thereof. This Agreement has been duly and validly executed and delivered by Buyer and each other Transaction Document to which Buyer is a party and will be duly and validly executed and delivered by Buyer, as applicable, at the Closing. This Agreement and the other Transaction Documents to which Buyer is a party constitute the legal, valid and binding obligation of Buyer, enforceable against Buyer in accordance with their respective terms, except, in each case, as such enforceability is limited by bankruptcy, insolvency, reorganization, moratorium or similar laws now or hereafter in effect relating to creditors' rights generally or general principles of equity. Except as set forth on Section 6.2 of the Disclosure Schedules, Buyer is not and will not be required to give any notice to or obtain any consent from any Person in connection with the execution and delivery of this Agreement and the other Transaction Documents to which it is a party or the consummation or performance of any of the transactions contemplated hereby or thereby, except for such notices, filings and consents, the failure of which to provide, make or obtain, would not, individually or in the aggregate, materially affect Buyer's ability to perform its obligations under this Agreement or any other Transaction Documents to which it is a party or to consummate the transactions contemplated hereby or thereby.

6.3 No Conflict.

Neither the execution and delivery by Buyer of this Agreement or the other Transaction Documents to which it is a party nor the consummation of the transactions contemplated hereby or thereby nor compliance by it with any of the provisions hereof or thereof (a) conflict with or result in a violation of (i) any provision of the organizational documents of Buyer, or (ii) any Legal Requirement binding upon Buyer, or (b) violate, conflict with, or result in a breach of any of the terms of, or constitute a default under, or give rise to any right of termination, modification, cancellation or acceleration under (i) any note, bond, mortgage, indenture, deed of trust, Contract or other instrument or obligation to which Buyer is a party or by which Buyer may be bound or to which any of Buyer's assets may be subject or affected in any material respect and that, in each case, is material to the business of Buyer or that would individually or in the aggregate, materially affect Buyer's ability to perform its obligations under this Agreement or any other Transaction Document to which it is a party or to consummate the transactions contemplated hereby or thereby, or (ii) any material license, permit, authorization, consent, order or approval of, or registration, declaration or filings with, any Governmental Authority.

6.4 Litigation.

There is no Action or Order pending or, to the knowledge of Buyer, threatened in writing against Buyer, whether at law or equity, whether civil or criminal in nature, or by or before any arbitration or Governmental Authority, that would affect Buyer's ability to perform its obligations under this Agreement or any other Transaction Documents or to consummate the transactions contemplated hereby or thereby.

6.5 Brokers or Finders.

Neither Buyer nor any Person acting on behalf of Buyer has paid or become obligated to pay any fee or commission to any broker, finder, investment banker, agent or intermediary for or on account of the Transactions for which Seller is or will become liable.

6.6 "AS IS" Transaction.

BUYER HEREBY ACKNOWLEDGES AND AGREES THAT, EXCEPT AS OTHERWISE EXPRESSLY PROVIDED IN ARTICLE 5 ABOVE, SELLER MAKES NO REPRESENTATIONS OR WARRANTIES WHATSOEVER, EXPRESS OR IMPLIED, WITH

RESPECT TO ANY MATTER RELATING TO THE ACQUIRED ASSETS INCLUDING EXPENSES TO BE INCURRED IN CONNECTION WITH THE ACQUIRED ASSETS, THE PHYSICAL CONDITION OF ANY PERSONAL PROPERTY COMPRISING A PART OF THE ACQUIRED ASSETS OR THAT IS THE SUBJECT OF ANY OTHER ASSUMED LEASE OR DESIGNATED CONTRACT TO BE ASSUMED BY BUYER AT THE CLOSING, THE ENVIRONMENTAL CONDITION OR OTHER MATTER RELATING TO THE PHYSICAL CONDITION OF ANY LEASED REAL PROPERTY OR IMPROVEMENTS THAT ARE THE SUBJECT OF ANY REAL PROPERTY LEASE TO BE ASSUMED BY BUYER AT THE CLOSING, THE ZONING OF ANY SUCH LEASED REAL PROPERTY OR IMPROVEMENTS, THE VALUE OF THE ACQUIRED ASSETS (OR ANY PORTION THEREOF), THE TRANSFERABILITY OF PROPERTY, THE TERMS, AMOUNT, VALIDITY OR ENFORCEABILITY OF ANY ASSUMED LIABILITIES, THE MERCHANTABILITY OR FITNESS OF THE PERSONAL PROPERTY OR ANY OTHER PORTION OF THE ACQUIRED ASSETS FOR ANY PARTICULAR PURPOSE, OR ANY OTHER MATTER OR THING RELATING TO THE ACQUIRED ASSETS OR ANY PORTION THEREOF. WITHOUT IN ANY WAY LIMITING THE FOREGOING, SELLER HEREBY DISCLAIMS ANY WARRANTY, EXPRESS OR IMPLIED, OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE AS TO ANY PORTION OF THE ACQUIRED ASSETS. BUYER FURTHER ACKNOWLEDGES THAT BUYER HAS CONDUCTED AN INDEPENDENT INSPECTION AND INVESTIGATION OF THE PHYSICAL CONDITION OF THE ACQUIRED ASSETS AND ALL SUCH OTHER MATTERS RELATING TO OR AFFECTING THE ACQUIRED ASSETS AS BUYER DEEMED NECESSARY OR APPROPRIATE AND THAT IN PROCEEDING WITH BUYER'S ACQUISITION OF THE ACQUIRED ASSETS, EXCEPT FOR ANY REPRESENTATIONS AND WARRANTIES EXPRESSLY SET FORTH IN ARTICLE 5, BUYER IS DOING SO BASED SOLELY UPON SUCH INDEPENDENT INSPECTIONS AND INVESTIGATIONS. ACCORDINGLY, BUYER WILL ACCEPT THE ACQUIRED ASSETS AT THE CLOSING "AS IS," "WHERE IS," AND "WITH ALL FAULTS."

ARTICLE 7
ACTIONS PRIOR TO THE CLOSING DATE

7.1 Access and Reports.

Subject to applicable Legal Requirements, during the period from and including the Execution Date through and including the Closing Date or the earlier termination of this Agreement in accordance with the provisions of ARTICLE 11, Seller shall: (a) afford Buyer and its Representatives access upon reasonable notice to its employees (if applicable), customers, suppliers, properties, books, Contracts and records of Seller during normal business hours to the extent such access does not unreasonably interfere with the businesses of Seller, and furnish promptly to Buyer all information as may be reasonably requested concerning (i) the Acquired Assets or the Assumed Liabilities, (ii) any current (if applicable) or former employees or service providers, or (iii) the Business; (b) permit Buyer to make such reasonable inspections and copies as Buyer may require, in each case, during normal business hours to the extent such inspections and making of copies do not unreasonably interfere with the businesses of Seller; and (c) instruct the executive officers and senior business managers, employees (if applicable), counsel, auditors and financing advisors of Seller to cooperate with Buyer and its Representatives regarding the same. No investigation pursuant to this Section 7.1 or by Buyer or its Representatives at any time prior to or following the Execution Date shall affect or be deemed to modify any representation or warranty made by Seller herein. The Parties shall enter into a mutually acceptable common interest agreement with respect to information disclosed pursuant to this Section 7.1, which is subject to attorney-client privilege. Subject to applicable Legal Requirements, following the Closing Date and through and including the closing of the Bankruptcy Case, Buyer shall, and shall cause its

Affiliates, to provide Seller reasonable access to all information and access *mutatis mutandis* as provided in clauses (a) through (c) of this Section 7.1.

7.2 Operations Prior to the Closing Date.

Seller covenants and agrees that, except (i) as expressly contemplated by this Agreement, (ii) as disclosed in Section 7.2 of the Disclosure Schedules, (iii) with the prior written consent of Buyer (which consent shall not be unreasonably withheld or delayed), (iv) as otherwise required by Legal Requirements or the Bankruptcy Court (including any limitations on operations imposed by the Bankruptcy Court or the Bankruptcy Code), (v) as occurring as a result of Seller being in bankruptcy under the Bankruptcy Code, or (vi) as and to the extent permitted in writing by the lenders under the DIP Term Sheet or a Transaction Document, after the Execution Date and prior to the Closing Date:

(a) Seller shall:

(i) carry on the Business in the Ordinary Course of Business and use commercially reasonable efforts to maintain, preserve and protect all of the Acquired Assets in the condition in which they exist on the Execution Date, except for ordinary wear and tear and except for replacements, modifications or maintenance in the Ordinary Course of Business (subject to Seller's compliance with the terms of the DIP Term Sheet, including the Approved Budget contemplated thereby and the funding of loans contemplated thereby, in each case, in accordance with the terms of the DIP Term Sheet);

(ii) maintain its books, accounts and records in accordance with past custom and practice;

(iii) use commercially reasonable efforts to maintain its relationships with and preserve for the Business the goodwill of its key suppliers and customers;

(iv) (A) comply in all material respects with all Legal Requirements applicable to it or having jurisdiction over the Business or any Acquired Asset, (B) comply in all material respects with contractual obligations applicable to or binding upon it pursuant to Assigned Contracts, and (C) maintain in full force and effect all Permits and comply, in all material respects, with the terms of each such Permit;

(v) cause any of its current insurance policies with respect to the Acquired Assets not to be canceled or terminated or any of the coverage thereunder to lapse unless (A) simultaneously with such termination, cancellation or lapse, replacement policies providing coverage equal to or greater than the coverage under the canceled, terminated or lapsed policies are in full force and effect, or (B) adequate provision therefor is not provided for in the Approved Budget;

(vi) use commercially reasonable efforts to maintain, preserve and protect in full force and effect the existence of all material Intellectual Property included in the Acquired Assets;

(vii) use commercially reasonable efforts not to take or agree to or commit to assist any other Person in taking any action that would reasonably be expected (A) to result in a failure of any of the conditions to the Closing, or (B) to impair the ability of Seller or Buyer to consummate the Closing in accordance with the terms hereof or to materially delay such consummation; and

(b) Seller shall not:

(i) except for executory contracts and unexpired leases rejected by Seller pursuant to the Sale Order with the prior written consent of Buyer, assume, reject, assign, terminate, modify or amend any Assigned Contract or, except with respect to breaches that will be cured by the Sale Order or pursuant to Section 2.6(a), or take any action which violates, conflicts with or resulted in a breach of any provision of, or constitutes a default under, any Assigned Contract;

(ii) (A) purchase or otherwise acquire any material properties or assets (tangible or intangible) or sell, lease, transfer or otherwise dispose of any Acquired Assets or otherwise remove any assets, or make any material changes to asset levels, mix, or valuation, except for purchases of materials and sales of Inventory in the Ordinary Course of Business and sales and dispositions of obsolete assets, or (B) remove any material Equipment or other material assets from the Real Property other than in the Ordinary Course of Business or with the prior written consent of Buyer;

(iii) waive or release any claim or rights included in or related to the Acquired Assets or the Business with a value, individually or in the aggregate, in excess of $50,000 or revalued any of the Acquired Assets, except for downward adjustments to the value of Inventory in the Ordinary Course of Business;

(iv) enter into any contractual relationship with any third party related to the Acquired Assets or the Business, other than (A) in the Ordinary Course of Business, (B) contractual relationships with professionals and advisors entered into in connection with the bankruptcy of Seller and the Transactions, (C) non-disclosure and confidentiality agreements entered into with potential bidders for all or a portion of Seller's assets, and (D) any agreements relating to movement of Inventory;

(v) enter into or renew any Contract having a term of one year or greater or that may require Seller to incur potential liabilities of $50,000 or greater per year without the consent of Buyer and, to the extent required, the approval of the Bankruptcy Court in accordance with section 363(b) of the Bankruptcy Code;

(vi) make any material commitments for capital expenditures;

(vii) suffer any material damage or destruction to or loss of any material assets or properties whether or not covered by insurance;

(viii) change in any way Seller's accounting methods, principles or practices other than required by changes in GAAP;

(ix) enter into any commitment or transaction or series of commitments or transactions in respect of Indebtedness or paid, discharged or satisfied any claims, liabilities or obligations (absolute, accrued, asserted or unasserted, contingent or otherwise), other than (i) the payment, discharge or satisfaction in the Ordinary Course of Business of Liabilities incurred in the Ordinary Course of Business, and (ii) the DIP Term Sheet and the financing transactions contemplated thereby;

(x) allow any Permit held by Seller to terminate, expire or lapse to the extent that any fees required to be paid in connection with renewal are included in the funds available to Seller under the DIP Term Sheet;

(xi) (A) hire or engage any employees, independent contractors, consultants, or other service providers; (B) enter into or adopt any new severance pay, termination pay, deferred compensation, bonus, or other employee benefit plan with respect to any current (if applicable) or former employee or service provider that would be a Benefit Plan if it existed on the Execution Date (including any employment agreement, consulting agreement, severance agreement, change in control agreement, or transaction or retention bonus agreements); or (C) enter into, amend, extend, terminate or negotiate any Collective Bargaining Agreement, or recognize or certify any Union as the bargaining representative of any employees of Seller (if applicable), except, in the case of each of clauses (A) through (C), as required by applicable Legal Requirements or the terms of any Benefit Plan, as in effect on the Execution Date; or

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

7.3 Governmental Approvals; Cooperation.

(a) Seller and Buyer shall use commercially reasonable efforts to take, or cause to be taken, all actions, and to do, or cause to be done, and to assist and cooperate with the other in doing, all things necessary to consummate and make effective, in the most expeditious manner practicable, the Transactions, including (i) taking all commercially reasonable acts necessary to cause the conditions precedent set forth in ARTICLE 9 and ARTICLE 10 to be satisfied, (ii) obtaining, at the earliest practicable date, all necessary Governmental Authorizations and the making of all necessary registrations, declarations and filings (including registrations, declarations and filings with Governmental Authorities, if any) and taking all commercially reasonable steps as may be necessary to avoid any Action by any Governmental Authority, (iii) defending any Actions challenging this Agreement or the consummation of the Transactions, including seeking to have any stay or temporary restraining order entered by any court or other Governmental Authority vacated or reversed, and (iv) executing and delivering any additional instruments necessary to consummate the Transactions and to fully carry out the purposes of this Agreement.

(b) Buyer and Seller shall take all commercially reasonable actions and do, or cause to be done, all commercially reasonable things necessary under the applicable Legal Requirements with the appropriate Governmental Authorities to put in place, to transfer, to amend, or to acquire all Transferred Permits that are necessary for the operation and conduct of the Acquired Assets by or on the Closing Date, unless the applicable Legal Requirements regarding such a Permit require certain actions to be taken upon or after Closing, and, in that event, Buyer and Seller shall take all commercially reasonable actions and do, or cause to be done, all commercially reasonable things necessary or desirable under the applicable Legal Requirements with the appropriate Governmental Authorities which can only be taken or done after Closing to put in place, transfer, amend or acquire such remaining Permits as promptly as reasonably practicable after the Closing. The fees and expenses paid to Governmental Authorities, in each case, as directed by Buyer and as necessary to put in place, transfer, amend or acquire all Transferred Permits that are necessary for the operation and conduct of the Acquired Assets shall be provided for in the Approved Budget and paid in accordance with the DIP Term Sheet (such fees and expenses, the "Transferred Permit Fees"), and Seller shall not be required to pay any Transferred Permit Fees following the Closing.

(c) Seller and Buyer (i) shall to the extent legally permitted promptly inform each other of any communication from any Governmental Authority concerning this

Agreement, the Transactions, and any filing, notification or request for approval, and (ii) shall permit the other to review in advance any proposed written or material oral communication or information submitted to any such Governmental Authority in response thereto (excluding documents and communications which are subject to preexisting confidentiality agreements or to the attorney-client privilege or work product doctrine). In addition, none of the Parties shall agree to participate in any meeting with any Governmental Authority in respect of any filings, investigation or other inquiry with respect to this Agreement or the Transactions, unless, to the extent legally permitted, such Party consults with the other Parties in advance and, to the extent permitted by any such Governmental Authority, gives the other Parties the opportunity to attend and participate thereat, in each case, to the maximum extent practicable. Subject to restrictions under any Legal Requirements, each of Buyer and Seller shall furnish the other with copies of all correspondence, filings and communications (and memoranda setting forth the substance thereof) between it and its Affiliates and their respective Representatives on the one hand, and the Governmental Authority or members of its staff on the other hand, with respect to this Agreement, the Transactions (excluding documents and communications which are subject to preexisting confidentiality agreements or to the attorney-client privilege or work product doctrine or which refer to valuation of the Business) or any such filing, notification or request for approval. Each Party shall also furnish the other Party with such necessary information and assistance as such other Party and its Affiliates may reasonably request in connection with their preparation of necessary filings, registration or submissions of information to the Governmental Authority in connection with this Agreement, the Transactions and any such filing, notification or request for approval.

7.4 Bankruptcy Court Matters.

(a) Sale Milestones. From and after the Execution Date and until the Closing Date, subject, in each case, to the terms of the Bidding Procedures Order, Seller agrees:

(i) To file a motion in form and substance reasonably acceptable to Buyer seeking approval of the bidding and sale procedures and designating Buyer and this Agreement as the Stalking Horse Purchaser and the Stalking Horse Agreement (the "Bidding Procedures Motion") for the Transactions within three (3) Business Days after the Petition Date.

(ii) To obtain a hearing to approve the Bidding Procedures Motion on or before thirty-five (35) calendar days following the Petition Date.

(iii) That no later than thirty-five (35) calendar days after the Petition Date, the Bankruptcy Court shall have entered an order with respect to the bidding procedures (the "Bidding Procedures Order").

(iv) That if multiple Qualified Bids are submitted prior to the Bid Deadline (as defined in the Bidding Procedures Order), commence the Auction on or before eighty (80) days after the Petition Date, subject to the Bidding Procedures Order.

(v) To obtain a Sale Hearing before the Bankruptcy Court to approve the Transactions to be held on or before ninety (90) days following the Petition Date and the Sale Order shall have been entered no later than ninety (90) days following the Petition Date.

(vi) The Closing shall occur no later than 120 days after the Petition Date.

(b) Buyer and Seller acknowledge that this Agreement and the sale of the Acquired Assets and assumption and assignment of the Assigned Contracts are subject to Bankruptcy Court approval. Buyer and Seller acknowledge that (i) to obtain such approval and to satisfy Seller's fiduciary duties to all applicable stakeholders in accordance with applicable Legal Requirements, Seller must demonstrate that it has taken reasonable steps to obtain the highest or otherwise best offer possible for the Acquired Assets, and that such demonstration shall include giving notice of the Transactions to creditors and other interested parties, including as may be ordered by the Bankruptcy Court and, if necessary, conducting the Auction, and (ii) Buyer must provide adequate assurance of future performance as required under the Bankruptcy Code with respect to each Assigned Contract.

(c) Buyer agrees and acknowledges that Seller, including through its representatives, are and may continue soliciting and responding to inquiries, proposals or offers from third parties for all or any part of the Acquired Assets, as contemplated by the Bidding Procedures and such actions as contemplated by the terms of the Bidding Procedures shall not be a breach or violation of this Agreement.

7.5 Notice of Developments.

Seller shall promptly notify Buyer of, and furnish Buyer with, any information it may reasonably request with respect to any event that would reasonably be expected to cause any of the conditions set forth in ARTICLE 9 not to be fulfilled by the Outside Date. Notwithstanding anything to the contrary in this Section 7.5, no schedule, notice, information, or updated item delivered pursuant to this Section 7.5 shall be deemed to supplement, modify or update any Schedule or cure any breach of any such representation or warranty, in each case, for the purpose of determining whether any of the conditions to Closing set forth in ARTICLE 9 have been satisfied or fulfilled.

7.6 Transition of Business.

Seller shall use commercially reasonable efforts to assist Buyer in accomplishing the acquisition of the Acquired Assets of the Business from Seller by Buyer as contemplated herein. Following the Closing, Seller, at no cost or other exposure to Seller, shall cooperate with Buyer in its efforts to continue and maintain for the benefit of Buyer those business and customer relationships of Seller existing prior to the Closing and relating to the Business, including relationships with lessors, current (if any) or former employees, regulatory authorities, licensors, customers, suppliers and others. Seller shall refer to Buyer all inquiries relating to the Acquired Assets. Seller shall not take any action that diminishes, or would reasonably be expected to diminish, the value of the Acquired Assets after the Closing or that would interfere with the business of Buyer to be engaged in after the Closing, including disparaging the name or business of Buyer.

7.7 Sale Free and Clear.

The Sale Order shall provide that, on the Closing Date and concurrently with the Closing, all then existing or thereafter arising Liabilities and Liens (including all successor liability) of, against or created by Seller or its bankruptcy estate shall, to the fullest extent permitted by sections 363 and 365 of the Bankruptcy Code, be fully released from and with respect to the Acquired Assets. On the Closing Date, the Acquired Assets shall be transferred to Buyer free and clear of any and all Liabilities and Liens (including all successor liability), other than the Assumed

Liens and the Assumed Liabilities, to the fullest extent permitted by sections 363 and 365 of the Bankruptcy Code. The Sale Order shall authorize Buyer's exercise of the Credit Bid for any obligations arising under the DIP Term Sheet.

ARTICLE 8
ADDITIONAL AGREEMENTS

8.1 Taxes.

Any Transfer Tax payable in connection with the sale, conveyance, assignments, transfers and deliveries to be made to Buyer hereunder shall be borne by Buyer. Seller and Buyer shall use commercially reasonable efforts and cooperate in good faith to exempt the sale and transfer of the Acquired Assets from any such Transfer Taxes. Buyer and Seller agree to timely sign and deliver (or cause to be timely signed and delivered) such certificates or forms as may be reasonably necessary or appropriate for establishing, and shall otherwise reasonably cooperate to establish, any available exemption from or reduction of any such Transfer Taxes. The party required by applicable Legal Requirements to prepare and file any Tax Returns in respect of such Transfer Taxes shall prepare and file such Tax Returns and the other party (or parties) shall cooperate in full in connection with the preparation of such Tax Returns.

8.2 Payments Received.

Seller and Buyer agree that, after the Closing, each will hold and will promptly transfer and deliver to the other, from time to time as and when received by them, any cash, checks with appropriate endorsements (using commercially reasonable efforts not to convert such checks into cash) or other property that they may receive on or after the Closing which belongs to the other and will account to the other for all such receipts.

8.3 Assigned Contracts: Adequate Assurance and Performance.

Buyer shall use commercially reasonable efforts to provide adequate assurance of the future performance by Buyer of each Assigned Contract as required under section 365 of the Bankruptcy Code. Buyer and Seller agree that they will promptly take all actions reasonably required to assist in obtaining a Bankruptcy Court finding that there has been an adequate demonstration of adequate assurance of future performance under the Assigned Contracts pursuant to section 365 of the Bankruptcy Code, such as furnishing timely requested and factually accurate affidavits, non-confidential financial information and other documents or information for filing with the Bankruptcy Court and making Buyer's and Seller's representatives available to testify before the Bankruptcy Court.

8.4 Post-Closing Books and Records and Personnel.

From and after the Closing Date, each Party shall provide the other Parties (and their respective Representatives) with access, at reasonable times and in a manner so as not to unreasonably interfere with their normal business, to the books, records, systems and any employees of the other Parties so as to enable Buyer and Seller to prepare Tax, financial or court filings or reports, to respond to court orders, subpoenas or inquiries, investigations, audits or other proceedings of Governmental Authorities, and to prosecute and defend legal Actions or for other like purposes, including Claims, objections and resolutions, and with respect to Seller, to wind-up its bankruptcy estate, which shall include the cooperation of the Parties in taking whatever actions are reasonably necessary to effect such winding up. If any party desires to dispose of any such records, such Party shall, thirty (30) days prior to such disposal, provide the other Party with a reasonable opportunity to remove such records to be disposed of at the removing Party's expense.

8.5 Casualty Loss.

Notwithstanding any provision in this Agreement to the contrary, if, before the Closing, all or any portion of the Acquired Assets is (a) condemned or taken by eminent domain, or (b) is damaged or destroyed by fire, flood or other casualty, Seller shall notify Buyer promptly in writing of such fact, and in the case of (i) condemnation or taking, Seller shall assign or pay, as the case may be, any proceeds thereof to Buyer at the Closing, and (ii) fire, flood or other casualty, Seller shall assign the insurance proceeds therefrom to Buyer at Closing. Notwithstanding the foregoing, the provisions of this Section 8.5 shall not in any way modify Buyer's other rights under this Agreement, including any applicable right to terminate the Agreement if any condemnation, taking, damage or other destruction results or would reasonably be expected to result in a Material Adverse Effect.

8.6 Name Change.

Promptly following the Closing and in any event within ninety (90) Business Days after the Closing Date, Seller shall discontinue the use of its current name (and any other trade names or "d/b/a" names currently utilized by Seller) and file or cause to be filed all documents, including amendments to Seller's organizational documents, and shall take all other steps, that are necessary to change the name of Seller to a name that does not contain the terms "Norcold", or any variation on "Norcold". Further, Seller shall (i) except in connection with administration of the Bankruptcy Case, cease all use of the "Norcold" name and any confusingly similar variations promptly following Closing; (ii) execute and deliver all instruments and take all actions reasonably requested by Buyer to retire, abandon, cancel, or otherwise discontinue the "Norcold" Trademarks and trade names (or to reflect Buyer as owner of record prior to any retirement or cancellation), including any filings with the USPTO and foreign trademark offices; and (iii) not oppose, challenge, or interfere with any action by Buyer to retire, abandon, cancel, or otherwise discontinue the "Norcold" Trademarks or trade names.

8.7 No Successor Liability.

The Parties intend that upon the Closing, Buyer shall not be deemed to (a) be the successor of or successor employer (within the meaning of such term under any Legal Requirement and applicable rules, regulations or legal principles thereunder) to Seller or any of its Affiliates, including with respect to any current (if applicable) or former employees, contractors or consultants, (b) have, *de facto*, or otherwise, merged with or into Seller, (c) be a mere continuation or substantial continuation of Seller or the enterprise(s) of Seller, or (d) except in each case as included in the Assumed Liabilities, be liable for any acts or omissions of Seller in the conduct of the Business or arising under or related to the Acquired Assets other than as set forth in this Agreement. Without limiting the generality of the foregoing, and except as otherwise provided in this Agreement or otherwise required by applicable law, the Parties intend that Buyer shall not be liable for any Liens (other than Assumed Liabilities and Assumed Liens) against Seller or any of its predecessors or Affiliates, and Buyer shall have no successor or vicarious liability of any kind or character whether known or unknown as of the Closing Date, whether now existing or hereafter arising, or whether fixed or contingent, with respect to the Business, the Acquired Assets or any Liabilities of Seller arising prior to the Closing Date. The Parties agree that the provisions substantially in the form of this Section 8.7 shall be reflected in the Sale Order.

ARTICLE 9
CONDITIONS PRECEDENT TO OBLIGATIONS OF BUYER TO CLOSE

The obligations of Buyer to consummate the Transactions are subject to fulfillment, at the Closing, of each of the following conditions, any one or more of which may be waived by Buyer, in its sole and absolute discretion:

9.1 Accuracy of Representations.

The representations and warranties of Seller set forth in (a) ARTICLE 5 (other than the representations and warranties set forth in Section 5.1 and Section 5.2,) shall be true and correct as of the Closing Date as though such representations and warranties had been made on and as of the Closing (provided that representations and warranties which are confined to a specified date shall speak only as of such date), except for those breaches, if any, of such representations and warranties that in the aggregate have not had and would not reasonably be expected to have a Material Adverse Effect, and (b) Section 5.1 and Section 5.2 shall be true and correct in all respects as of the Closing Date with the same effect as though such representations and warranties had been made on and as of the Closing.

9.2 Seller's Performance.

The covenants and agreements that Seller is required to perform or to comply with pursuant to this Agreement at or prior to the Closing shall have been performed and complied with, in all material respects.

9.3 No Order.

No Governmental Authority shall have enacted, issued, promulgated, decreed or entered any final, non-appealable Order, which is in effect and has the effect of restraining or preventing the consummation of or imposing material modifications on the Transactions.

9.4 Governmental Authorizations; Consents.

All material Permits and consents set forth on Section 9.4 of the Disclosure Schedules shall have been made or obtained.

9.5 Seller's Deliveries.

Each of the deliveries required to be made to Seller pursuant to Section 4.3 shall have been so delivered.

9.6 Sale Order.

The Bankruptcy Court shall have entered the Sale Order, and the Sale Order shall have not been stayed, reversed, modified or amended and be in effect on the Closing Date.

9.7 Assigned Contracts.

The Bankruptcy Court shall have approved and authorized the assumption and assignment of each Assigned Contract, except as would not have a material effect on the Business from and after the Closing and except for any Contracts that are removed from Section 2.6(a) of the Disclosure Schedules pursuant to the provisions of Section 2.6.

9.8 Material Adverse Effect.

Since the Execution Date, no Material Adverse Effect shall have occurred.

9.9 Event of Default.

No Event of Default shall have occurred under the DIP Order (a) which gives the secured parties thereunder a termination right, (b) as a result of which, the secured parties thereunder shall have accelerated the repayment obligations of Seller, and (c) which has not been waived.

9.10 Releases and Termination Statements.

Seller shall have delivered to Buyer releases and termination statements sufficient for Buyer to receive the Acquired Assets free and clear of any and all material Liens (other than Assumed Liens); provided, however, that releases shall not be required with respect to Liens that are both (a) released by the Sale Order, and (b) not required to be released at Closing pursuant to releases and termination statements in connection with a financing or debt facility obtained by Buyer.

9.11 Confirmation Order

The Bankruptcy Court shall have entered the Confirmation Order in full force and effect as a Final Order and there shall have been no modification or stay of the Confirmation Order or entry of any other order prohibiting the transactions contemplated by the Plan from being consummated.

ARTICLE 10
CONDITIONS PRECEDENT TO THE OBLIGATION OF SELLER TO CLOSE

The obligations of Seller to consummate the Transactions are subject to fulfillment, at the Closing, of each of the following conditions, any one or more of which may be waived by Seller, in its sole and absolute discretion:

10.1 Accuracy of Representations.

The representations and warranties of Buyer (a) set forth in ARTICLE 6 (other than the representations and warranties set forth in Section 6.1 and Section 6.2) shall be true and correct as of the Closing Date as though such representations and warranties had been made on and as of the Closing (provided that representations and warranties which are confined to a specified date shall speak only as of such date), except for those breaches, if any, of such representations and warranties that in the aggregate have not had and would not reasonably be expected to have a Material Adverse Effect, and (b) set forth in Section 6.1 and Section 6.2 shall be true and correct in all respects as of the Closing Date with the same effect as though such representations and warranties had been made on and as of the Closing.

10.2 Sale Order in Effect.

The Bankruptcy Court shall have entered the Sale Order.

10.3 Buyer's Performance.

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

10.4 No Order.

No Governmental Authority shall have enacted, issued, promulgated or entered any final, non-appealable Order, which is in effect and has the effect of preventing the consummation of the Transactions.

10.5 Buyer's Deliveries.

Each of the deliveries required to be made to Buyer pursuant to Section 4.2 shall have been so delivered.

ARTICLE 11
TERMINATION

11.1 Termination Events.

Anything contained in this Agreement to the contrary notwithstanding, this Agreement may be terminated at any time prior to the Closing only as follows:

(a) by mutual written consent of Seller and Buyer;

(b) by either Seller or Buyer if the Closing shall not have occurred by February 12, 2026 or such later date as chosen by Buyer, in its sole and absolute discretion (the "Outside Date"); provided, however, that Buyer must notify Seller in writing on or prior to February 11, 2026 of any extension of the Outside Date to later than February 12, 2026; provided, further, that the right to terminate this Agreement under this Section 11.1(b) shall not be available to any Party whose willful failure to fulfill any of its obligations under this Agreement shall have been the cause of, or shall have resulted in, the failure of the Closing to occur on or prior to the Outside Date;

(c) by Buyer:

(i) if any of the events set forth in clauses (a) and (b) of Section 7.4 shall not have occurred by the respective dates set forth therein;

(ii) if the Bankruptcy Court enters an Order dismissing or converting into cases under chapter 7 of the Bankruptcy Code, any of the cases commenced by Seller under chapter 11 of the Bankruptcy Code and comprising part of the Bankruptcy Case or appointing a trustee in the Bankruptcy Case or appointing a responsible officer or an examiner with enlarged powers relating to the operation of Seller's businesses (beyond those set forth in section 1106(a)(3) or (4) of the Bankruptcy Code) under section 1106(b) of the Bankruptcy Code, or such an order of dismissal, conversion or appointment is entered for any reason and is not be reversed or vacated within fourteen (14) days after the entry thereof or Seller seeks such an Order;

(iii) in the event of any material breach of, or material failure to perform, any agreements, covenants, representations or warranties contained herein or in the Sale Order, which breach or failure to perform (A) would result in Seller being unable to satisfy a condition set forth in Section 9.1 or Section 9.2 by the then-applicable Outside Date, and (B) is not capable of being cured or, if capable of being cured, is not cured within fifteen (15) Business Days after Buyer notifies Seller of such breach;

(iv) if the Bidding Procedures Order has been amended or rescinded or has been modified in any respect that is detrimental to Buyer, and the Order revoking, rescinding, or so modifying the Bidding Procedures Order shall not be reversed or vacated within fourteen (14) days after the entry thereof;

(v) if the Sale Order has been amended or rescinded or has been modified in any respect without the prior written consent of Buyer (which shall be in its sole and absolute discretion to provide), and the Order revoking, rescinding, or so modifying the Sale Order shall not be reversed or vacated within fourteen (14) days after the entry thereof;

(vi) if, at the end of the Auction contemplated by the Bidding Procedures, Buyer is not determined by Seller to be the Successful Bidder or the Backup Bidder or if Seller closes on a transaction with a Successful Bidder other than Buyer;

(vii) if a Governmental Authority issues a final, non-appealable ruling or Order permanently restraining, enjoining or otherwise prohibiting the Transactions;

(viii) if any Event of Default shall have occurred and not been waived, subject to any applicable cure period, or the lenders' obligations under the DIP Order are terminated;

(ix) if Seller has sold, leased, transferred or otherwise disposed of any Acquired Assets (or assets that would be Acquired Assets but for such sale, lease, transfer or disposition), in each case, except for (A) purchases of materials and sales of Inventory in the Ordinary Course of Business and sales and dispositions of obsolete assets, and (B) sales, leases, transfers or dispositions with Buyer's prior written consent; or

(x) if the Bankruptcy Court enters any Order that (A) requires any Excluded Cause of Action to be treated as an Acquired Asset or as an Assumed Liability; (B) requires the assumption of any Assigned Contract that could give rise to an Excluded Cause of Action; or (C) otherwise has the effect that any Excluded Cause of Action or any liability arising therefrom becomes an Assumed Liability; and

(d) by Seller:

(i) in the event of any breach of, or failure to perform, any agreements, covenants, representations or warranties contained herein, which breach or failure to perform (A) would result in Buyer being unable to satisfy a condition set forth in Section 10.1 or Section 10.3, and (B) is not capable of being cured or, if capable of being cured, is not cured within ten (10) Business Days after Seller notifies Buyer of such breach;

(ii) if, in accordance with the Bidding Procedures, Buyer is not determined by Seller to be the Successful Bidder or the Backup Bidder and Seller have entered into any material agreement with any such Successful Bidder or Backup Bidder; or

(iii) if the board of managers or similar governing body of Seller determines that terminating the Transactions or terminating this Agreement is required to comply with applicable Legal Requirements or such body's fiduciary duties under applicable Legal Requirements.

Each condition set forth in this Section 11.1, pursuant to which this Agreement may be terminated shall be considered separate and distinct from each other such condition. If more than one of the termination conditions set forth in Section 11.1 are applicable, the applicable party shall have the right to choose the termination condition pursuant to which this Agreement is to be terminated. The Parties acknowledge and agree that no notice of termination or extension of the

Outside Date provided pursuant to this Section 11.1 shall become effective until two (2) days after the delivery of such notice to the other Parties, and only if such notice shall not have been withdrawn during such two (2) day period or otherwise become invalid.

11.2 Effect of Termination.

If this Agreement is terminated by Buyer or Seller pursuant to this ARTICLE 11, it shall become null and void and have no effect and all rights and obligations of the Parties under this Agreement shall terminate without any Liability of any Party to any other Party except (i) nothing herein shall relieve any Party from Liability for any breach of this Agreement occurring prior to such termination, and (ii) the provisions of Section 7.5, and this Section 11.2 (and, to the extent applicable to the interpretation or enforcement of such provisions, ARTICLE 1 and ARTICLE 12), shall expressly survive the termination of this Agreement.

ARTICLE 12
GENERAL PROVISIONS

12.1 Survival.

All covenants and agreements contained herein which by their terms are to be performed in whole or in part, or which prohibit actions, subsequent to the Closing shall, solely to the extent such covenants and agreements are to be performed, or prohibit actions, subsequent to the Closing, survive the Closing in accordance with their terms. All other covenants and agreements contained herein, and all representations and warranties contained herein or in any certificated deliveries hereunder, shall not survive the Closing and shall thereupon terminate, including any Actions for damages in respect of any breach thereof.

12.2 Confidentiality.

Following the Closing, Seller agrees to, and to cause its Affiliates to, treat and hold as confidential, and not use or disclose all or any of the information concerning the Business, the Acquired Assets, the negotiation or existence and terms of this Agreement or the business affairs of Buyer except (a) disclosure of matters that become a matter of public record as a result of the Bankruptcy Case and the filings related thereto, and (b) disclosures permitted under this Agreement.

12.3 Public Announcements.

Unless otherwise required by applicable Legal Requirement or by obligations of Buyer or Seller or their respective Affiliates pursuant to any listing agreement with or rules of any securities exchange, Buyer and Seller shall consult with each other before issuing any press release or otherwise making any public statement with respect to this Agreement, the Transactions or the activities and operations of the other and shall not issue any such release or make any such statement without the prior written consent of the other (such consent not to be unreasonably withheld or delayed).

12.4 Notices.

All notices, requests, demands, waivers and other communications required or permitted to be given under this Agreement shall be in writing and shall be deemed to have been duly given if delivered personally or sent by overnight courier or, to the extent listed below, email transmission:

(a) If to Seller, then to:

Norcold, LLC
c/o Alvarez & Marsal North America LLC
600 Brickell Avenue, Suite 2950
Miami, FL 33131
Attn: Richard Wu
Email: rwu@alvarezandmarsal.com

with a copy (which shall not constitute notice) to:

Young Conaway Stargatt & Taylor, LLP
Rodney Square
1000 N. King Street
Wilmington, DE 19801
Attn: Matthew B. Lunn
Craig D. Grear
Email: mlunn@ycst.com
cgrear@ycst.com

(b) If to Buyer:

Dave Carter & Associates, Inc.
3530 S.W. 7th St.
Ocala, FL 34474
Attn: Stéphane Pascal Cordeille
Email: scordeille@thetford.eu

with a copy (which shall not constitute notice) to:

Ropes & Gray LLP
1211 Avenue of the Americas
New York, NY 10036
Attention: Patrick S. Dorime
Chris L. Dickerson
Email: Patrick.Dorime@ropesgray.com
Chris.Dickerson@ropesgray.com

or to such other person or address as any party shall specify by notice in writing to the other party. All such notices, requests, demands, waivers and communications shall be deemed to have been received on the date on which so personally-delivered or emailed (with confirmation of transmission) or delivered by overnight courier.

12.5 Waiver.

Neither the failure nor any delay by any Party in exercising any right, power, or privilege under this Agreement or the documents referred to in this Agreement shall operate as a waiver of such right, power or privilege, and no single or partial exercise of any such right, power, or privilege shall preclude any other or further exercise of such right, power, or privilege or the exercise of any other right, power, or privilege. To the maximum extent permitted by Legal

Requirements, (a) no waiver that may be given by a Party shall be applicable except in the specific instance for which it is given, and (b) no notice to or demand on one Party shall be deemed to be a waiver of any right of the Party giving such notice or demand to take further action without notice or demand.

12.6 Entire Agreement; Amendment.

This Agreement (including the Disclosure Schedules and the Exhibits) and the other Transaction Documents supersede all prior agreements between Buyer and Seller with respect to its subject matter and constitute a complete and exclusive statement of the terms of the agreements between Buyer and Seller with respect to their subject matter. This Agreement may not be amended, modified or supplemented except by a written agreement executed by each of the Parties.

12.7 Assignment.

This Agreement, and the rights, interests and obligations hereunder, shall not be assigned by any Party by operation of law or otherwise without the express written consent of the other Parties (which consent may be granted or withheld in the sole discretion of such other Party); provided, however, that Buyer shall be permitted to assign all or part of its rights or obligations hereunder to one or more Buyer Designees without the prior consent of Seller as provided in Section 4.2(b).

12.8 Severability.

The provisions of this Agreement shall be deemed severable, and the invalidity or unenforceability of any provision shall 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 shall 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 shall not be affected by such invalidity or unenforceability.

12.9 Expenses.

Except as otherwise expressly provided in this Agreement, including Section 11.2, whether or not the Transactions are consummated, the Parties shall bear their own respective expenses (including all compensation and expenses of counsel, financial advisors, consultants, actuaries and independent accountants) incurred in connection with this Agreement and the Transactions. Any and all fees required by any Governmental Authority or any Person to obtain or for the transfer of a Permit shall be the sole responsibility of Buyer.

12.10 Governing Law; Consent to Jurisdiction and Venue; Jury Trial Waiver.

(a) Except to the extent the provisions of the Bankruptcy Code apply, this Agreement shall be governed by, and construed in accordance with, the laws of the State of New York applicable to contracts made and to be performed entirely in such state without regard to principles of conflicts or choice of laws or any other law that would make the laws of any other jurisdiction other than the State of New York applicable hereto.

(b) Without limitation of any Party's right to appeal any Order of the Bankruptcy Court, (i) the Bankruptcy Court shall retain exclusive jurisdiction to enforce the terms of this Agreement and to decide any claims or disputes which may arise or result from, or be connected with, this Agreement, any breach or default hereunder, or the Transactions, and (ii) any and all claims relating to the foregoing shall be filed and maintained only in the Bankruptcy Court, and the Parties hereby consent and submit to the exclusive jurisdiction and venue of the Bankruptcy Court and irrevocably waive the defense of an inconvenient forum to the maintenance of any such Action; provided, however, that, if the Bankruptcy Case is closed, all Actions arising out of or relating to this Agreement shall be heard and determined in a New York state court or a federal court sitting in the Southern District of the State of New York, and the Parties hereby irrevocably submit to the exclusive jurisdiction and venue of such courts in any such Action and irrevocably waive the defense of an inconvenient forum to the maintenance of any such Action. The Parties consent to service of process by mail (in accordance with Section 12.4) or any other manner permitted by law.

(c) THE PARTIES HEREBY IRREVOCABLY WAIVE ALL RIGHT TO TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM (WHETHER BASED IN CONTRACT, TORT OR OTHERWISE) ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE ACTIONS OF SELLER, BUYER OR THEIR RESPECTIVE REPRESENTATIVES IN THE NEGOTIATION OR PERFORMANCE HEREOF.

12.11 Counterparts.

This Agreement and any amendment hereto may be executed in two or more counterparts, each of which shall be deemed to be an original of this Agreement or such amendment and all of which, when taken together, shall constitute one and the same instrument. Counterparts may be delivered via electronic mail (including PDF or any electronic signature complying with the U.S. federal ESIGN Act of 2000, e.g., www.docusign.com), or other transmission method and any counterpart so delivered will be deemed to have been duly and validly delivered and be valid and effective and binding on each Party for all purposes.

12.12 Parties in Interest; No Third Party Beneficiaries; No Amendment.

The Transaction Documents (a) shall inure to the benefit of and be binding upon the Parties and their respective successors and permitted assigns, and (b) are for the sole benefit of the Parties and their permitted assigns, and nothing herein, express or implied, is intended to or shall confer upon any other Person any legal or equitable benefit, claim, cause of action, remedy or right of any kind.

12.13 Remedies.

Neither the exercise of nor the failure to exercise a right of set-off or to give notice of a claim under this Agreement will constitute an election of remedies or limit Seller or Buyer in any manner in the enforcement of any other remedies that may be available to any of them, whether at law or in equity.

12.14 Specific Performance for Post-Closing Covenants.

Solely with respect to the Parties' respective covenants under this Agreement that survive the Closing, and solely to the extent to be performed after the Closing, (a) each Party recognizes that if such Party breaches or refuses to perform any such covenant, monetary damages alone would not be adequate to compensate the non-breaching Party or Parties for their injuries, (b) the non-breaching Party or Parties shall therefore be entitled, in addition to any other remedies that may be available, to obtain specific performance of the terms of such covenants, (c) if any Action is brought by the non-breaching Party or Parties to enforce such covenants, the Party in breach shall waive the defense that there is an adequate remedy at law, (d) each Party agrees to waive any requirement for the security or posting of any bond in connection with any Action seeking specific performance of such covenants, and (e) each Party agrees that the only permitted objection that it may raise in response to any action for specific performance of such covenants is that it contests the existence of a breach or threatened breach of such covenants. Notwithstanding any other provision of this Agreement to the contrary, no Party shall be entitled to any equitable remedy, including an injunction or order for specific performance, to enforce any provision of this Agreement prior to the Closing.

12.15 No Exemplary, Special, Punitive Damages.

NO PARTY (OR ITS AFFILIATES OR REPRESENTATIVES) SHALL, UNDER ANY CIRCUMSTANCE, BE LIABLE TO THE OTHER PARTY (OR ITS AFFILIATES OR REPRESENTATIVES) FOR ANY EXEMPLARY, SPECIAL, OR PUNITIVE DAMAGES CLAIMED BY SUCH OTHER PARTY UNDER THE TERMS OF OR DUE TO ANY BREACH OF THIS AGREEMENT, INCLUDING LOSS OF REVENUE OR INCOME, COST OF CAPITAL, OR LOSS OF BUSINESS REPUTATION OR OPPORTUNITY.

12.16 Non-Recourse.

No past, present or future director, officer, employee, incorporator, member, partner or equityholder of the Parties will have any liability for any obligations or liabilities of Seller or Buyer, as applicable, under this Agreement, or any agreement entered into in connection herewith of or for any claim based on, in respect of, or by reason of, the transactions contemplated hereby and thereby. Any claim or cause of action based upon, arising out of, or related to this Agreement or any agreement, document or instrument contemplated hereby may only be brought against Persons that are expressly named as parties hereto or thereto, and then only with respect to the specific obligations set forth herein or therein. Other than the parties hereto, no party shall have any liability or obligation for any of the representations, warranties, covenants, agreements, obligations or liabilities of any party under this Agreement or the agreements, documents or instruments contemplated hereby or of or for any action or proceeding based on, in respect of, or by reason of, the transactions contemplated hereby or thereby (including breach, termination or failure to consummate such transactions), in each case, whether based on contract, tort, fraud, strict liability, other Legal Requirements or otherwise and whether by piercing the corporate veil, by a claim by or on behalf of a party hereto or another Person or otherwise.

12.17 Release.

Effective as of the Closing and subject to consummation of the Transactions, and except as otherwise expressly provided herein or in the Sale Order, Seller, on behalf of itself, its bankruptcy estate, successors, assigns and any Person claiming by, through, or on behalf of any of the foregoing (collectively, the "Releasing Seller Parties"), hereby fully, finally, irrevocably, and unconditionally releases, waives, acquits, and forever discharges Buyer and each of its current and former officers, directors, managers, employees, agents, attorneys, accountants, consultants, advisors, representatives, and respective successors and assigns thereof, solely in their capacities as such (collectively, the "Released Buyer Parties"), from any and all Actions, Liabilities, and obligations of any kind, nature or description, whether known or unknown, asserted or unasserted, foreseen or unforeseen, accrued or unaccrued, pending or threatened, contingent or fixed, liquidated or unliquidated, matured or unmatured, suspected or unsuspected, at law or in equity, upon contract tort or under any state or federal law or otherwise, which any Releasing Seller Party has or may have against any Released Buyer Party arising on or prior to the Closing Date and relating to or arising out of (a) the Acquired Assets, (b) the Assumed Liabilities, or (c) the Transactions or the negotiation thereof. The foregoing release shall not apply unless and until the Closing occurs and shall not affect any rights of the Releasing Seller Parties (i) under the Transaction Documents, or (ii) to enforce Buyer's obligations under this Agreement.

[*Signature pages follow.*]

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed and delivered by their duly authorized representatives, as of the Execution Date.

SELLER:

NORCOLD, LLC

By: ______________________________
Name: Richard Wu
Title: Chief Restructuring Officer

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed and delivered by their duly authorized representatives, as of the Execution Date.

BUYER:

DAVE & CARTER ASSOCIATES, INC.

By: ______________________________
Name: Stéphane Pascal Cordeille
Title: Chief Executive Officer