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

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In re:	:
	:
	: Chapter 11
BICOM NY, LLC, <i>et al.</i> , ¹	:
	:
	: Case No. 17-11906(MEW)
Debtors.	:
	:
	: (Jointly Administrated)
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**DEBTORS’ MOTION FOR, *INTER ALIA*: (I) AN ORDER
(A) SCHEDULING A SALE AND AUCTION OF CERTAIN ASSETS OF
THE DEBTOR; (B) APPROVING BIDDING PROCEDURES; AND
(C) APPROVING FORM AND MANNER OF NOTICE; AND (II) A
SECOND ORDER APPROVING (A) THE SALE OF SAID ASSETS
PURSUANT TO SECTION 363 OF THE BANKRUPTCY CODE AND (B)
THE ASSUMPTION OF ASSUMED CONTRACTS PURSUANT TO
SECTION 365 OF THE BANKRUPTCY CODE**

**TO: THE HONORABLE MICHAEL E. WILES,
UNITED STATES BANKRUPTCY JUDGE:**

BICOM NY, LLC, ISCOM NY, LLC and Bay Ridge Automotive Company,
LLC, the debtors herein (the “Debtors”), pursuant to sections 105(a), 363, and 365 of title 11,
United States Code (the “Bankruptcy Code”), by this motion (the “Sale Motion”) seek the entry
of: (I) an Order (the “Sale Procedures Order”) in substantially the same form as attached hereto

¹ The last four digits of each Debtor’s taxpayer identification number are as follows: BICOM NY, LLC (9990);
ISCOM NY, LLC (1589); and Bay Ridge Automotive Company, LLC (0694). The Debtors’ addresses are 787 11th
Avenue, New York, NY 10019; 1 York Street, New York, NY 10013; and 612 86th Street, Brooklyn, NY 11228,
respectively.

as Exhibit A, (A) scheduling a sale date for the sale of substantially all of the Debtors' tangible and intangible assets (the "Assets") in one or more lots, which are presently encumbered by liens securing the Debtors' obligations under a DIP Credit Agreement, dated July 14, 2017, as well as other pre-petition loan facilities described below, between the Debtors and JPMorgan Chase Bank, N.A. ("Chase"), (B) approving bidding procedures and protections in connection therewith; and (C) approving the form and manner of notice (the "Sale Procedures Notice"), a copy which is attached to the proposed Sale Procedure Order as Exhibit 1, pursuant to Federal Rule of Bankruptcy Procedure 2002; (II) a second Order (the "Sale Order"²) approving (A) the sale of the Assets to the holder or holders of the highest or otherwise best bid for the Assets, free and clear of any and all liens, claims, encumbrances and other interests (with such liens, claims and encumbrances to attach to the proceeds of such sale); and (B) the assumption and assignment of certain contracts (the "Assumed Contracts"). In support of its Sale Motion, the Debtors respectfully represent as follows:

PRELIMINARY STATEMENT

1. The Sale Motion should be granted because the orderly liquidation of the Debtors is the sole means of providing any possibility that the Debtors' secured, priority and general unsecured creditors will receive a distribution in these cases and provides an opportunity to preserve the hundreds of jobs held by the Debtors' employees. The procedures outlined below provide the greatest opportunity to achieve these objectives.

BACKGROUND

2. On July 10, 2017 (the "Petition Date"), the Debtors filed voluntary petitions for reorganization pursuant to Chapter 11 of the Bankruptcy Code and are authorized to continue to

² A copy of the Sale Order will be provided to interested parties prior to the hearing at which the Debtors will seek approval of the sale of the Assets.

operate their businesses and manage their properties as debtors in possession, pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.

3. No trustee or examiner has been appointed in this case. There are no pending motions for the appointment of a committee.

4. BICOM, a New York limited liability company, owns and operates a “dual” Jaguar/Land Rover vehicle franchise (the “J/LR Dealership”), pursuant to franchise agreements (the “J/LR Franchise Agreements”) by and between BICOM and Jaguar Land Rover North America, LLC (“J/LR”), the manufacturer. The J/LR Dealership, as of the Petition Date, is located at 787 Eleventh Avenue, New York, New York (“J/LR Facility”) and operates under the names “Land Rover Manhattan”, “Jaguar Manhattan”, and “Jaguar Land Rover Manhattan” pursuant to a lease (the “Georgetown Lease”) with Georgetown Eleventh Avenue Owners, LLC (“Georgetown”).

5. From the J/LR Facility, the J/LR Dealership sells new and used vehicles and operates its parts and service department. In addition, BICOM leases vehicle storage facilities located at 77 Metro Way, Secaucus, New Jersey. The sole member of BICOM is BNF Partners NY, LLC (“BNF Partners”). The members of BNF Partners are Alexander Boyko (“Boyko”), Venjamin Nilva (“Nilva”), and Gary Flom.

6. On June 28, 2017, BICOM received a notice of termination from J/LR of the J/LR Franchise Agreements, effective July 14, 2017. On June 30, 2017, BICOM received a notice of termination of the lease from Georgetown, effective July 11, 2017 (the “J/LR Facility Lease”).

7. ISCOM, a New York limited liability company, owns and operates a Maserati vehicle franchise (the “Maserati Dealership”), pursuant to a franchise agreement (the “Maserati Franchise Agreement”) by and between ISCOM and Maserati North America, Inc. (“Maserati”),

the manufacturer. The Maserati Dealership, as of the Petition Date, is located at 1 York Street, New York, New York (“Maserati Facility”) and operates under the name “Maserati of Manhattan”. From the Maserati Facility, the Maserati Dealership sells new and used vehicles. The Maserati Dealership operates its parts and service department from the J/LR Facility and stores vehicles at the NJ Storage Facility. The sole member of ISCOM is BNF Partners.

8. BRAC, a New York limited liability company, owns and operates a Ford vehicle franchise (the “Ford Dealership”, with the J/LR Dealership and the Maserati Dealership, the “Dealerships”), pursuant to a franchise agreement (the “Ford Franchise Agreement” with the J/LR Franchise Agreements and the Maserati Franchise Agreement, the “Franchise Agreements”) by and between BRAC and Ford Motor Company (“Ford”, with J/LR and Maserati, the “Manufacturers”), the manufacturer. As of the Petition Date, the Ford Dealership, which operates under the name “Bay Ridge Ford”, is located at 612 86th Street, Brooklyn, New York where it sells new vehicles (the “Main Ford Facility”). The Ford Dealership maintains its service department at a facility located at 152 58th Street, Brooklyn, New York and sells pre-owned vehicles at a facility located at 636-640 86th Street, Brooklyn, New York. Messrs. Boyko, Nilva and Flom are the members of BRAC.

9. As of December 11, 2015, the Debtors and Chase entered into, among other agreements, a line of credit, in the original principal amount of \$82,000,000 and related agreements (collectively, the “Floorplan Agreement”), pursuant to which the Debtors requested that Chase finance the purchase by the Debtors of new and used vehicles from manufacturers and distributors (“Advances”).

10. In 2016 and 2017, due to a series of defaults by the Debtors under the Floorplan Agreement, the Debtors and Chase entered into a series of forbearance agreements and other

modifications to their relationship under the Floorplan Agreement. In one of these modifications, in an effort to fund the Debtors' efforts to restructure their affairs, Chase agreed to enter into a working capital agreement with the Debtors for a maximum amount up to \$5,000,000 (the "Working Capital Loan").

11. On May 4, 2017, Chase notified the Debtor that it: a) would no longer make Advances; b) declared immediately due and payable the sums owed under the Floorplan Agreement, equal to approximately \$57 million; and c) declared immediately due and payable the sum owed under the Working Capital Loan, equal to approximately \$2 million.

12. On May 9, 2017, Chase commenced an action in the Supreme Court for the State of New York, County of New York (the State Court Action") seeking to: a) seize the vehicles, parts and all of Chase's collateral (the "Collateral") owned by the Dealerships; and b) restrain the Debtors from removing or selling any of the Collateral. On May 10, 2017, the Supreme Court entered a Temporary Restraining Order ("TRO") prohibiting the Debtors from selling or transferring any of the Collateral.

13. For the reasons set forth in the State Court Action, Chase informed the Debtors that: a) it would not finance the sales of any vehicles owned by the Debtors; and b) would not finance the purchase of any new vehicles.

14. Subsequent to May 9, 2017, the Debtors began soliciting offers for the Dealerships. Their efforts ran a parallel track: the Debtors through their principals, contacted other J/LR, Maserati and Ford dealers to gauge their level of interest in the Dealerships. At the same time, the Debtors' transaction counsel, Aboyoun & Heller ("A&H"), reached out to its substantial client base of foreign "high-line" (*i.e.*, Mercedes-Benz, Audi, Lexus, Porsche, Ferrari) dealers in the tri-state area. A&H is one of the leading vehicle franchise transaction

counsel in the Northeast, with hundreds of clients, a substantial number of which operate “high-line” dealerships.

15. As a result of the efforts of the Debtors and A&H, approximately ten non-disclosure agreements were executed and the Debtors had meetings with at least six additional entities interested in purchasing same or all of the Assets.

16. In addition, during the month of June, the Debtors entered into advanced discussions with one dealer who demonstrated an interest in not only purchasing the J/LR Dealership but providing DIP financing.

17. On June 15, 2017, after weeks of negotiation, the Debtors and Chase entered into a Forbearance Agreement, dated as of June 1, 2017, allowing the Debtors to operate, under certain conditions, until July 17, 2017, if they could secure an agreement (“APA”) to sell the Dealerships and provide the APA to Chase by June 23, 2017 (the “APA Date”). Upon default under the Forbearance Agreement, Chase has the authority to seize the Collateral on two business days’ notice.

18. However, the Debtors lacked both sufficient liquid assets and the ability to generate sufficient revenue from their operations to satisfy the costs of operating the Dealerships in order to consummate the sale of the Assets as contemplated herein. Therefore, in order to address the imminent termination of the J/LR Franchise Agreements and J/LR Facility Lease, the Debtors sought Chapter 11 relief on the Petition Date.

19. On or about the Petition Date, Georgetown drew down on the \$6 million letter of credit posted for its benefit by Chase to secure rent under the Georgetown Lease.

20. According to the Debtors’ Bankruptcy Schedules there are approximately \$7 million in priority claims that will be required to be satisfied before distributions can be made to

general unsecured creditors: a) approximately 220 current and former employees of the Debtors are owed approximately \$1 million in unpaid wages earned prior to the Petition Date; and b) the Debtors owe approximately \$6 million in unpaid sales tax to the New York State Department of Taxation and Finance.

21. As a result of the Debtors' inability to satisfy expenses subsequent to the Petition Date, the Debtors entered into debtor-in-possession financing (the "DIP Financing Facility") with Chase on July 15, 2017. Under the post-petition loan with Chase, Chase will only finance the Debtors' operations through September 29, 2017 (the "Loan Termination Date"). As of the Loan Termination Date, it is projected that the Debtors will owe Chase: a) \$2.5 million under the DIP Financing Facility; b) \$2.3 million with respect to vehicles sold that remained unpaid prior to the Petition Date; c) \$2 million on account of the Working Capital Loan; d) \$6.43 million on account of letters of credit posted by Chase on behalf of the Debtors for the benefit of third-party landlords that have been drawn upon; and e) \$47 million secured by the Debtors' vehicle inventory, totaling approximately \$60 million.

22. Subsequent to the Petition Date, the Debtors also entered into a Stipulation (the "Georgetown Stipulation") with Georgetown wherein Georgetown agreed to defer rent obligations under the J/LR Facility Lease through September 30, 2017. A hearing to approve the Georgetown Stipulation is scheduled to be heard on July 28, 2017.

23. On the Petition Date, the Debtors also retained Carl Marks Advisory Group ("CMAG") to both assist in the Debtors' operations and in the solicitation of interested parties to purchase the Assets.

JURISDICTION

24. This Court has jurisdiction over the Sale Motion pursuant to 28 U.S.C. §§ 157 (a), 157(b)(1) and 1334. Venue is appropriate in this District pursuant to 28 U.S.C. §§ 1408 and 1409. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2). The statutory predicates for the relief sought herein are set forth in rule 2002 of the Federal Rules of Bankruptcy Procedure.

RELIEF REQUESTED

25. As a result of the strict time constraints existing under the DIP Financing Facility and the Georgetown Stipulation, the Debtors are compelled to take all necessary steps to sell all of their Assets by the end of September, 2017. By this Sale Motion, the Debtors request the entry of the Sale Procedures Order, which shall approve the Bid Procedures Notice and bidding procedures and protections in connection therewith to sell the Assets at an auction as described below within that time period.

26. By reason of the foregoing, the Debtors are confident that the sale process will achieve a disposition of the Assets at fair and reasonable prices, and, therefore, is supported by the exercise of the Debtors' sound business judgment. The Debtors believe that the sale of the Assets and procedures proposed hereby in connection therewith (which establish several procedural and substantive safeguards), will achieve the highest or best price for the Assets and are therefore in the best interests of all interested parties.

STATUTORY AUTHORITY FOR RELIEF SOUGHT

27. The Debtors believes that the sale of the Assets proposed in this Sale Motion will produce the highest or best price for the Assets and is in the best interests of the estates.

28. Ample authority exists for the approval of the proposed sale on the terms and conditions set forth in the Sale Motion, Section 363(b)(1) of the Bankruptcy Code, which

authorizes a debtor to sell assets of the estate other than in the ordinary course of business free and clear of liens, claims and encumbrances, and which provides, in relevant part, as follows:

“The [debtor-in-possession], 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).

29. With respect to a motion for authority to sell substantially all assets of a Chapter 11 debtor, bankruptcy courts may approve such requests where there is a valid business reason for doing so. *See In re Lionel*, 722 F.2d 1063, 1066 (2d Cir. 1983) (“*Lionel*”) (a “sound business purpose must be established to warrant a sale of assets outside of a Chapter 11 plan”). It is well-established that a section 363 sale is an appropriate means to effectuate a liquidation in a Chapter 11 case. *See In re Chrysler LLC*, 405 B.R. 84, 96 (Bankr. S.D.N.Y.), *aff’d*, 576 F.3d 108 (2d Cir. 2009), *cert. granted, judgment vacated sub nom. Indiana State Police Pension Trust v. Chrysler LLC*, 558 U.S. 1087, 130 S. Ct. 1015, 175 L. Ed. 2d 614 (2009), and *vacated sub nom. In re Chrysler, LLC*, 592 F.3d 370 (2d Cir. 2010) (citing *Florida Dep’t of Revenue v. Piccadilly Cafeterias, Inc.*, 554 U.S. 33, 37, note 2 (2008)); *In re GSC, Inc.*, 453 B.R. 132, 155–56 (Bankr. S.D.N.Y. 2011) (citing *In re Gen. Motors Corp.*, 407 B.R. 463, 488 (Bankr.S.D.N.Y.2009)).

30. Most courts that have publicly confronted the issue appear to view the “business judgment” test as a relatively low hurdle to clear, and have viewed a finding of perishing or depreciating value as relevant but not mandatory. *See In re Chateaugay Corp.* 973 F.2d 141, 144 (2d Cir. 1992) (approving section 363 sale where evidence showed that assets were depreciating); *Stephens Indus. Inc. v. McClung*, 789 F.2d 386, 390 (6th Cir. 1986) (affirming sale to prevent loss of FCC licenses); *In re Equity Mgmt. Sys*, 149 B.R. 120, 124 (Bankr. S.D. Iowa 1993) (allowing a prompt sale of assets to avoid missing good business opportunity); *In re Naron*

& *Wagner, Chartered*, 88 B.R. 85, 87-88 (Bankr. D. Md. 1988) (approving sale where proceeds would exceed liquidation value).

31. When applying the business judgment test, several courts have noted the existence of 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.” See *In re Global Crossing Ltd.*, 295 B.R. 726,742-44 (Bankr. S.D.N.Y 2003); *Official Committee of Subordinated Bondholders v. Integrated Resources, Inc.*, 147 B.R. 650 (S.D.N.Y 1992) *aff’d* 135 B.R. 746 (Bankr. S.D.N.Y 1992); *CRTF Corn v. Federated Dep’t Stores*, 683 F. Supp. 422 (S.D.N.Y. 1988) (courts “will uphold the board’s decisions [to sell all assets] as long as they are attributable to any rational business purpose.”).

32. Courts have also required a debtor to establish the following additional elements to sell property outside the ordinary course of business: (i) adequate and reasonable notice has been provided to interested parties;³ (ii) the sale price is a fair and reasonable price;⁴ and (iii) the sale was negotiated in good faith.⁵

33. In addition, the Debtors seek to sell, under Section 363(f) of the Bankruptcy Code, the Assets free and clear of liens claims and encumbrances, with such liens, claims and encumbrances attaching to the proceeds of sale of the Assets to the same extent, validity and priority that existed as of the Petition Date.

34. Section 363(f) of the Bankruptcy Code permits a debtor to sell property, under section 363(b) or (c), free and clear of any interest in such property of an entity other than the

³ 11 U.S.C. § 363(b).

⁴ *In re Lounds*, 1998 U.S. Dist. LEXIS 10925 (W.D. Mich. 1998); *Stephens Indus.*, 789 F.2d at 389-90 (quoting and adopting as persuasive the reasoning of *In re Lionel*).

⁵ *In re Embrace Sys. Corp.*, 178 B.R. 112, 126 (Bankr. W.D. Mich.1994).

estate. *See* 11 U.S.C. § 363(f). However, a sale free and clear of liens may be approved only if at least one of the following five conditions are met: (1) applicable non-bankruptcy law permits sale of such property free and clear of such interest; (2) such entity consents; (3) such interest is a lien and the price at which such property is to be sold is greater than the aggregate value of all liens on such property; (4) such interest is in bona fide dispute; or (5) such entity could be compelled to accept a monetary satisfaction of such interest. *Id.*

35. Consent pursuant to § 363(f)(2) may be satisfied where an entity has received notice of a sale and has not objected to the sale. *In re GSC, Inc.*, 453 B.R. 132, 183 (Bankr. S.D.N.Y. 2011) (“The Debtors provided, with respect to [the sale of substantially all of the debtor’s assets] interested parties with notice and an opportunity to object. Any party in interest in this case who has failed to object to the Sale is deemed to have consented to the Sale under section 363(f)(2)”) (citing *In re Enron Corp.*, 2004 WL 5361245, at *2 (Bankr.S.D.N.Y.2004)); *In re Borders Grp., Inc.*, 453 B.R. 477, 484 (Bankr. S.D.N.Y. 2011) (“Under section 363(f)(2), a lienholder who receives notice of a sale but does not object within the prescribed time period is deemed to consent to the proposed sale, and assets thereafter may be sold free and clear of liens.”).

36. In the present case, Chase consents to the sale procedure set forth below. As a result, the Asset’s may be sold free and clear of Chase’s liens, subject to Chase’s right to credit bid on its collateral, with the liens to attach to the proceeds of the sale. Furthermore, as set forth below, the Assets sale contemplated by the Sale Motion satisfies the *Lionel* factors and should be approved.

I. THE SALE PROCEDURES

37. The Debtors request that the Court authorize the Debtors, in accordance with the procedures described below, to solicit bids for its Assets. The Debtors will hold a sale at which any bidder whose bid is deemed to meet all the requirements of the bid requirements, may participate. All qualified bidders will then be invited to an auction for the sale of the Assets.

38. If there are other bids by a qualified bidder at the sale hearing, the Debtors, with Chase's consent, will determine in its reasonable discretion the highest and best bid, or bids, for the Assets. Such highest and best bid will be submitted to the Court for approval at the sale hearing to approve the sale or other disposition of the Assets as set forth in the proposed Sale Order.

39. The Debtors will rely on both the experience of its professionals, CMAG and A&H, to notify all parties-in-interest of the proposed sale of the Assets. In addition, the Debtors will undertake a robust marketing effort during this period. Initially, CMAG will transmit a notice of the sale of the Assets to six hundred fifty dealerships: a) the top one hundred fifty dealerships, by volume, in the United States; and b) the top five hundred dealers by volume in the Mid-Atlantic states.

40. At the same time, CMAG will be providing interested parties with access to a "data room" that will provide them with information required by a prospective purchaser to make an informed decision regarding the Debtors' assets. Finally, the Debtors shall advertise in trade publications that will provide the greatest exposure to purchasers of the pending sale. As a result of these efforts, the Debtors believe that the proposed schedule provides prospective bidders enough time to conduct due diligence and prepare their highest or best bids, while facilitating the expeditious sale of the Assets.

41. When making a bid for the Debtors' Assets, all bidders must abide by the bidding requirements and the auction procedures, as shall be set forth in the Sale Procedures Notice and as set forth below.

A. Diligence by Prospective Bidders.

42. By no later than August 9, 2017, the Debtor shall serve the Sale Procedures Notice upon prospective bidders. The Debtors shall promptly notify Chase of the identity of all entities to which the Debtors have sent the Sale Notice. Additionally, Chase shall be entitled to deliver the Sale Notice to other entities, provided that Chase shall promptly notify the Debtors of the identity of all entities to which Chase has sent the Sale Notice.

43. The Debtors shall allow any such prospective bidder(s) to conduct reasonable due diligence, including reasonable access to its books and records, in connection with the consideration of a potential bid for the Assets. In connection with the conduct of due diligence, the Debtors may require a prospective purchaser to: (a) demonstrate the financial ability to purchase such portion of the Assets that such bidder seeks to acquire, as determined by the Debtors in their reasonable discretion; and (b) execute a confidentiality agreement in a form reasonably acceptable to the Debtors.

B. Bid Requirements.

44. The proposed Sale Procedures Notice further provides that any person or entity that is interested in purchasing the Assets must submit to each Debtor a bid in conformance with the following provisions by not later than September 8, 2017 at 5:00 p.m.:

45. **Deadlines/Procedures/Requirements.** Any bid submitted by a bidder must conform with the following:

Sale Process:

A. The Debtors shall market for sale all or substantially all of their assets in appropriate lots and aggregated lots, which shall include at least

separate lots for the assets of each of the Debtors (excluding Debtors' claims and causes of action under sections 502(d), 544, 545, 547, 548, 549, 550, and 553 of the Bankruptcy Code and any other avoidance actions under the Bankruptcy Code (collectively, the "Avoidance Actions")) and may include combined lots constituting all or substantially all of the Debtors' assets other than Avoidance Actions.

- B. The Debtors shall provide appropriate information to interested potential Bidders that enter into a non-disclosure agreement with the Debtors. The Debtors shall endeavor to provide consistent information to potential Bidders through the use of a "data room" or other document depository so that potential Bidders for the same Assets have access to the same information.
- C. The deadline for submitting bids on the Assets consistent with the Bidding Requirements set forth in Paragraph 2 below is September 8, 2017 at 4:00 p.m. Eastern Time (the "Bid Date"). All bids and the associated bid materials set forth in Paragraph 2 below must be received by Steven Agran, Chief Restructuring Officer of the Debtors (the "CRO"), at 787 11th Avenue, New York, NY 10019, Attn: Steven Agran, email: sagran@carlmarks.com by the Bid Deadline.
- D. In the event multiple Qualified Bids (as defined below) for the Assets are received by the Debtors, the Debtors will conduct an auction for the Assets on September 14, 2017 commencing at 9:00 a.m. Eastern Time (the "Auction") at the offices of Debtors' counsel, Wilk Auslander LLP, 1515 Broadway, 43rd Floor, New York NY 10036, or such other location designated by the Debtors prior to the scheduled auction (i) in a filing on the docket and (ii) by written notice to the entities entitled to attend the Auction as set forth in Paragraph 3.C(ii) below.
- E. Upon the Debtors' selection of one or more Successful Bids (as defined below) and Back-Up Bids (as defined below) for the Assets, the Debtors shall seek authorization from this Court to sell the subject assets and assume and assign the subject executory contracts to the Successful Bidder(s) (as defined below) and/or Backup Bidder(s) (as defined below) in a sale hearing on September 15, 2017 at 10:00AM Eastern Time (the "Sale Hearing") in the courtroom of the Honorable Michael E. Wiles, United States Bankruptcy Judge, Southern District of New York, One Bowling Green Station, New York, New York.
- F. The Debtors shall use best efforts to close each sale on or before September 29, 2017.

2. Bidding Requirements:

- A. **Each bid for all or a portion of the Assets must be unconditional and not contingent upon any event other than (i) approval by this Bankruptcy Court and (ii) approval by the applicable manufacturer/franchisor (Jaguar Land Rover North America, LLC as to Jaguar and Land Rover, Maserati North America, Inc. as to Maserati and Ford Motor Company as to Ford, each a “Manufacturer”) with respect to the Assets to be acquired. Each bid expressly may not be subject to, including without limitation, any contingencies related to diligence, environmental matters, leases, financing or subsequent approval by any entity, person, shareholder, member, manager or board.**
- B. **Debtors and each Manufacturer reserve their right under the applicable Dealer Sales and Service Agreements (“DSSA”). In particular, each Manufacturer reserves its rights with respect to any proposed assumption of any DSSA, including, without limitation, its rights to consent or not consent to the assumption and assignment of its DSSA or franchise (provided that consent may not be unreasonably withheld or delayed). Each Debtor reserves its rights to object or otherwise challenge a Manufacturer’s actions or inactions. To facilitate the exercise of such rights, each Bidder seeking to acquire the franchise rights from one or more Debtors related to a Manufacturer, shall provide the (x) CRO at 787 11th Avenue, New York, NY 10019, Attn: Steven Agran, email: sagran@carlmarks.com, and (y) the relevant Manufacturer, with the following items on or before August 30, 2017:**
- (i) The names of each direct and indirect owner of the proposed Bidder together with whatever other information is reasonably needed by Manufacturer to conduct a background check of each such owner and written authorization of such owner for Manufacturer to conduct the background check; and
 - (ii) The CSI Reports for the current year to date and the two preceding calendar years, which include comparator scores (i.e., nation, district and/or region) provided by the relevant vehicle manufacturers for whose vehicles Bidder is a dealer. The CSI Reports must be submitted for all franchises owned (in whole or in part) or operated by the proposed Bidder, and/or any direct owner of the proposed Bidder and/or any indirect owner of the proposed Bidder. However, for any proposed Bidder or owner thereof that is an existing dealer for a Manufacturer, such owner does not have to supply CSI Reports to such Manufacturer.

- C. **Bids must be received by the Debtors no later than the Bid Date and contain the following:**
- (i) Current audited financial statements of (a) the Bidder, or (b) if the Bidder is an entity formed for the purpose of acquiring the Assets, current audited financial statements of the equity holders of the Bidder who shall either guarantee the obligations of the Bidder or provide such other form of financial disclosure acceptable to the Debtors in the exercise of their reasonable business judgment.
 - (ii) Written evidence of the Bidder's (a) financial capacity to close the contemplated transaction, and (b) provide adequate assurance of future performance under any executory contracts or unexpired leases to be assumed and/or assigned pursuant to the proposed transaction.
 - (iii) A completed franchise application for each applicable Manufacturer associated with the franchise the Bidder is seeking to acquire. Each Bidder shall concurrently provide such application(s) to the relevant Manufacturer(s).
 - (iv) An executed asset purchase agreement in form and substance consistent with the form Asset Purchase Agreement attached hereto as Exhibit B (the "Form APA") as modified to reflect (1) the specific Assets the Bidder is seeking to acquire, (2) the liabilities the Bidder is seeking to assume, and (3) a comprehensive list of all executory contracts and unexpired leases the Bidder proposes the Debtors assume and assign as well as the corresponding cure amounts associated with assumption and assignment of such executory contracts and leases (an "Executed APA"). Each Executed APA shall be required to provide for the assumption and assignment of any DSSA associated with a franchise it is seeking to acquire.
 - (v) A cash deposit equal to ten percent (10%) of the cash consideration of such Bidder's bid (the "Deposit") in the form of a wire transfer to the applicable Debtor(s) or a cashier's check payable to the applicable Debtor(s) and to be held in an escrow account at Wilk Auslander, LLP pending completion of the Sale unless, as set forth herein, the Bidder is determined to be the Prevailing Bidder or a Back-Up Bidder (each as hereafter defined).
- D. **Only bids meeting the above requirements as determined by the Debtors will be considered and, of those, only those which the CRO believes, in the exercise of his reasonable business judgment, subject**

to consultation with the DIP Lender,⁶ would be consummated if selected as the Successful Bid, shall be considered **“Qualified Bids.”** Each Bidder that is determined to have submitted a Qualified Bid will be considered a **“Qualified Bidder.”**

3. Auction and Sale Process:

- A. **Irrevocable Offer and Jurisdiction.** Each Qualified Bid submitted shall constitute an irrevocable offer and be binding on the applicable Qualified Bidder from the time the bid is submitted until the entry of the Sale Order (as defined below). All Qualified Bidders at the Auction shall be deemed to have consented to the jurisdiction of the Bankruptcy Court and waived any right to a jury trial in connection with any disputes relating to the Auction and the construction and enforcement of any documents governing, effectuating, or relating to the contemplated sale transaction(s).
- B. **Auction Time and Location.** As set forth in Paragraph 1.D. above, in the event the Debtors receive one or more Qualified Bids for the same Assets, the Debtors shall hold an Auction.
- C. **Auction Procedures.** The Auction shall be conducted in accordance with the following procedures:
- (i) Prior to the commencement of the Auction, the Debtors shall provide notice to each Qualified Bidder of the Qualified Bid that the Debtors believe, in the exercise of their reasonable business judgment, subject to the consent of the DIP Lender, is the highest or otherwise best offer for the applicable Assets (the **“Starting Bid”**).
 - (ii) Only the Debtors, the DIP Lender, representatives of the Creditors Committee, representatives of each Manufacturer, Georgetown, and each Qualified Bidder, and each of their respective advisors and representatives, may attend the Auction in person, and only Qualified Bidders physically present at the Auction will be entitled to make any Subsequent Bids (as defined below) at the Auction.
 - (iii) Each Qualified Bidder shall be required to confirm that it has not engaged in any collusion with respect to the bidding or the sale of the Assets with any other Qualified Bidder, potential Bidder, Manufacturer or any other person or entity and shall be required to reaffirm that it has not engaged in any such collusion with each Subsequent Bid that it makes.

⁶ As will be defined in the Final Order (I) Authorizing the Debtors to (A) Obtain Postpetition Financing and (B) Utilize Cash Collateral of JPMorgan Chase Bank, N.A., (II) Granting Adequate Protection to JPMorgan Chase Bank, N.A., and (III) Granting Related Relief. (the **“Final DIP Order”**).

- (iv) All proceedings at the Auction shall be conducted before and transcribed by a court stenographer.
- (v) The CRO, on behalf of the Debtors, with the consent of the DIP Lender, may employ and announce at the Auction additional procedural rules that are reasonable under the circumstances for conducting the Auction, provided that such rules (1) are not inconsistent with this Order, the Bankruptcy Code, or any other order of this Court, and (2) are disclosed to each Qualified Bidder at the Auction.
- (vi) Bidding at the Auction for each lot or relevant combinations of lots will begin with the Starting Bid and continue, in one or more rounds of bidding, so long as during each round at least one subsequent bid by a Qualified Bidder that (a) improves upon such Qualified Bidder's immediately prior Qualified Bid (a "Subsequent Bid") and (b) is determined by the CRO, on behalf of the Debtors, subject to the consent of the DIP Lender, to be (1) for the first round, a higher or otherwise better offer than the Starting Bid, and (2) for subsequent rounds, a higher or otherwise better offer than the then Leading Bid (as defined below).
- (vii) Each Subsequent Bid at the Auction shall provide net value to the estate of at least \$100,000 over the Starting Bid or the Leading Bid, as applicable, which net value may be in the form of cash or non-cash consideration (with any such non-cash consideration to be valued by the CRO, on behalf of the Debtors, in a manner consented to by the DIP Lender and articulated on the record of the Auction). The CRO, on behalf of the Debtors, may set lower incremental bids as he determines, in the exercise of his reasonable business judgment, by notifying each Qualified Bidder for such lot or combination of lots of such reduced bid increment.
- (viii) A round of bidding will conclude after each participating Qualified Bidder has had the opportunity to submit a Subsequent Bid with full knowledge of the Leading Bid.
- (ix) After each round of bidding, the CRO, on behalf of the Debtors, shall announce the bid that he believes in the exercise of his reasonable business judgment, subject to the consent of the DIP Lender, to be the highest or otherwise best offer (the "Leading Bid").
- (x) All Qualified Bidders for a particular lot will be entitled to be present for all Subsequent Bids for such lot at the Auction, provided that all Qualified Bidders wishing to attend the Auction must have at least one individual representative with authority to bind such Qualified Bidder attending the Auction in person.

- (xi) The Debtors reserve their right, in their reasonable business judgment, to make one or more adjournments of the Auction to, among other things: (1) facilitate discussions between the Debtors and Qualified Bidders; (2) allow individual Qualified Bidders to determine how they wish to proceed; (3) consider and determine the current highest or otherwise best Subsequent Bid at any given time during the Auction; and (4) give Qualified Bidders the opportunity to provide the Debtors and the DIP Lender with such additional evidence as the Debtors request that the Qualified Bidder has sufficient internal resources, or has received sufficient non-contingent debt and/or equity funding commitments to consummate the proposed transaction at the prevailing Subsequent Bid amount.

D. **Valuation of Bids.** Qualified Bids (including Subsequent Bids) will be valued by the CRO, on behalf of the Debtors, based upon factors such as: (i) the terms, economic or otherwise, of the transaction documents submitted as part of a Qualified Bid; (ii) the total expected value of the Qualified Bid to the Debtors' estates; (iii) whether the Qualified Bid is for some or all of the Debtors' assets and the value of any assets not contemplated to be acquired as part of such Qualified Bid; (iv) the impact of any rejection damages claims arising from the proposed rejection of contracts or unexpired leases under the Qualified Bid; (v) the extent to which the identity of the Qualified Bidder or any modifications to the form of the Form APA by such Qualified Bidder are likely to affect the timing of execution of definitive transaction documents or affect the timing of the closing of a transaction, and the cost or benefit to the Debtors of such modifications or timing considerations; (vi) any conditions to the Qualified Bidder's obligations to close a transaction, including the likelihood that the relevant Manufacturer(s) will consent to the Qualified Bidder becoming a franchisee of such Manufacturer(s), and the timing thereof (including the time required to obtain any necessary approvals); (vii) the ability to obtain all necessary antitrust, governmental, foreign investment or other regulatory approvals for the proposed transaction; and (viii) any other factors the CRO may deem relevant, on behalf of the Debtors, in his reasonable business judgment and in consultation with the DIP Lender.

E. **Successful Bid.** Immediately upon the conclusion of the Auction, the CRO, on behalf of the Debtors, subject to the consent of the DIP Lender, shall (i) determine, consistent with this Order, which bid or bids collectively constitute the highest or otherwise best bid for the Assets in one or more lots (such bid or bids collectively the "**Successful Bid**") and the Bidder or Bidders collectively submitting the **Successful Bid**, the "**Successful Bidder**") and (ii) communicate to the Qualified Bidders the identity of the Successful Bidder and the details of the Successful Bid. The Debtors shall be deemed to have accepted a

Qualified Bid only when (i) either (1) such bid is declared the Successful Bid at the end of the Auction or (2) such bid is declared a Back-Up Bid (as defined below) and the Debtors elect to consummate the sale transaction(s) contemplated by such Back-Up Bid with the Back-Up Bidder pursuant to the terms hereof; (ii) definitive documentation has been executed in respect thereof; and (iii) the Court has entered an order approving the sale transaction(s) contemplated thereby.

F. **Back-Up Bid.**

- (i) Immediately following the selection of the Successful Bid, the CRO, on behalf of the Debtors, subject to the consent of the DIP Lender, shall (i) determine which bid or bids collectively constitute the second highest or otherwise best bid and, if applicable, third highest or otherwise best bid and may, in their discretion and subject to the consent of the DIP Lender, deem such second and third highest or otherwise best bid or bids each a back-up bid (such bid or bids shall each be a “Back-Up Bid” and each Bidder submitting a Back-Up Bid, a “Back-Up Bidder”) and (ii) communicate to the Qualified Bidders the identity of each Back-Up Bidder and the details of each Back-Up Bid.
- (ii) Each Back-Up Bid shall remain open and shall be irrevocable and binding on the Back-Up Bidder until the earlier of (i) the first business day following the consummation of the sale of the Assets that are the subject of such Back-Up Bid to the Successful Bidder or a higher or better Back-Up Bidder, and (ii) 11:59 p.m. Eastern time on the day sixty (60) days after the date the Sale Order is entered by the Court. If the Successful Bid, or the next highest or otherwise best Back-Up Bid is terminated or fails to close within the time period specified in the Successful Bid or such Back-Up Bid, the CRO, on behalf of the Debtors, shall, subject to the consent of the DIP Lender, be authorized to consummate the sale transaction(s) contemplated by the next highest or otherwise best Back-Up Bid with such Back-Up Bidder without further order of the Court.

- G. **As Is Where Is. Any sale of Assets shall be on an “as is, where is” basis and without representations or warranties of any kind, nature or description by the Debtors, their agents or their estates, except to the extent expressly set forth in the purchase agreement corresponding to the Successful Bid or applicable Back-Up Bid, as the case may be. Each Qualified Bidder shall be deemed to acknowledge and represent that it had an opportunity to conduct any and all due diligence regarding the Assets prior to making its offer, that it has relied solely on its own independent review, investigation, and/or inspection of any documents and/or the Assets in making its Qualified**

Bid, and that it did not rely on any written or oral statements, representations, promises, warranties, or guaranties whatsoever, whether express, implied or by operation of law or otherwise regarding the Assets or the completeness of any information provided in connection therewith or the Auction, except as expressly stated in their asset purchase agreement.

- H. **Free and Clear.** Except as otherwise provided in the terms of the asset purchase agreement for Successful Bid or such Back-Up Bid which may ultimately be consummated, all of the Debtors' right, title and interest in and to the Assets subject to such sale shall be sold free and clear of all liens, claims (as such term is defined in section 101(5) of the Bankruptcy Code), encumbrances, rights, remedies, restrictions, interests, liabilities, leasehold interests and contractual commitments of any kind or nature whatsoever, whether arising before or after the Petition Date, whether at law or in equity, including all rights or claims based on any successor or transferee liability, all environmental claims, all change in control provisions, and all rights to object or consent to the effectiveness of the transfer of the Assets, all as more specifically set forth in the Sale Motion and the proposed order approving the sale transaction(s) (the "**Claims**"), and as set forth in the Sale Order, such Claims to attach to the proceeds of the sale with the same validity and priority as such Claims applied against the applicable Assets.
- I. **Return of Deposit.** The deposit submitted by each Qualified Bidder shall be returned promptly following the Sale Hearing unless such Qualified Bidder is selected as a Successful Bidder or a Back-Up Bidder. A deposit submitted by a Back-Up Bidder will be held by the Debtors until forty-eight (48) hours after the Back-Up Bid has been terminated in accordance with this Order and the Asset Purchase Agreement entered into with such Back-Up Bidder. If a Successful Bidder or a Back-Up Bidder fails to consummate an approved Sale because of a breach or failure to perform on the part of such Successful Bidder or Back-Up Bidder, as applicable, the Debtors shall be entitled to retain the deposit (and such deposit shall constitute Cash Collateral of the DIP Lender) in partial satisfaction of any damages resulting from the breach or failure to perform by such Successful Bidder or Back-Up Bidder, without prejudice to any other rights the Debtors may have. The Debtors shall credit the Deposit of the Successful Bidder or the Back-Up Bidder, as applicable, toward the purchase price for their transaction on the closing of the sale to them of the Assets they are acquiring.
- J. **Reservation of Rights.** Except as otherwise provided in this Order, the Debtors reserve the right, in the exercise of the CRO's reasonable business judgment on behalf of the Debtors' estates, subject to the

consent of the DIP Lender, to: (i) determine which Bidders are Qualified Bidders; (ii) determine which bids are Qualified Bids; (iii) determine which Qualified Bid is the highest or otherwise best bid and which is the next highest or otherwise best bid; (iv) designate the second and third highest or otherwise best bids as Back-Up Bids; (v) reject any bid that is (a) inadequate or insufficient, (b) not in conformity with the requirements of this Order or the requirements of the Bankruptcy Code, or (c) contrary to the best interests of the Debtors and their estates; (vi) waive terms and conditions set forth herein with respect to all Qualified Bids; (vii) impose additional terms and conditions with respect to all Qualified Bids; (viii) extend the deadlines set forth herein; (ix) adjourn or cancel the Auction and/or Sale Hearing in open court without further notice; and (x) seek to modify the Bidding Procedures or withdraw the Bidding Procedures Motion at any time with or without prejudice.

46. With respect to any Assumed Contracts, as that term is defined under the Form APA, the Debtors shall satisfy the requirement of Section 365, including that the potential assignee can demonstrate adequate assurance of future performance under Section 365(b)(1)(C) of the Bankruptcy Code.

47. As a condition to Chase's consent to the sale of its Collateral free and clear of its liens, the Sale Procedures Order reserves Chase's right, in its capacity as DIP Lender and Prepetition Lender, to credit bid up to the full amount of the DIP Obligations, and, subject to any successful Challenge as set forth in Paragraph 16 of the Final DIP Order, to credit bid up to the full amount of the Adequate Protection Obligations and the Prepetition Obligations. For purposes of exercising its credit bid rights, Chase will be deemed a Qualified Bidders in the Auction. However, if Chase is participating in the Auction as a credit bidder for one or more lots, then, Chase as the DIP Lender will not have any consent or consultation rights during the Auction with respect to such lot or lots.

C. Conducting a Sale Pursuant to the Sale Procedures is in the Best Interests of the Debtors' Estate and Creditors.

48. The Debtors believe that the Sale and proposed Sales Procedures Notice will promote active bidding from seriously interested parties and will identify the best and highest offer(s) available for the Debtors' Assets. The proposed Sale Procedures will allow the Debtors to conduct an Auction in a controlled, fair and open fashion that will encourage participation by financially capable bidders who demonstrate the ability to close a transaction. The Debtors believe that the Sale Procedures are (i) sufficient to encourage bidding for the Assets, (ii) consistent with other procedures previously approved by this Court, and (iii) appropriate under the relevant standards governing auction proceedings and bidding incentives in bankruptcy proceedings.

49. Most importantly, the Auction provides the only way for the Debtors, consistent with their fiduciary duties, to monetize the value of the Dealerships for the benefit of not only all of the creditors, but the Debtors' employees, who will be terminated if the Sale Motion is not approved. Therefore, the granting of the Sale Motion not only provides the best method of maximizing the estates' assets, but it will provide the Debtors' employees with a chance to recoup lost wages and maintain their jobs.

D. Notice of the Sales Procedures and the Proposed Sale.

50. For the reasons set forth in this Sale Motion, the Debtors wish to proceed to the Sale and Sale Hearing as expeditiously as the Court's calendar will allow, while providing the requisite notice of the proposed Sale as required under Bankruptcy Rule 2002.

51. In accordance with Bankruptcy Rule 2002, the Debtors propose to give notice of the Sales Procedures, and the proposed Sale by serving a Notice, substantially in the form annexed hereto as Exhibit B (the "Sale Procedures Notice"). The Debtors propose to serve the

Sale Procedures Notice by overnight mail upon: (i) all potential purchasers reasonably known to the Debtors, (ii) all parties who have requested notice pursuant to Bankruptcy Rule 2002, (iii) the Internal Revenue Service, (iv) Georgetown, (v) counsel for Chase, and (vi) the Office of the United States Trustee for the Southern District of New York.

52. The Debtors submit that the foregoing notice is reasonably calculated to provide timely and adequate notice of the Sale Procedures, the proposed sale and all proceedings to be held thereon to the Debtors' creditors and other parties in interest, and also to those who have expressed interest, or may express interest, in bidding on the Debtors' Assets.

53. Based upon the foregoing, the Debtors submit that the relief requested herein is necessary and appropriate, is in the best interests of the Debtors and their estate, and should be granted in all respects.

54. Due to the exigent circumstances, the Debtors believe that the 14-day stay of the effective of the order, pursuant to Bankruptcy Rule 6004(h) should be waived.

55. No previous motion for the relief requested herein has been made to this or any other court.

II. NOTICE

56. Notice of this Sale Motion has been served by overnight mail upon: (i) all parties who have requested notice pursuant to Bankruptcy Rule 2002, (ii) Chase; (iii) the top twenty largest unsecured creditors of the Debtor; (iv) counsel for each of the Manufacturers; (v) counsel for each of the Landlords; and (vi) the Office of the United States Trustee.

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WHEREFORE the Debtors respectfully request that the Court enter an Order in substantially the same form as attached hereto as Exhibit A, approving the Sales Procedure Notice, approving bidding procedures and protections in connection therewith, together with such other and further relief as the Court deems appropriate.

Dated: New York, New York
July 27, 2017

WILK AUSLANDER LLP
*Proposed Counsel for the Debtors
and Debtors in Possession*

/s/ Eric Snyder
Eric J. Snyder, Esq.
Eloy Peral, Esq.
1515 Broadway
New York, New York 10036
Ph: (212) 981-2300

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

----- X
 In re: :
 : Chapter 11
 BICOM NY, LLC, *et al.*,¹ :
 : Case No. 17- 11906 (MEW)
 Debtors. :
 : (Jointly Administered)
 ----- X

**ORDER APPROVING SALES PROCEDURE
NOTICE AND BIDDING PROCEDURES**

Upon the motion (the “Sale Motion”) of BICOM NY, LLC d/b/a Jaguar Land Rover Manhattan, ISCOM NY, LLC d/b/a Maserati of Manhattan, and Bay Ridge Automotive Company, LLC d/b/a Bay Ridge Ford, the debtors herein (the “Debtors”), pursuant to sections 105(a), 363, and 365 of title 11, United States Code (the “Bankruptcy Code”) for the entry of: (I) an Order (the “Sale Procedures Order”), scheduling a sale date for the sale of substantially all of the Debtors’ tangible and intangible assets (the “Assets”) in one or more lots; approving bidding procedures and protections in connection therewith; and approving the form and manner of notice pursuant to Federal Rule of Bankruptcy Procedure 2002; (II) a second Order (the “Sale Order”) approving (A) the sale of the Assets to the holder or holders of the highest or otherwise best bid for the Assets, free and clear of any and all liens, claims, encumbrances and other interests (with such liens, claims and encumbrances to attach to the proceeds of such sale); and (B) the assumption and assignment of certain contracts

¹ The last four numbers of each Debtor’s taxpayer identification number are BICOM NY, LLC (9990); ISCOM NY, LLC (1589); and Bay Ridge Automotive Company, LLC (0694). The Debtors’ addresses are 787 11th Ave, New York, NY 10019; 1 York Street, New York, NY 10013; and 612 86th Street, Brooklyn, NY 11228, respectively.

(the “Assumed Contracts”); and where the Debtors have provided good and sufficient notice of the Sale Motion, to the extent it seeks approval of the Sale Procedures Order; and the Court having considered the Sale Motion, the objections interposed (collectively, the “Objections”) and oral arguments of counsel with respect to the Sale Motion, as it relates to the entry of the Sale Procedures Order; and sufficient cause appearing therefore for the entry of the Sales Procedures Order, it is hereby²

ORDERED as follows:

1. The Motion, to the extent it seeks to establish Bidding Procedures (as defined below) with respect to a proposed sale of the Assets, is, granted as set forth herein. All of the Objections, to the extent not addressed herein, are overruled.

2. The Debtors are hereby authorized to solicit bids for the sale of the Assets and to conduct, in the event qualified bids are received, an auction in accordance with the Bidding Procedures and summarized in the proposed notice (the “Sale Procedures Notice”) attached hereto as Exhibit 1, reflecting the procedure for selling the Assets pursuant to, *inter alia*, Section 363(f) of the Bankruptcy Code, for the purpose of entertaining qualified competing bids and selecting the highest or otherwise best offer for the Assets.

3. Any person or entity that is interested in purchasing all or a portion of the Assets (a “Bidder”), must submit a bid to the Debtors (“Bid”) in conformity with the (i) Sale Process set forth in Paragraph 1 below, (ii) the Bidding Requirements set forth in Paragraph 2 below, and (iii) the Auction and Sale Process set forth in Paragraph 3 below

² All capitalized terms used but not defined herein shall have the definitions ascribed to them in the Sale Motion.

(collectively, the “Bidding Procedures”). The Bidding Procedures are hereby approved in all respects, and the Debtors are authorized to take any and all actions necessary and appropriate to implement the Bidding Procedures.

1. **Sale Process:**

- A. The Debtors shall market for sale all or substantially all of their assets in appropriate lots and aggregated lots, which shall include at least separate lots for the assets of each of the Debtors (excluding Debtors’ claims and causes of action under sections 502(d), 544, 545, 547, 548, 549, 550, and 553 of the Bankruptcy Code and any other avoidance actions under the Bankruptcy Code (collectively, the “Avoidance Actions”)) and may include combined lots constituting all or substantially all of the Debtors’ assets other than Avoidance Actions.
- B. The Debtors shall provide appropriate information to interested potential Bidders that enter into a non-disclosure agreement with the Debtors. The Debtors shall endeavor to provide consistent information to potential Bidders through the use of a “data room” or other document depository so that potential Bidders for the same Assets have access to the same information.
- C. The deadline for submitting bids on the Assets consistent with the Bidding Requirements set forth in Paragraph 2 below is **September 8, 2017 at 4:00 p.m. Eastern Time** (the “Bid Date”). All bids and the associated bid materials set forth in Paragraph 2 below must be received by Steven Agran, Chief Restructuring Officer of the Debtors (the “CRO”), at 787 11th Avenue, New York, NY 10019, Attn: Steven Agran, email: sagran@carlmarks.com by the Bid Deadline.
- D. In the event multiple Qualified Bids (as defined below) for the Assets are received by the Debtors, the Debtors will conduct an auction for the Assets on **September 14, 2017 commencing at 9:00 a.m. Eastern Time** (the “Auction”) at the offices of Debtors’ counsel, Wilk Auslander LLP, 1515 Broadway, 43rd Floor, New York NY 10036, or such other location designated by the Debtors prior to the scheduled auction (i) in a filing on the docket and (ii) by written notice to the entities entitled to attend the Auction as set forth in Paragraph 3.C(ii) below.
- E. Upon the Debtors’ selection of one or more Successful Bids (as defined below) and Back-Up Bids (as defined below) for the Assets, the Debtors shall seek authorization from this Court to sell

the subject assets and assume and assign the subject executory contracts to the Successful Bidder(s) (as defined below) and/or Backup Bidder(s) (as defined below) in a sale hearing on **September 15, 2017 at 10:00AM Eastern Time** (the “Sale Hearing”) in the courtroom of the Honorable Michael E. Wiles, United States Bankruptcy Judge, Southern District of New York, One Bowling Green Station, New York, New York.

F. The Debtors shall use best efforts to close each sale on or before **September 29, 2017**.

2. Bidding Requirements:

A. Each bid for all or a portion of the Assets must be unconditional and not contingent upon any event other than (i) approval by this Bankruptcy Court and (ii) approval by the applicable manufacturer/franchisor (Jaguar Land Rover North America, LLC as to Jaguar and Land Rover, Maserati North America, Inc. as to Maserati and Ford Motor Company as to Ford, each a “Manufacturer”) with respect to the Assets to be acquired. Each bid expressly may not be subject to, including without limitation, any contingencies related to diligence, environmental matters, leases, financing or subsequent approval by any entity, person, shareholder, member, manager or board.

B. Debtors and each Manufacturer reserve their right under the applicable Dealer Sales and Service Agreements (“DSSA”). In particular, each Manufacturer reserves its rights with respect to any proposed assumption of any DSSA, including, without limitation, its rights to consent or not consent to the assumption and assignment of its DSSA or franchise (provided that consent may not be unreasonably withheld or delayed). Each Debtor reserves its rights to object or otherwise challenge a Manufacturer’s actions or inactions. To facilitate the exercise of such rights, each Bidder seeking to acquire the franchise rights from one or more Debtors related to a Manufacturer, shall provide the (x) CRO at 787 11th Avenue, New York, NY 10019, Attn: Steven Agran, email: sagran@carlmarks.com, and (y) the relevant Manufacturer, with the following items on or before **August 30, 2017**:

(i) The names of each direct and indirect owner of the proposed Bidder together with whatever other information is reasonably needed by Manufacturer to conduct a background check of each such owner and written authorization of such owner for Manufacturer to conduct the background check; and

- (ii) The CSI Reports for the current year to date and the two preceding calendar years, which include comparator scores (i.e., nation, district and/or region) provided by the relevant vehicle manufacturers for whose vehicles Bidder is a dealer. The CSI Reports must be submitted for all franchises owned (in whole or in part) or operated by the proposed Bidder, and/or any direct owner of the proposed Bidder and/or any indirect owner of the proposed Bidder. However, for any proposed Bidder or owner thereof that is an existing dealer for a Manufacturer, such owner does not have to supply CSI Reports to such Manufacturer.
- C. Bids must be received by the Debtors no later than the Bid Date and contain the following:
 - (i) Current audited financial statements of (a) the Bidder, or (b) if the Bidder is an entity formed for the purpose of acquiring the Assets, current audited financial statements of the equity holders of the Bidder who shall either guarantee the obligations of the Bidder or provide such other form of financial disclosure acceptable to the Debtors in the exercise of their reasonable business judgment.
 - (ii) Written evidence of the Bidder's (a) financial capacity to close the contemplated transaction, and (b) provide adequate assurance of future performance under any executory contracts or unexpired leases to be assumed and/or assigned pursuant to the proposed transaction.
 - (iii) A completed franchise application for each applicable Manufacturer associated with the franchise the Bidder is seeking to acquire. Each Bidder shall concurrently provide such application(s) to the relevant Manufacturer(s).
 - (iv) An executed asset purchase agreement in form and substance consistent with the form Asset Purchase Agreement attached hereto as Exhibit 2 (the "Form APA") as modified to reflect (1) the specific Assets the Bidder is seeking to acquire, (2) the liabilities the Bidder is seeking to assume, and (3) a comprehensive list of all executory contracts and unexpired leases the Bidder proposes the Debtors assume and assign as well as the corresponding cure amounts associated with assumption and assignment of such executory contracts and leases (an "Executed APA"). Each Executed APA shall be required to provide for the assumption and assignment of any DSSA associated with a franchise it is seeking to acquire.

- (v) A cash deposit equal to ten percent (10%) of the cash consideration of such Bidder's bid (the "Deposit") in the form of a wire transfer to the applicable Debtor(s) or a cashier's check payable to the applicable Debtor(s) and to be held in an escrow account at Wilk Auslander, LLP pending completion of the Sale unless, as set forth herein, the Bidder is determined to be the Prevailing Bidder or a Back-Up Bidder (each as hereafter defined).
- D. Only bids meeting the above requirements as determined by the Debtors will be considered and, of those, only those which the CRO believes, in the exercise of his reasonable business judgment, subject to consultation with the DIP Lender,³ would be consummated if selected as the Successful Bid, shall be considered "Qualified Bids." Each Bidder that is determined to have submitted a Qualified Bid will be considered a "Qualified Bidder."
3. Auction and Sale Process:
- A. Irrevocable Offer and Jurisdiction. Each Qualified Bid submitted shall constitute an irrevocable offer and be binding on the applicable Qualified Bidder from the time the bid is submitted until the entry of the Sale Order (as defined below). All Qualified Bidders at the Auction shall be deemed to have consented to the jurisdiction of the Bankruptcy Court and waived any right to a jury trial in connection with any disputes relating to the Auction and the construction and enforcement of any documents governing, effectuating, or relating to the contemplated sale transaction(s).
 - B. Auction Time and Location. As set forth in Paragraph 1.D. above, in the event the Debtors receive one or more Qualified Bids for the same Assets, the Debtors shall hold an Auction.
 - C. Auction Procedures. The Auction shall be conducted in accordance with the following procedures:
 - (i) Prior to the commencement of the Auction, the Debtors shall provide notice to each Qualified Bidder of the Qualified Bid that the Debtors believe, in the exercise of their reasonable business judgment, subject to the consent of the DIP Lender, is the highest or otherwise best offer for the applicable Assets (the "Starting Bid").

³ As defined in the Final Order (I) Authorizing the Debtors to (A) Obtain Postpetition Financing and (B) Utilize Cash Collateral of JPMorgan Chase Bank, N.A., (II) Granting Adequate Protection to JPMorgan Chase Bank, N.A., and (III) Granting Related Relief, Docket No. 26 (the "Final DIP Order").

- (ii) Only the Debtors, the DIP Lender, representatives of the Creditors Committee, representatives of each Manufacturer, Georgetown, and each Qualified Bidder, and each of their respective advisors and representatives, may attend the Auction in person, and only Qualified Bidders physically present at the Auction will be entitled to make any Subsequent Bids (as defined below) at the Auction.
- (iii) Each Qualified Bidder shall be required to confirm that it has not engaged in any collusion with respect to the bidding or the sale of the Assets with any other Qualified Bidder, potential Bidder, Manufacturer or any other person or entity and shall be required to reaffirm that it has not engaged in any such collusion with each Subsequent Bid that it makes.
- (iv) All proceedings at the Auction shall be conducted before and transcribed by a court stenographer.
- (v) The CRO, on behalf of the Debtors, with the consent of the DIP Lender, may employ and announce at the Auction additional procedural rules that are reasonable under the circumstances for conducting the Auction, provided that such rules (1) are not inconsistent with this Order, the Bankruptcy Code, or any other order of this Court, and (2) are disclosed to each Qualified Bidder at the Auction.
- (vi) Bidding at the Auction for each lot or relevant combinations of lots will begin with the Starting Bid and continue, in one or more rounds of bidding, so long as during each round at least one subsequent bid by a Qualified Bidder that (a) improves upon such Qualified Bidder's immediately prior Qualified Bid (a "Subsequent Bid") and (b) is determined by the CRO, on behalf of the Debtors, subject to the consent of the DIP Lender, to be (1) for the first round, a higher or otherwise better offer than the Starting Bid, and (2) for subsequent rounds, a higher or otherwise better offer than the then Leading Bid (as defined below).
- (vii) Each Subsequent Bid at the Auction shall provide net value to the estate of at least \$100,000 over the Starting Bid or the Leading Bid, as applicable, which net value may be in the form of cash or non-cash consideration (with any such non-cash consideration to be valued by the CRO, on behalf of the Debtors, in a manner consented to by the DIP Lender and articulated on the record of the Auction). The CRO, on behalf of the Debtors, may set lower incremental bids as he determines, in the exercise of his reasonable business

judgment, by notifying each Qualified Bidder for such lot or combination of lots of such reduced bid increment.

- (viii) A round of bidding will conclude after each participating Qualified Bidder has had the opportunity to submit a Subsequent Bid with full knowledge of the Leading Bid.
- (ix) After each round of bidding, the CRO, on behalf of the Debtors, shall announce the bid that he believes in the exercise of his reasonable business judgment, subject to the consent of the DIP Lender, to be the highest or otherwise best offer (the "Leading Bid").
- (x) All Qualified Bidders for a particular lot will be entitled to be present for all Subsequent Bids for such lot at the Auction, provided that all Qualified Bidders wishing to attend the Auction must have at least one individual representative with authority to bind such Qualified Bidder attending the Auction in person.
- (xi) The Debtors reserve their right, in their reasonable business judgment, to make one or more adjournments of the Auction to, among other things: (1) facilitate discussions between the Debtors and Qualified Bidders; (2) allow individual Qualified Bidders to determine how they wish to proceed; (3) consider and determine the current highest or otherwise best Subsequent Bid at any given time during the Auction; and (4) give Qualified Bidders the opportunity to provide the Debtors and the DIP Lender with such additional evidence as the Debtors request that the Qualified Bidder has sufficient internal resources, or has received sufficient non-contingent debt and/or equity funding commitments to consummate the proposed transaction at the prevailing Subsequent Bid amount.

D. Valuation of Bids. Qualified Bids (including Subsequent Bids) will be valued by the CRO, on behalf of the Debtors, based upon factors such as: (i) the terms, economic or otherwise, of the transaction documents submitted as part of a Qualified Bid; (ii) the total expected value of the Qualified Bid to the Debtors' estates; (iii) whether the Qualified Bid is for some or all of the Debtors' assets and the value of any assets not contemplated to be acquired as part of such Qualified Bid; (iv) the impact of any rejection damages claims arising from the proposed rejection of contracts or unexpired leases under the Qualified Bid; (v) the extent to which the identity of the Qualified Bidder or any modifications to the form of the Form APA by such Qualified Bidder are likely to

affect the timing of execution of definitive transaction documents or affect the timing of the closing of a transaction, and the cost or benefit to the Debtors of such modifications or timing considerations; (vi) any conditions to the Qualified Bidder's obligations to close a transaction, including the likelihood that the relevant Manufacturer(s) will consent to the Qualified Bidder becoming a franchisee of such Manufacturer(s), and the timing thereof (including the time required to obtain any necessary approvals); (vii) the ability to obtain all necessary antitrust, governmental, foreign investment or other regulatory approvals for the proposed transaction; and (viii) any other factors the CRO may deem relevant, on behalf of the Debtors, in his reasonable business judgment and in consultation with the DIP Lender.

- E. Successful Bid. Immediately upon the conclusion of the Auction, the CRO, on behalf of the Debtors, subject to the consent of the DIP Lender, shall (i) determine, consistent with this Order, which bid or bids collectively constitute the highest or otherwise best bid for the Assets in one or more lots (such bid or bids collectively the "Successful Bid" and the Bidder or Bidders collectively submitting the Successful Bid, the "Successful Bidder") and (ii) communicate to the Qualified Bidders the identity of the Successful Bidder and the details of the Successful Bid. The Debtors shall be deemed to have accepted a Qualified Bid only when (i) either (1) such bid is declared the Successful Bid at the end of the Auction or (2) such bid is declared a Back-Up Bid (as defined below) and the Debtors elect to consummate the sale transaction(s) contemplated by such Back-Up Bid with the Back-Up Bidder pursuant to the terms hereof; (ii) definitive documentation has been executed in respect thereof; and (iii) the Court has entered an order approving the sale transaction(s) contemplated thereby.

F. Back-Up Bid.

- (i) Immediately following the selection of the Successful Bid, the CRO, on behalf of the Debtors, subject to the consent of the DIP Lender, shall (i) determine which bid or bids collectively constitute the second highest or otherwise best bid and, if applicable, third highest or otherwise best bid and may, in their discretion and subject to the consent of the DIP Lender, deem such second and third highest or otherwise best bid or bids each a back-up bid (such bid or bids shall each be a “Back-Up Bid” and each Bidder submitting a Back-Up Bid, a “Back-Up Bidder”) and (ii) communicate to the Qualified Bidders the identity of each Back-Up Bidder and the details of each Back-Up Bid.
- (ii) Each Back-Up Bid shall remain open and shall be irrevocable and binding on the Back-Up Bidder until the earlier of (i) the first business day following the consummation of the sale of the Assets that are the subject of such Back-Up Bid to the Successful Bidder or a higher or better Back-Up Bidder, and (ii) 11:59 p.m. Eastern time on the day sixty (60) days after the date the Sale Order is entered by the Court. If the Successful Bid, or the next highest or otherwise best Back-Up Bid is terminated or fails to close within the time period specified in the Successful Bid or such Back-Up Bid, the CRO, on behalf of the Debtors, shall, subject to the consent of the DIP Lender, be authorized to consummate the sale transaction(s) contemplated by the next highest or otherwise best Back-Up Bid with such Back-Up Bidder without further order of the Court.

- G. As Is Where Is. Any sale of Assets shall be on an “as is, where is” basis and without representations or warranties of any kind, nature or description by the Debtors, their agents or their estates, except to the extent expressly set forth in the purchase agreement corresponding to the Successful Bid or applicable Back-Up Bid, as the case may be. Each Qualified Bidder shall be deemed to acknowledge and represent that it had an opportunity to conduct any and all due diligence regarding the Assets prior to making its offer, that it has relied solely on its own independent review, investigation, and/or inspection of any documents and/or the Assets in making its Qualified Bid, and that it did not rely on any written or oral statements, representations, promises, warranties, or guaranties whatsoever, whether express, implied or by operation of law or otherwise regarding the Assets or the completeness of any information provided in connection therewith or the Auction, except as expressly stated in their asset purchase agreement.

- H. Free and Clear. Except as otherwise provided in the terms of the asset purchase agreement for Successful Bid or such Back-Up Bid which may ultimately be consummated, all of the Debtors' right, title and interest in and to the Assets subject to such sale shall be sold free and clear of all liens, claims (as such term is defined in section 101(5) of the Bankruptcy Code), encumbrances, rights, remedies, restrictions, interests, liabilities, leasehold interests and contractual commitments of any kind or nature whatsoever, whether arising before or after the Petition Date, whether at law or in equity, including all rights or claims based on any successor or transferee liability, all environmental claims, all change in control provisions, and all rights to object or consent to the effectiveness of the transfer of the Assets, all as more specifically set forth in the Sale Motion and the proposed order approving the sale transaction(s) (the "Claims"), and as set forth in the Sale Order, such Claims to attach to the proceeds of the sale with the same validity and priority as such Claims applied against the applicable Assets.
- I. Return of Deposit. The deposit submitted by each Qualified Bidder shall be returned promptly following the Sale Hearing unless such Qualified Bidder is selected as a Successful Bidder or a Back-Up Bidder. A deposit submitted by a Back-Up Bidder will be held by the Debtors until forty-eight (48) hours after the Back-Up Bid has been terminated in accordance with this Order and the Asset Purchase Agreement entered into with such Back-Up Bidder. If a Successful Bidder or a Back-Up Bidder fails to consummate an approved Sale because of a breach or failure to perform on the part of such Successful Bidder or Back-Up Bidder, as applicable, the Debtors shall be entitled to retain the deposit (and such deposit shall constitute Cash Collateral of the DIP Lender) in partial satisfaction of any damages resulting from the breach or failure to perform by such Successful Bidder or Back-Up Bidder, without prejudice to any other rights the Debtors may have. The Debtors shall credit the Deposit of the Successful Bidder or the Back-Up Bidder, as applicable, toward the purchase price for their transaction on the closing of the sale to them of the Assets they are acquiring.
- J. Reservation of Rights. Except as otherwise provided in this Order, the Debtors reserve the right, in the exercise of the CRO's reasonable business judgment on behalf of the Debtors' estates, subject to the consent of the DIP Lender, to: (i) determine which Bidders are Qualified Bidders; (ii) determine which bids are Qualified Bids; (iii) determine which Qualified Bid is the highest or otherwise best bid and which is the next highest or otherwise best bid; (iv) designate the second and third highest or otherwise

best bids as Back-Up Bids; (v) reject any bid that is (a) inadequate or insufficient, (b) not in conformity with the requirements of this Order or the requirements of the Bankruptcy Code, or (c) contrary to the best interests of the Debtors and their estates; (vi) waive terms and conditions set forth herein with respect to all Qualified Bids; (vii) impose additional terms and conditions with respect to all Qualified Bids; (viii) extend the deadlines set forth herein; (ix) adjourn or cancel the Auction and/or Sale Hearing in open court without further notice; and (x) seek to modify the Bidding Procedures or withdraw the Bidding Procedures Motion at any time with or without prejudice.

4. The Sale Procedures Notice, which reflects the Bidding Procedures set forth above, is approved in all respects.

5. The Debtors reserve the right, with the consent of the DIP Lender, to select one or more Bidders as “stalking horse bidders” for all or a portion of the Assets. If the Debtors select such stalking horse bidder(s), they shall then seek authority from this Court to provide certain negotiated protections to such stalking horse bidder(s) and to modify the Bidding Procedures set forth herein as appropriate to reflect such stalking horse bid(s).

6. With respect to any Assumed Contracts, as that term is defined under the Form APA, the Debtors shall satisfy the requirement of Section 365, including that the potential assignee can demonstrate adequate assurance of future performance under Section 365(b)(1)(C) of the Bankruptcy Code.

7. The DIP Lender, directly or through a designee, reserves the right to credit bid up to the full amount of the DIP Obligations in any Auction of its Collateral. The Prepetition Lender (as defined in the Final DIP Order), subject to any successful Challenge as set forth in Paragraph 16 of the Final DIP Order, reserves the right to credit bid up to the full amount of the Adequate Protection Obligations and the Prepetition Obligations in any Auction of its Collateral. The DIP Lender and the Prepetition Lender

shall each be deemed Qualified Bidders in the Auction; provided, however, if either the DIP Lender or the Prepetition Lender are participating in the Auction as a credit bidder for one or more lots, then, notwithstanding any provision herein to the contrary, the DIP Lender shall not have any consent or consultation rights during the Auction with respect to such lot.

8. The Court shall conduct the Sale Hearing on **September 15, 2017 at 10:00 a.m.** to consider confirming the results of the Auction and approving the Debtors' sale of the Assets to the Successful Bidder(s), pursuant to Section 363(f) of the Bankruptcy Code.

9. Objections if any to the Sale Motion, as it relates to the Sale Hearing or the proposed Sale, shall be in writing, shall state with particularity the basis of the objection and shall be served upon counsel for the Debtors, counsel for the Creditors Committee, and if no Committee has been formed at the time of the entry of this Order, the entities listed on the List of Creditors Holding the 20 Largest Unsecured Claims filed pursuant to Bankruptcy Rule 1007(d) counsel for DIP Lender, the Office of the US Trustee, and any party that has filed a Notice of Appearance in these bankruptcy cases, on or before **September __, 2017 at 5:00 p.m. Eastern Time**. Oral objections to the Auction or the Prevailing Bid(s) may be interposed at the Sale Hearing.

10. Counsel for the Debtors shall serve a copy of this Order and the Sale Procedures Notice, on or before **August __, 2017** by (A) electronic mail (which requirement is satisfied by entry of this Order, via ECF) or overnight mail, upon: (i) the Office of the United States Trustee; (ii) counsel to the DIP Lender; (iii) counsel to all parties to the proposed Assumed Contracts (as that term is defined in the Sale Motion);

(iv) all applicable taxing and regulatory authorities; and (v) all parties that have filed a Notice of Appearance in these bankruptcy cases; and (B) by first class mail, upon each Debtors' known creditors. Notice of the Sale Motion and Sale Hearing in this manner shall constitute good and sufficient notice under the circumstances.

11. The Court shall retain jurisdiction to: (i) interpret, implement and enforce the terms of this Order; (ii) enter Orders in aid and furtherance of this Order; and (iii) adjudicate any and all remaining issues concerning each Debtor's right and authority to sell the Assets, including to approve the sale of the Assets at the Sale Hearing.

Dated: New York, New York
August [•], 2017

Hon. Michael E. Wiles
United States Bankruptcy Judge

EXHIBIT 1

Proposed Notice of Bid Deadline, Auction Date, and Sale Hearing

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

----- X
 In re: :
 : Chapter 11
 BICOM NY, LLC, *et al.*,¹ :
 : Case No. 17- 11906 (MEW)
 Debtors. :
 : (Jointly Administered)
 ----- X

NOTICE OF BID DEADLINE, AUCTION DATE, AND SALE HEARING FOR THE APPROVAL OF THE SALE OF SUBSTANTIALLY ALL OF THE ASSETS OF THE DEBTORS FREE AND CLEAR OF LIENS, CLAIMS, AND INTERESTS

BICOM NY, LLC d/b/a Jaguar Land Rover Manhattan, ISCOM NY, LLC d/b/a Maserati of Manhattan, and Bay Ridge Automotive Company, LLC d/b/a Bay Ridge Ford (collectively, the “Debtors”) are seeking to sell or assign substantially all of their assets (the “Assets”).

On August__, 2017, the United States Bankruptcy Court for the Southern District of New York (the “Bankruptcy Court”) entered an order (the “Bidding Procedures Order”) approving certain bidding and auction procedures and related schedules and deadlines (“Bidding Procedures”) for the sale of the Assets.

All parties interested in purchasing all or a portion of the Assets (“Bidder”) are invited to submit a bid to the Debtors (“Bid”) in accordance with the terms of the Bidding Procedures Order and the Bidding Procedures. Only Bidders who qualify and who have submitted qualifying Bids shall be eligible to participate in the Auction. **All interested potential bidders should carefully read the Bidding Procedures, a copy of which is attached hereto as Exhibit A.**

Copies of the form Asset Purchase Agreements, the Bidding Procedures Order, and the Bidding Procedures, are available upon request to the Debtors’ noticing agent, JND Legal Administration, at (855) 812-6112 or BICOMInfo@jndla.com, and are available for download at <http://www.jndla.com/cases/bicom>. Copies of these documents may also be obtained by contacting the Debtors’ counsel.

ANY INTERESTED BIDDER SHOULD CONTACT STEVEN AGRAN, CHIEF RESTRUCTURING OFFICER OF THE DEBTORS, 917-865-4716, SAGRAN@CARLMARKS.COM.

¹ The last four numbers of each Debtor’s taxpayer identification number are BICOM NY, LLC (9990); ISCOM NY, LLC (1589); and Bay Ridge Automotive Company, LLC (0694). The Debtors’ addresses are 787 11th Ave, New York, NY 10019; 1 York Street, New York, NY 10013; and 612 86th Street, Brooklyn, NY 11228, respectively.

PLEASE TAKE NOTE OF THE FOLLOWING IMPORTANT DEADLINES:

- The deadline to submit certain information regarding the ownership of the proposed Bidder and CSI Reports to the Debtors and to the manufacturer/franchisor² pertaining to the Assets for which the proposed Bidder will be submitting a Bid is **August 30, 2017 (ET)**.
- The **deadline to submit a bid** for all or a portion of the Assets is **September 8, 2017 at 4:00 p.m. (ET)**. The failure to abide by the procedures and deadlines set forth in the Bid Procedures Order and the Bidding Procedures may result in the denial of your bid.
- The deadline to lodge an objection with the Bankruptcy Court to the proposed sale of the Assets (the “Sale Objection Deadline”) is _____. Objections must be filed and served in accordance with the Bid Procedures Order.
- Auctions for the Assets have been scheduled for **September 14, 2017 at 9:00 a.m. (ET)**.
- The Bankruptcy Court will conduct a hearing (the “Sale Hearing”) to consider the proposed sales on **September 15, 2017, at 10:00AM (ET)**.
- The sale of the Assets is anticipated to close on or before **September 29, 2017**.

THE FAILURE OF ANY PERSON OR ENTITY TO FILE AND SERVE AN OBJECTION BY THE SALE OBJECTION DEADLINE SHALL BE A BAR TO THE ASSERTION BY SUCH PERSON OR ENTITY OF ANY OBJECTION TO THE SALE MOTION, SALE ORDERS, THE PROPOSED TRANSACTIONS, OR THE DEBTORS’ CONSUMMATION AND PERFORMANCE OF THE ASSET PURCHASE AGREEMENTS FREE AND CLEAR OF LIENS, CLAIMS, ENCUMBRANCES AND OTHER INTERESTS.

Dated: New York, New York
August __, 2017

WILK AUSLANDER LLP

By:
Eric J. Snyder, Esq.
Eloy A. Peral, Esq.
1515 Broadway, 43rd Floor
New York, New York 10036
(212) 981-2300

*Proposed Counsel for the Debtors and
Debtors in Possession*

² Each Debtor is a party to a Dealer Sales and Service Agreement with their respective manufacturer/franchisor (Jaguar Land Rover North America, LLC as to Jaguar and Land Rover, Maserati North America, Inc. as to Maserati of Manhattan and Ford Motor Company as to Bay Ridge Ford).

EXHIBIT A

Bidding Procedures

BIDDING PROCEDURES

These bidding procedures set forth the terms by which BICOM NY, LLC d/b/a Jaguar Land Rover Manhattan, ISCOM NY, LLC d/b/a Maserati of Manhattan, and Bay Ridge Automotive Company, LLC d/b/a Bay Ridge Ford, (the “Debtors”), may effectuate a sale (the “Sale”) of substantially all of its assets (the “Assets”) subject to the terms and conditions and in accordance with the process and procedures set forth herein. These bidding procedures were approved by an order (the “Bidding Procedures Order”) entered on August __, 2017, by the United States Bankruptcy Court for the Southern District of New York (the “Bankruptcy Court”) in the jointly administered chapter 11 cases bearing the caption *In re BICOM NY, LLC et al.*, Case No. 17- 11906 (MEW).

Any person or entity that is interested in purchasing all or a portion of the Assets (a “Bidder”), must submit a bid to the Debtors (“Bid”) in conformity with the (i) Sale Process set forth in Paragraph 2 below, (ii) the Bidding Requirements set forth in Paragraph 3 below, and (iii) the Auction and Sale Process set forth in Paragraph 4 below (collectively, the “Bidding Procedures”).

1. Summary of Deadlines

- The deadline to submit certain information regarding the ownership of the proposed Bidder and CSI Reports to the Debtors and to the Manufacturer (as defined below) pertaining to the Assets for which the proposed Bidder will be submitting a Bid is **August 30, 2017 (ET)**.
- The **deadline to submit a bid** for all or a portion of the Assets is **September 8, 2017 at 4:00 p.m. (ET)**.
- Auctions for the Assets have been scheduled for **September 14, 2017 at 9:00 a.m. (ET)**.
- The Bankruptcy Court will conduct a hearing (the “Sale Hearing”) to consider the proposed sales on **September 15, 2017, at 10:00AM (ET)**.
- The sale of the Assets is anticipated to close on or before **September 29, 2017**.

2. Sale Process:

- A. The Debtors shall market for sale all or substantially all of their assets in appropriate lots and aggregated lots, which shall include at least separate lots for the assets of each of the Debtors (excluding Debtors’ claims and causes of action under sections 502(d), 544, 545, 547, 548, 549, 550, and 553 of the Bankruptcy Code and any other avoidance actions under the Bankruptcy Code (collectively, the “Avoidance Actions”) and may

include combined lots constituting all or substantially all of the Debtors' assets other than Avoidance Actions.

- B. The Debtors shall provide appropriate information to interested potential Bidders that enter into a non-disclosure agreement with the Debtors. The Debtors shall endeavor to provide consistent information to potential Bidders through the use of a "data room" or other document depository so that potential Bidders for the same Assets have access to the same information.
- C. The deadline for submitting bids on the Assets consistent with the Bidding Requirements set forth in Paragraph 3 below is **September 8, 2017 at 4:00 p.m. Eastern Time** (the "Bid Date"). All bids and the associated bid materials set forth in Paragraph 3 below must be received by Steven Agran, Chief Restructuring Officer of the Debtors (the "CRO"), at 787 11th Avenue, New York, NY 10019, Attn: Steven Agran, email: sagran@carlmarks.com by the Bid Deadline.
- D. In the event multiple Qualified Bids (as defined below) for the Assets are received by the Debtors, the Debtors will conduct an auction for the Assets on **September 14, 2017 commencing at 9:00 a.m. Eastern Time** (the "Auction") at the offices of Debtors' counsel, Wilk Auslander LLP, 1515 Broadway, 43rd Floor, New York NY 10036, or such other location designated by the Debtors prior to the scheduled auction (i) in a filing on the docket and (ii) by written notice to the entities entitled to attend the Auction as set forth in Paragraph 4.C(ii) below.
- E. Upon the Debtors' selection of one or more Successful Bids (as defined below) and Back-Up Bids (as defined below) for the Assets, the Debtors shall seek authorization from this Court to sell the subject assets and assume and assign the subject executory contracts to the Successful Bidder(s) (as defined below) and/or Backup Bidder(s) (as defined below) in a sale hearing on **September 15, 2017 at 10:00AM Eastern Time** (the "Sale Hearing") in the courtroom of the Honorable Michael E. Wiles, United States Bankruptcy Judge, Southern District of New York, One Bowling Green Station, New York, New York.
- F. The Debtors shall use best efforts to close each sale on or before **September 29, 2017**.

3. Bidding Requirements:

- A. Each bid for all or a portion of the Assets must be unconditional and not contingent upon any event other than (i) approval by this Bankruptcy Court and (ii) approval by the applicable manufacturer/franchisor (Jaguar Land Rover North America, LLC as to Jaguar and Land Rover, Maserati North America, Inc. as to Maserati and Ford Motor Company as to Ford,

each a “Manufacturer”) with respect to the Assets to be acquired. Each bid expressly may not be subject to, including without limitation, any contingencies related to diligence, environmental matters, leases, financing or subsequent approval by any entity, person, shareholder, member, manager or board.

- B. Debtors and each Manufacturer reserve their right under the applicable Dealer Sales and Service Agreements (“DSSA”). In particular, each Manufacturer reserves its rights with respect to any proposed assumption of any DSSA, including, without limitation, its rights to consent or not consent to the assumption and assignment of its DSSA or franchise (provided that consent may not be unreasonably withheld or delayed). Each Debtor reserves its rights to object or otherwise challenge a Manufacturer’s actions or inactions. To facilitate the exercise of such rights, each Bidder seeking to acquire the franchise rights from one or more Debtors related to a Manufacturer, shall provide the (x) CRO at 787 11th Avenue, New York, NY 10019, Attn: Steven Agran, email: sagran@carlmarks.com, and (y) the relevant Manufacturer, with the following items on or before **August 30, 2017**:
- (i) The names of each direct and indirect owner of the proposed Bidder together with whatever other information is reasonably needed by Manufacturer to conduct a background check of each such owner and written authorization of such owner for Manufacturer to conduct the background check; and
 - (ii) The CSI Reports for the current year to date and the two preceding calendar years, which include comparator scores (i.e., nation, district and/or region) provided by the relevant vehicle manufacturers for whose vehicles Bidder is a dealer. The CSI Reports must be submitted for all franchises owned (in whole or in part) or operated by the proposed Bidder, and/or any direct owner of the proposed Bidder and/or any indirect owner of the proposed Bidder. However, for any proposed Bidder or owner thereof that is an existing dealer for a Manufacturer, such owner does not have to supply CSI Reports to such Manufacturer.
- C. Bids must be received by the Debtors no later than the Bid Date and contain the following:
- (i) Current audited financial statements of (a) the Bidder, or (b) if the Bidder is an entity formed for the purpose of acquiring the Assets, current audited financial statements of the equity holders of the Bidder who shall either guarantee the obligations of the Bidder or provide such other form of financial disclosure acceptable to the Debtors in the exercise of their reasonable business judgment.

- (ii) Written evidence of the Bidder's (a) financial capacity to close the contemplated transaction, and (b) provide adequate assurance of future performance under any executory contracts or unexpired leases to be assumed and/or assigned pursuant to the proposed transaction.
- (iii) A completed franchise application for each applicable Manufacturer associated with the franchise the Bidder is seeking to acquire. Each Bidder shall concurrently provide such application(s) to the relevant Manufacturer(s).
- (iv) An executed asset purchase agreement in form and substance consistent with the form Asset Purchase Agreement (the "Form APA") as modified to reflect (1) the specific Assets the Bidder is seeking to acquire, (2) the liabilities the Bidder is seeking to assume, and (3) a comprehensive list of all executory contracts and unexpired leases the Bidder proposes the Debtors assume and assign as well as the corresponding cure amounts associated with assumption and assignment of such executory contracts and leases (an "Executed APA"). Each Executed APA shall be required to provide for the assumption and assignment of any DSSA associated with a franchise it is seeking to acquire.
- (v) A cash deposit equal to ten percent (10%) of the cash consideration of such Bidder's bid (the "Deposit") in the form of a wire transfer to the applicable Debtor(s) or a cashier's check payable to the applicable Debtor(s) and to be held in an escrow account at Wilk Auslander, LLP pending completion of the Sale unless, as set forth herein, the Bidder is determined to be the Prevailing Bidder or a Back-Up Bidder (each as hereafter defined).

D. Only bids meeting the above requirements as determined by the Debtors will be considered and, of those, only those which the CRO believes, in the exercise of his reasonable business judgment, subject to consultation with the DIP Lender,³ would be consummated if selected as the Successful Bid, shall be considered "Qualified Bids." Each Bidder that is determined to have submitted a Qualified Bid will be considered a "Qualified Bidder."

4. Auction and Sale Process:

A. Irrevocable Offer and Jurisdiction. Each Qualified Bid submitted shall constitute an irrevocable offer and be binding on the applicable Qualified Bidder from the time the bid is submitted until the entry of the Sale Order (as defined below). All Qualified Bidders at the Auction shall be deemed

³ As defined in the Final Order (I) Authorizing the Debtors to (A) Obtain Postpetition Financing and (B) Utilize Cash Collateral of JPMorgan Chase Bank, N.A., (II) Granting Adequate Protection to JPMorgan Chase Bank, N.A., and (III) Granting Related Relief, Docket No. 26 (the "Final DIP Order").

to have consented to the jurisdiction of the Bankruptcy Court and waived any right to a jury trial in connection with any disputes relating to the Auction and the construction and enforcement of any documents governing, effectuating, or relating to the contemplated sale transaction(s).

- B. Auction Time and Location. As set forth in Paragraph 2.D. above, in the event the Debtors receive one or more Qualified Bids for the same Assets, the Debtors shall hold an Auction.
- C. Auction Procedures. The Auction shall be conducted in accordance with the following procedures:
- (i) Prior to the commencement of the Auction, the Debtors shall provide notice to each Qualified Bidder of the Qualified Bid that the Debtors believe, in the exercise of their reasonable business judgment, subject to the consent of the DIP Lender, is the highest or otherwise best offer for the applicable Assets (the “Starting Bid”).
 - (ii) Only the Debtors, the DIP Lender, representatives of the Creditors Committee, representatives of each Manufacturer, Georgetown, and each Qualified Bidder, and each of their respective advisors and representatives, may attend the Auction in person, and only Qualified Bidders physically present at the Auction will be entitled to make any Subsequent Bids (as defined below) at the Auction.
 - (iii) Each Qualified Bidder shall be required to confirm that it has not engaged in any collusion with respect to the bidding or the sale of the Assets with any other Qualified Bidder, potential Bidder, Manufacturer or any other person or entity and shall be required to reaffirm that it has not engaged in any such collusion with each Subsequent Bid that it makes.
 - (iv) All proceedings at the Auction shall be conducted before and transcribed by a court stenographer.
 - (v) The CRO, on behalf of the Debtors, with the consent of the DIP Lender, may employ and announce at the Auction additional procedural rules that are reasonable under the circumstances for conducting the Auction, provided that such rules (1) are not inconsistent with this Order, the Bankruptcy Code, or any other order of this Court, and (2) are disclosed to each Qualified Bidder at the Auction.
 - (vi) Bidding at the Auction for each lot or relevant combinations of lots will begin with the Starting Bid and continue, in one or more rounds of bidding, so long as during each round at least one subsequent bid by a Qualified Bidder that (a) improves upon such Qualified Bidder’s immediately prior Qualified Bid (a “Subsequent Bid”) and

(b) is determined by the CRO, on behalf of the Debtors, subject to the consent of the DIP Lender, to be (1) for the first round, a higher or otherwise better offer than the Starting Bid, and (2) for subsequent rounds, a higher or otherwise better offer than the then Leading Bid (as defined below).

- (vii) Each Subsequent Bid at the Auction shall provide net value to the estate of at least \$100,000 over the Starting Bid or the Leading Bid, as applicable, which net value may be in the form of cash or non-cash consideration (with any such non-cash consideration to be valued by the CRO, on behalf of the Debtors, in a manner consented to by the DIP Lender and articulated on the record of the Auction). The CRO, on behalf of the Debtors, may set lower incremental bids as he determines, in the exercise of his reasonable business judgment, by notifying each Qualified Bidder for such lot or combination of lots of such reduced bid increment.
- (viii) A round of bidding will conclude after each participating Qualified Bidder has had the opportunity to submit a Subsequent Bid with full knowledge of the Leading Bid.
- (ix) After each round of bidding, the CRO, on behalf of the Debtors, shall announce the bid that he believes in the exercise of his reasonable business judgment, subject to the consent of the DIP Lender, to be the highest or otherwise best offer (the "Leading Bid").
- (x) All Qualified Bidders for a particular lot will be entitled to be present for all Subsequent Bids for such lot at the Auction, provided that all Qualified Bidders wishing to attend the Auction must have at least one individual representative with authority to bind such Qualified Bidder attending the Auction in person.
- (xi) The Debtors reserve their right, in their reasonable business judgment, to make one or more adjournments of the Auction to, among other things: (1) facilitate discussions between the Debtors and Qualified Bidders; (2) allow individual Qualified Bidders to determine how they wish to proceed; (3) consider and determine the current highest or otherwise best Subsequent Bid at any given time during the Auction; and (4) give Qualified Bidders the opportunity to provide the Debtors and the DIP Lender with such additional evidence as the Debtors request that the Qualified Bidder has sufficient internal resources, or has received sufficient non-contingent debt and/or equity funding commitments to consummate the proposed transaction at the prevailing Subsequent Bid amount.

D. Valuation of Bids. Qualified Bids (including Subsequent Bids) will be valued by the CRO, on behalf of the Debtors, based upon factors such as:

(i) the terms, economic or otherwise, of the transaction documents submitted as part of a Qualified Bid; (ii) the total expected value of the Qualified Bid to the Debtors' estates; (iii) whether the Qualified Bid is for some or all of the Debtors' assets and the value of any assets not contemplated to be acquired as part of such Qualified Bid; (iv) the impact of any rejection damages claims arising from the proposed rejection of contracts or unexpired leases under the Qualified Bid; (v) the extent to which the identity of the Qualified Bidder or any modifications to the form of the Form APA by such Qualified Bidder are likely to affect the timing of execution of definitive transaction documents or affect the timing of the closing of a transaction, and the cost or benefit to the Debtors of such modifications or timing considerations; (vi) any conditions to the Qualified Bidder's obligations to close a transaction, including the likelihood that the relevant Manufacturer(s) will consent to the Qualified Bidder becoming a franchisee of such Manufacturer(s), and the timing thereof (including the time required to obtain any necessary approvals); (vii) the ability to obtain all necessary antitrust, governmental, foreign investment or other regulatory approvals for the proposed transaction; and (viii) any other factors the CRO may deem relevant, on behalf of the Debtors, in his reasonable business judgment and in consultation with the DIP Lender.

E. Successful Bid. Immediately upon the conclusion of the Auction, the CRO, on behalf of the Debtors, subject to the consent of the DIP Lender, shall (i) determine, consistent with this Order, which bid or bids collectively constitute the highest or otherwise best bid for the Assets in one or more lots (such bid or bids collectively the "Successful Bid" and the Bidder or Bidders collectively submitting the Successful Bid, the "Successful Bidder") and (ii) communicate to the Qualified Bidders the identity of the Successful Bidder and the details of the Successful Bid. The Debtors shall be deemed to have accepted a Qualified Bid only when (i) either (1) such bid is declared the Successful Bid at the end of the Auction or (2) such bid is declared a Back-Up Bid (as defined below) and the Debtors elect to consummate the sale transaction(s) contemplated by such Back-Up Bid with the Back-Up Bidder pursuant to the terms hereof; (ii) definitive documentation has been executed in respect thereof; and (iii) the Court has entered an order approving the sale transaction(s) contemplated thereby.

F. Back-Up Bid.

(i) Immediately following the selection of the Successful Bid, the CRO, on behalf of the Debtors, subject to the consent of the DIP Lender, shall (i) determine which bid or bids collectively constitute the second highest or otherwise best bid and, if applicable, third highest or otherwise best bid and may, in their discretion and subject to the consent of the DIP Lender, deem such second and third highest or

otherwise best bid or bids each a back-up bid (such bid or bids shall each be a “Back-Up Bid” and each Bidder submitting a Back-Up Bid, a “Back-Up Bidder”) and (ii) communicate to the Qualified Bidders the identity of each Back-Up Bidder and the details of each Back-Up Bid.

- (ii) Each Back-Up Bid shall remain open and shall be irrevocable and binding on the Back-Up Bidder until the earlier of (i) the first business day following the consummation of the sale of the Assets that are the subject of such Back-Up Bid to the Successful Bidder or a higher or better Back-Up Bidder, and (ii) 11:59 p.m. Eastern time on the day sixty (60) days after the date the Sale Order is entered by the Court. If the Successful Bid, or the next highest or otherwise best Back-Up Bid is terminated or fails to close within the time period specified in the Successful Bid or such Back-Up Bid, the CRO, on behalf of the Debtors, shall, subject to the consent of the DIP Lender, be authorized to consummate the sale transaction(s) contemplated by the next highest or otherwise best Back-Up Bid with such Back-Up Bidder without further order of the Court.

G. As Is Where Is. Any sale of Assets shall be on an “as is, where is” basis and without representations or warranties of any kind, nature or description by the Debtors, their agents or their estates, except to the extent expressly set forth in the purchase agreement corresponding to the Successful Bid or applicable Back-Up Bid, as the case may be. Each Qualified Bidder shall be deemed to acknowledge and represent that it had an opportunity to conduct any and all due diligence regarding the Assets prior to making its offer, that it has relied solely on its own independent review, investigation, and/or inspection of any documents and/or the Assets in making its Qualified Bid, and that it did not rely on any written or oral statements, representations, promises, warranties, or guaranties whatsoever, whether express, implied or by operation of law or otherwise regarding the Assets or the completeness of any information provided in connection therewith or the Auction, except as expressly stated in their asset purchase agreement.

H. Free and Clear. Except as otherwise provided in the terms of the asset purchase agreement for Successful Bid or such Back-Up Bid which may ultimately be consummated, all of the Debtors’ right, title and interest in and to the Assets subject to such sale shall be sold free and clear of all liens, claims (as such term is defined in section 101(5) of the Bankruptcy Code), encumbrances, rights, remedies, restrictions, interests, liabilities, leasehold interests and contractual commitments of any kind or nature whatsoever, whether arising before or after the Petition Date, whether at law or in equity, including all rights or claims based on any successor or transferee liability, all environmental claims, all change in control provisions, and all rights to object or consent to the effectiveness of the

transfer of the Assets, all as more specifically set forth in the Sale Motion and the proposed order approving the sale transaction(s) (the “Claims”), and as set forth in the Sale Order, such Claims to attach to the proceeds of the sale with the same validity and priority as such Claims applied against the applicable Assets.

- I. Return of Deposit. The deposit submitted by each Qualified Bidder shall be returned promptly following the Sale Hearing unless such Qualified Bidder is selected as a Successful Bidder or a Back-Up Bidder. A deposit submitted by a Back-Up Bidder will be held by the Debtors until forty-eight (48) hours after the Back-Up Bid has been terminated in accordance with this Order and the Asset Purchase Agreement entered into with such Back-Up Bidder. If a Successful Bidder or a Back-Up Bidder fails to consummate an approved Sale because of a breach or failure to perform on the part of such Successful Bidder or Back-Up Bidder, as applicable, the Debtors shall be entitled to retain the deposit (and such deposit shall constitute Cash Collateral of the DIP Lender) in partial satisfaction of any damages resulting from the breach or failure to perform by such Successful Bidder or Back-Up Bidder, without prejudice to any other rights the Debtors may have. The Debtors shall credit the Deposit of the Successful Bidder or the Back-Up Bidder, as applicable, toward the purchase price for their transaction on the closing of the sale to them of the Assets they are acquiring.

- J. Reservation of Rights. Except as otherwise provided in this Order, the Debtors reserve the right, in the exercise of the CRO’s reasonable business judgment on behalf of the Debtors’ estates, subject to the consent of the DIP Lender, to: (i) determine which Bidders are Qualified Bidders; (ii) determine which bids are Qualified Bids; (iii) determine which Qualified Bid is the highest or otherwise best bid and which is the next highest or otherwise best bid; (iv) designate the second and third highest or otherwise best bids as Back-Up Bids; (v) reject any bid that is (a) inadequate or insufficient, (b) not in conformity with the requirements of this Order or the requirements of the Bankruptcy Code, or (c) contrary to the best interests of the Debtors and their estates; (vi) waive terms and conditions set forth herein with respect to all Qualified Bids; (vii) impose additional terms and conditions with respect to all Qualified Bids; (viii) extend the deadlines set forth herein; (ix) adjourn or cancel the Auction and/or Sale Hearing in open court without further notice; and (x) seek to modify the Bidding Procedures or withdraw the Bidding Procedures Motion at any time with or without prejudice.

EXHIBIT 2

Form APA

ASSET SALE AGREEMENT

THIS AGREEMENT, made this [] day of September, 2017, by and between:

**[BICOM NY, LLC, BAY RIDGE AUTOMOTIVE COMPANY, LLC,
and ISCOM NY, LLC (collectively, "SELLERS");]**¹

And

[], a [] (hereinafter referred to as
"BUYER").

WITNESSETH:

WHEREAS, SELLERS own certain assets related to (a) a motor vehicle dealership establishment which conducts business at 787 Eleventh Avenue, New York (New York County), New York (the "Manhattan Jaguar and Land Rover Premises"), (b) a motor vehicle dealership establishment which conducts business at 612 86th Street, Brooklyn (Kings County), New York (the "Brooklyn Showroom"), 636-640 86th Street, Brooklyn (Kings County), New York (the "Brooklyn Pre-Owned Center"), and 152 58th Street, Brooklyn (Kings County), New York (the "Brooklyn Service Center"), and (c) [One York Street, New York, New York] (the "Maserati Premises", and collectively with the Manhattan Jaguar and Land Rover Premises, the Brooklyn Showroom, the Brooklyn Pre-Owned Center, and the Brooklyn Service Center, the "Premises", and the business conducted by Sellers at the Premises as of the date hereof, the "Business"); and

WHEREAS, SELLERS are desirous of selling and conveying certain assets related to the Business; and

WHEREAS, BUYER is desirous of acquiring said assets; and

WHEREAS, the parties have reached an understanding with respect to the terms and conditions of the foregoing and are desirous of memorializing the same herein; and

WHEREAS, on July 10, 2017 (the "Petition Date"), each of the SELLERS filed a voluntary petition for relief commencing a case (the "Bankruptcy Case") under chapter 11 of the United States Bankruptcy Code (the "Bankruptcy Code") in the United States Bankruptcy Court for the Southern District of New York (the "Bankruptcy Court"); and

¹ Note to Sellers: Bidders can revise the APA to include a subset of the debtors' assets.

WHEREAS, the execution and delivery of this Agreement and SELLERS' ability to consummate the transactions set forth in this Agreement are subject to, among other things, the entry of the Sale Order (as defined below) under, *inter alia*, Sections 363 and 365 of the Bankruptcy Code;

NOW, THEREFORE, in consideration of the terms, covenants and conditions hereinafter set forth, the parties hereto agree as follows:

1. PURCHASED AND EXCLUDED ASSETS; ASSUMED AND EXCLUDED LIABILITIES; ASSIGNMENT.

(a) Purchased Assets. Upon the terms and subject to the conditions set forth in this Agreement, SELLERS agree to sell and transfer to BUYER, and BUYER agrees to purchase and acquire from SELLERS, at Closing (as herein defined), all right, title and interest of Sellers in and to the following assets [to the extent located on the Premises and primarily used in or primarily related to the Business]² (excluding the assets set forth in Section 1(b)) (collectively, the "Purchased Assets"), on an "as is" and "where is" basis free and clear of all liens and encumbrances to the extent set forth in an order (the "Sale Order") of the Bankruptcy Court approving this Agreement and the transactions contemplated hereby in form and substance reasonably acceptable to Buyer and Sellers:

(i) Operating Assets. Furniture, fixtures, tools, machinery, and equipment; inventory of parts and accessories, and oil, gas, and grease inventories and supplies; customer lists and computer-generated customer files; URLs, websites, and e-mail addresses; personnel records; parts and service vehicles; sales, service, parts, and warranty manuals; factory brand signs; catalogues, brochures, and announcement materials; and all rights to use SELLERS' existing telephone numbers and facsimile numbers, in each case as set forth on EXHIBIT "A" attached hereto and made a part hereof.

(ii) Motor Vehicle Inventory.

(A) SELLERS' entire inventory of all new, unused, never registered motor vehicles, in each case as set forth on EXHIBIT "B" attached hereto and made a part hereof.

(B) Any and all motor vehicles consigned and invoiced to SELLERS and not received by SELLERS prior to Closing, including swap units, in each case as set forth on EXHIBIT "B" attached hereto and made a part hereof.

(C) SELLERS' inventory of demonstrator-type motor vehicles, in each case as set forth on EXHIBIT "B" attached hereto and made a part hereof.

(D) SELLERS' inventory of motor vehicles placed into loan service by SELLERS ("Service Rental/Loaners"), in each case as set forth on EXHIBIT "B" attached hereto and made a part hereof.

² Note to Sellers: To discuss whether to include this limitation.

(E) SELLERS' inventory of used cars and program cars, in each case as set forth on EXHIBIT "B" attached hereto and made a part hereof.

(iii) Contracts. All contracts and leases primarily related to the Business and set forth on EXHIBIT "C" attached hereto and made a part hereof (the "Purchased Contracts").

(b) Excluded Assets. Notwithstanding anything herein to the contrary, the Purchased Assets shall not include assets of SELLERS expressly set forth in Section 1(b) (collectively, the "Excluded Assets"):

(i) SELLERS' manufacturer incentives, factory receivables, accounts receivable, and cash and cash equivalents on hand and in banks or other financial institutions;

(ii) each SELLER's rights under this Agreement;

(iii) documents prepared in connection with this Agreement or the transactions contemplated hereby or relating to the Bankruptcy Case, tax returns, tax workpapers or tax records, and any documents that any SELLER is required by law to retain, or that any SELLER determines is necessary or advisable to retain, including financial statements and corporate or other entity filings;

(iv) any contract that is not a Purchased Contract;

(v) tax refunds, tax rebates, or tax credits of SELLERS;

(vi) security deposits and pre-paid expenses of SELLERS;

(vii) shares of capital stock or other equity interests in any SELLER or securities convertible into or exchangeable or exercisable for shares of capital stock or other equity interests in any SELLER; and

(viii) all claims, proceedings, and causes of action related to the Business or on the Premises not expressly identified to be conveyed to BUYER in Section 1(a); and

(ix) all claims, proceedings and causes of action under Sections 502(d), 544, 545, 547, 548, 549, 550, and 553 of the Bankruptcy Code and any other avoidance actions under the Bankruptcy Code or state fraudulent conveyance, fraudulent transfer, or similar laws.

(c) Assumed Liabilities. Upon the terms and subject to the conditions of this Agreement, at the Closing, BUYER shall assume and agree to perform and discharge when due the following liabilities of SELLERS (collectively, the "Assumed Liabilities"):

(i) all unpaid obligations and liabilities of the Business incurred in the ordinary course of business since the Petition Date and not provided for in the budget set forth in SELLERS' debtor-in-possession financing;

(ii) liabilities arising from the ownership and/or sale of the Purchased Assets, including all Transfer Taxes (as defined below);

(iii) liabilities under the Purchased Contracts, including the cure amounts related thereto, and the other obligations of Sellers set forth on EXHIBIT "D" (the "Assumed Dealer Obligations");

(iv) liabilities arising out of or related to SELLERS' employees as set forth in Section 12 and under the WARN Act; and

(v) all obligations and liabilities related to any products manufactured or sold by the Business after the Petition Date, including without limitation warranty obligations, customer rebate obligations, incentive obligations, and product liabilities.

(d) Excluded Liabilities. Buyer shall not assume and shall not be obligated to assume or pay, perform or otherwise discharge any liability that is not an Assumed Liability, including any liability of SELLERS under this Agreement (collectively, the "Excluded Liabilities").

(e) Assignment and Discharge. SELLERS shall assign and/or sell all Purchased Assets to Buyer at the Closing pursuant to the Sale Order. From and after the Closing, BUYER shall pay, perform, and satisfy the Assumed Liabilities in accordance with their respective terms.

2. PURCHASE PRICE. The purchase price (the "Purchase Price") to be paid by BUYER for the Purchased Assets to be conveyed to BUYER hereunder is as follows:

(a) cash in the amount of [REDACTED] DOLLARS (\$[REDACTED]) (the "Cash Consideration"); and

(b) the assumption by Buyer of the Assumed Liabilities.

The parties' valuation of the Operating Assets to be purchased by BUYER pursuant to Section 1(a)(i), and the Motor Vehicle Inventory to be purchased by BUYER pursuant to Section 1(a)(ii), is set forth on Exhibit "E" attached hereto.

3. DEPOSIT; PAYMENT OF PURCHASE PRICE; ALLOCATION; TRANSFER EXPENSES.

(a) Deposit and Payment of Purchase Price. The Purchase Price shall be paid and satisfied by BUYER as follows:

(i) The sum of [REDACTED] DOLLARS (\$[REDACTED])³ (including all interest accrued thereon, the “Escrow Amount”) shall be paid by BUYER concurrently herewith via wire transfer of immediately available funds to be held in escrow by [REDACTED]⁴ (the “Escrow Agent”) in a non-interest bearing account until (A) the Closing or the termination of this Agreement due to a material uncured breach by BUYER or a failure by BUYER to close the transactions contemplated by this Agreement when required (i.e., in accordance with Sections 6(a)(iv)(A) or 6(a)(iv)(B) of this Agreement) (whereupon the Escrow Amount shall be released via wire transfer of immediately available funds to an account of SELLERS subject to the liens of JP Morgan Chase Bank, NA (“JPM”) (the “Designated Account”)) or (B) this Agreement is terminated other than due to a material uncured breach by BUYER or a failure by BUYER to close the transactions contemplated by this Agreement when required (i.e., other than pursuant to Sections 6(a)(iv)(A) or 6(a)(iv)(B) of this Agreement) (whereupon the Escrow Amount shall be returned via wire transfer of immediately available funds to an account designated by BUYER); and

(ii) The Cash Consideration, less the Escrow Amount, shall be paid by BUYER at the Closing via wire transfer of immediately available funds to the Designated Account).

(b) Allocation. The Cash Consideration (plus Assumed Liabilities, to the extent properly taken into account under the Internal Revenue Code of 1986, as amended (the “Code”)), shall be allocated among the Purchased Assets in accordance with Section 1060 of the Code and the Treasury Regulations promulgated thereunder (the “Allocation”). The Allocation shall be prepared by BUYER and delivered to SELLERS as promptly as reasonably practicable, but in any event within sixty (60) days, after the Closing. The Allocation shall be considered final and binding on the parties unless SELLERS convey written objections (an “Allocation Dispute Notice”) to BUYER within twenty (20) business days of receipt of the Allocation. BUYER and SELLERS shall endeavor in good faith to resolve any such disagreement within twenty (20) business days following the delivery of the Allocation Dispute Notice, and if resolution of such disagreement is reached, the Allocation shall immediately become binding. If BUYER and SELLERS are unable to completely resolve any such disagreement within twenty (20) business days, the unresolved issues (the “Allocation Dispute”) shall be resolved by the Neutral Firm in accordance with Section 3(d) below. Upon the Allocation becoming binding, BUYER and SELLERS agree to (i) be bound by the Allocation, (ii) act in accordance with the Allocation for all U.S. federal income tax purposes (including filing IRS Form 8594 with their U.S. federal income tax return for the taxable year that includes the Closing Date and in the course of any audit, review or litigation), and (iii) take no position and cause their affiliates to take no position inconsistent with the Allocation for U.S. federal income tax purposes, unless otherwise required by applicable law or unless the other party consents thereto, which consent shall not be unreasonably withheld, conditioned, or delayed.

(c) Transfer Taxes. BUYER and SELLERS acknowledge and agree that for purposes of calculating the applicable state and local sales, use, property transfer or gains, documentary, stamp, registration, recording or other tax (including goods and services tax,

³ Note to Draft: To be equal to ten percent (10%) of the Cash Consideration.

⁴ Note to Draft: To be a third party financial institution.

harmonized sales tax and land transfer tax) with respect to the Purchased Assets (“Transfer Taxes”), fair value shall be determined separately for each such Purchased Asset. To determine such fair value, a valuation of the Purchased Assets shall be prepared by BUYER, with input from SELLERS as appropriate, and delivered to SELLERS as promptly as reasonably practicable (and in any event no less than five (5) business days after the date hereof) to allow for timely payment of the Transfer Taxes by BUYER. The valuation shall be considered final and binding on the parties unless SELLERS convey written objections to BUYER within ten (10) business days of receipt of the valuation of the Purchased Assets from BUYER. BUYER and SELLERS shall endeavor in good faith to resolve any such disagreement within ten (10) business days following the delivery of such written objections. If BUYER and SELLERS are unable to completely resolve any such disagreement within ten (10) business days, the unresolved issues (the “Transfer Tax Allocation Dispute”) shall be resolved by the Neutral Firm in accordance with Section 3(d). Upon the valuation becoming binding, BUYER and SELLERS agree to (i) be bound by the valuation, (ii) act in accordance with the valuation for all Transfer Tax purposes, and (iii) take no position and cause their affiliates to take no position inconsistent with the valuation for state and local tax purposes, unless otherwise required by applicable law or unless the other party consents thereto, which consent shall not be unreasonably withheld, conditioned or delayed.

(d) Disputes. If BUYER and SELLERS are unable to completely resolve any Allocation Dispute within the twenty (20) Business Day period referred to in Section 3(b) or any Transfer Tax Allocation Dispute within the ten (10) Business Day period referred to in Section 3(c), the unresolved issues (and only such unresolved issues) (such unresolved issues collectively, the “Dispute”) shall be promptly submitted for resolution to a recognizable, reputable, and impartial certified public accounting firm that is mutually acceptable to BUYER and SELLERS (the “Neutral Firm”). If BUYER and SELLERS cannot agree upon a Neutral Firm within ten (10) days of the expiration of the applicable period(s) for resolution of a Dispute provided for in Section 3.5(b) or Section 3.5(c), the New York City office of the American Arbitration Association shall choose a recognized, reputable and impartial certified public accounting firm to act as the Neutral Firm. The Neutral Firm shall be instructed to resolve any outstanding Dispute; provided, that, the Neutral Firm’s determination of any amount subject to the Dispute shall be no (x) less than the lesser of the amounts claimed by BUYER and SELLERS, respectively, or (y) greater than the greater of the amounts claimed by BUYER and SELLERS, respectively. The parties shall instruct the Neutral Firm to render its determination with respect to the entire Dispute within thirty (30) days of the referral of the Dispute thereto, and the determination of the Neutral Firm shall be final and binding upon the parties hereto for all purposes of this Agreement. The fees and expenses of the Neutral Firm shall be borne by BUYER, on the one hand, and SELLERS, on the other hand, in the same proportion that the dollar amount subject to the Dispute which is not resolved in favor of BUYER and SELLERS, as applicable, bears to the total dollar amount subject to the Dispute resolved by the Neutral Firm. For illustration purposes only, if the total amount of the Dispute is \$100,000, and SELLERS are awarded \$25,000 by the Neutral Firm, SELLERS shall bear seventy-five percent (75%) and BUYER shall bear twenty-five percent (25%) of the Neutral Firm’s fees and expenses.

4. CLOSING.

(a) Closing. Upon the terms and subject to the conditions hereof, the closing of the sale of the Purchased Assets and the assumption of the Assumed Liabilities contemplated hereby (the “Closing”) shall take place via electronic exchange of closing documents and signature pages no later than the first (1st) Business Day following the date on which the conditions set forth in Section 5 have been satisfied or (if permissible) waived (other than the conditions which by their nature are to be satisfied by actions taken at the Closing, but subject to the satisfaction or (if permissible) waiver of such conditions), or at such other place or time as BUYER and SELLERS may mutually agree. The date and time at which the Closing actually occurs is referred to as the “Closing Date.”

(b) BUYER Deliverables. At the Closing, BUYER shall deliver to SELLERS:

- (i) The Cash Consideration;
- (ii) An executed copy of the Assignment and Assumption Agreement attached as EXHIBIT “F” on behalf of BUYER; and
- (iii) An executed copy of the Bill of Sale attached as Exhibit “G” on behalf of BUYER.

(c) SELLERS Deliverables. At the Closing, SELLERS shall deliver to BUYER:

- (i) An executed copy of the Assignment and Assumption Agreement attached as EXHIBIT “F” on behalf of SELLERS;
- (ii) An executed copy of the Bill of Sale attached as Exhibit “G” on behalf of SELLERS; and
- (iii) A dealer termination letter with respect to SELLERS’ Dealer Sales and Service Agreements or equivalent documents, and such other usual and customary documentation reasonably required by [Jaguar/Land Rover North America, LLC (“JLRNA”), Ford Motor Company (“FMC”), and Maserati North America, Inc. (“Maserati”)] in connection with the transactions contemplated by this Agreement.

5. CONDITIONS TO CLOSING.

(a) BUYER Conditions. The obligations of BUYER to consummate the transactions contemplated by this Agreement are subject to the satisfaction or waiver, at or prior to the Closing, of each of the following conditions:

(i) Accuracy of Representations. Each of the representations and warranties of SELLERS contained in this Agreement shall be true and correct as of the date hereof, in each case except as any inaccuracy has not had a material adverse effect on SELLERS’ results of operations, financial condition, assets or liabilities, taken as a whole, except any event, circumstance, change or

occurrence arising out of or relating to (A) changes in law or accounting principles, (B) changes in the financial or securities markets or general economic or political conditions, (C) changes or conditions generally affecting the industries in which any SELLER operates, (D) acts of war, sabotage, terrorism, or natural disasters, (E) the announcement, pendency or consummation of the transactions contemplated by this Agreement (including any impact on customers, suppliers, vendors or employees, the filing of the Bankruptcy Case, and/or any actions taken pursuant to any debtor-in-possession and/or cash collateral order), (F) any action taken or omitted to be taken as required by this Agreement or at the request or with the written consent of BUYER, or (G) any failure by SELLERS to meet any internal projections or forecasts.

(ii) SELLERS' Performance. SELLERS shall have performed and complied with in all material respects the covenants and agreements that SELLERS are required to perform or comply with pursuant to this Agreement at or prior to the Closing.

(iii) No Injunction. No court of competent jurisdiction shall have enacted, issued, promulgated or entered any order which is in effect and has the effect of making illegal or prohibiting the consummation of the transactions contemplated by this Agreement.

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

(v) Franchise Approval. The issuance and execution of a written Letter of Intent from [JLRNA, FMC and Maserati] authorizing BUYER's sale and factory authorized service of [JAGUAR, LAND ROVER, FORD and MASERATI] motor vehicles at the Premises (the "Franchise Approval").

(b) SELLERS Conditions. The obligations of SELLERS to consummate the transactions contemplated by this Agreement are subject to the satisfaction or waiver, at or prior to the Closing, of each of the following conditions:

(i) Accuracy of Representations. Each of the representations and warranties of BUYER contained in this Agreement shall be true and correct as of the date hereof and as of the Closing Date.

(ii) BUYER's Performance. BUYER shall have performed and complied with in all material respects the covenants and agreements that BUYER is required to perform or comply with pursuant to this Agreement

(iii) No Injunction. No court of competent jurisdiction shall have enacted, issued, promulgated or entered any order which is in effect and has the effect of making illegal or prohibiting the consummation of the transactions contemplated by this Agreement.

(iv) Sale Order. The Bankruptcy Court shall have entered the Sale Order and the Sale Order shall have become a final order not subject to appeal or stay.

(v) Franchise Approval. The BUYER shall have received the Franchise Approval.

(c) Frustration of Closing Conditions. No party may rely on the failure of any condition set forth in Sections 5(a) or 5(b), as the case may be, if such failure was caused by such party's failure to comply with any provision of this Agreement.

6. TERMINATION.

(a) Termination Events. Notwithstanding anything to the contrary in this Agreement, this Agreement may be terminated at any time prior to the Closing Date:

- (i) by mutual written consent of SELLERS and BUYER;
- (ii) by either SELLERS or BUYER:
 - (A) if a court of competent jurisdiction shall have issued a final, non-appealable order permanently prohibiting the transactions contemplated by this Agreement; provided that the right to terminate this Agreement pursuant to this Section 6(a)(ii)(A) shall not be available to a party whose breach of its representations, warranties, covenants or agreements contained herein was the primary cause of such order;
 - (B) if the Closing shall not have occurred by the close of business on the date that is sixty-five (65) days after the receipt by [JLRNA, FMC and Maserati] of completed applications by BUYER with respect to the Franchise Approval (the "Outside Date"); provided that the right to terminate this Agreement pursuant to this Section 6(a)(ii)(B) shall not be available to a party whose breach of its representations, warranties, covenants or agreements contained herein was the primary cause of the Closing not occurring on or prior to the Outside Date;
 - (C) if the Sale Order is vacated; provided that the right to terminate this Agreement pursuant to this Section 6(a)(ii)(C) shall not be available to a party whose breach of its representations, warranties, covenants or agreements contained herein was the primary cause of the vacation of the Sale Order; or
 - (D) if (1) SELLERS close a sale of substantially all of SELLERS' assets to another person or entity or (2) BUYER is neither the Successful Bidder or a Back-Up Bidder (each as defined in the sales procedures order in the Bankruptcy Case);

(iii) by BUYER, in the event of any breach by SELLERS of their agreements, covenants, representations, and/or warranties contained in this Agreement (provided such breach would result in the failure of a condition set forth in Section 5(a)(i) or Section 5(a)(ii) to be satisfied), and either such breach is incapable of being cured, or, if capable of being cured, the failure of SELLERS to cure such breach by the earlier of (1) the first business day before the Outside Date and (2) the date that is twenty (20) business days after receipt of written notice of such breach by BUYER; provided that the right to terminate this Agreement pursuant to this Section 6(a)(iii)(A) shall not be available to BUYER if BUYER is in breach of its representations, warranties, covenants or agreements contained in this Agreement; or

(iv) by SELLERS:

- (A) in the event of any breach by BUYER of its agreements, covenants, representations, and/or warranties contained in this Agreement (provided such breach would result in the failure of any condition set forth in Section 5(b) to be satisfied), and either such breach is incapable of being cured, or, if capable of being cured, the failure of BUYER to cure such breach by the earlier of (1) the first business day before the Outside Date and (2) the date that is five (5) business days after receipt of written notice of such breach by SELLERS;
- (B) if the Sale Order has been entered and (1) SELLERS have provided BUYER with written notice that they are prepared to consummate the transactions contemplated by this Agreement, (2) the conditions to Closing in Section 5(a) have been satisfied (or waived by BUYER), other than those conditions that by their nature can only be satisfied at the Closing, and (3) the Closing does not occur within one (1) business day of SELLERS providing BUYER with such notice;
- (C) if SELLERS' chief restructuring officer determines that termination of this Agreement is or could reasonably be expected to be required in the exercise of the SELLERS' fiduciary duties as determined by the SELLERS' chief restructuring officer; or
- (D) if the Franchise Approval is not obtained by BUYER within thirty (30) days after the entry of the Sale Order.

(b) Procedure Upon Termination. In the event of a termination of this Agreement pursuant to Section 6(a), the terminating party shall provide written notice thereof to the other parties, and this Agreement will terminate as described in Section 6(c).

(c) Effect of Termination. In the event of a termination of this Agreement pursuant to Section 6(a), then each of the parties will be relieved of its duties and obligations arising under this Agreement after the date of such termination and there will be no liability or obligation on BUYER

or any SELLER, except that the provisions of Sections 3(a)(i), this Section 6(c), and Sections 20 through 25 will survive any such termination and will be enforceable; provided that for the avoidance of doubt, in the event of a breach by BUYER of this Agreement (regardless of whether or not this Agreement is terminated), SELLERS shall be entitled to obtain from BUYER all damages, losses, liabilities, fees, expenses, taxes, and other charges incurred by SELLERS that arise out of or relate to any such breach by BUYER, including indirect, consequential, special, punitive, and exemplary damages, lost profits, and loss in value based on multiple of earnings and including any such damages, losses, liabilities, fees, expenses, taxes, and other charges in excess of the Escrow Amount.

7. REPRESENTATIONS AND WARRANTIES OF SELLERS. Except as set forth in the Schedules attached hereto, each SELLER hereby severally, and not jointly and severally, represents and warrants to BUYER that the statements contained in this Section 7 are true and correct as of the date hereof:

(a) Organization and Authority. Such SELLER is duly organized and existing in good standing under the laws of its jurisdiction of incorporation or formation, and is duly authorized to carry on its Business as conducted as of the date hereof. Subject to the entry of the Sale Order by the Bankruptcy Court, such SELLER has taken all necessary action to authorize the execution of this Agreement and to consummate the transactions contemplated hereby, and this Agreement constitutes the valid and binding obligation of such SELLER enforceable in accordance with its terms, except as limited by (i) applicable bankruptcy, insolvency, reorganization, moratorium or other laws of general application affecting enforcement of creditors' rights and (ii) general principles of equity that restrict the availability of equitable remedies.

(b) Ownership of Purchased Assets. Such SELLER has title to all of the Purchased Assets to be sold, transferred, and assigned to BUYER by such SELLER pursuant to this Agreement.

(c) No Litigation. There are no material litigation, judgments or insolvency proceedings threatened or pending against such SELLER which would impair such SELLER's ability to consummate the transactions contemplated by this Agreement.

8. REPRESENTATIONS AND WARRANTIES OF BUYER. BUYER hereby warrants and represents to SELLER as of the date hereof and as of the Closing Date that the following statements are true and correct:

(a) Organization and Authority. BUYER is duly organized and existing in good standing under the laws of its jurisdiction of incorporation or formation, and is duly authorized to carry on its business as conducted as of the date hereof. BUYER has taken all necessary action to authorize the execution of this Agreement and to consummate the transactions contemplated hereby, and this Agreement constitutes the valid and binding obligation of BUYER enforceable in accordance with its terms, except as limited by (i) applicable bankruptcy, insolvency, reorganization, moratorium or other laws of general application affecting enforcement of creditors' rights and (ii) general principles of equity that restrict the availability of equitable remedies.

(b) Financial Capacity. BUYER has sufficient funds to pay the Purchase Price and the fees and expenses required to be paid by BUYER to consummate the transaction contemplated by this Agreement.

(c) No Litigation. There are no material litigation, judgments or insolvency proceedings threatened or pending against BUYER which would impair BUYER's ability to consummate the transactions contemplated by this Agreement.

(d) No Consents or Conflicts. Subject to the entry of the Sale Order by the Bankruptcy Court, BUYER is not required to give any notice to or obtain any consent from any person or entity in connection with the execution and delivery of this Agreement or the consummation or performance of any of the transactions contemplated hereby. Subject to the entry of the Sale Order by the Bankruptcy Court, the execution and delivery of this Agreement and the consummation of the transactions provided for herein will not result in the breach of any of the terms and provisions of, or constitute a default under, or conflict with, or cause any acceleration of any obligation of BUYER under (a) any agreement, indenture, or other instrument to which BUYER is bound, (b) the organizational documents of BUYER, (c) any order of any governmental authority, or (d) any law.

(e) Franchise Approval. On or prior to the date hereof, BUYER has properly completed and submitted all applications, documents and information to [JLRNA, FMC and Maserati] to obtain the Franchise Approval. There is no moral, financial, business or other grounds for the rejection of the Franchise Approval by [JLRNA, FMC and/or Maserati].

(f) Qualified Bidder Information. All information provided by BUYER to SELLERS as part of its efforts to be designated a Qualified Bidder under the sale procedures order (including, franchise documentation, CSI scores, and background check information) is true, correct and complete, and does not omit any information that would make the information provided misleading.

(g) No Other SELLER Representations or Warranties. Except for the representations and warranties expressly made by each SELLER in Section 7, BUYER acknowledges that no SELLER or any other person or entity makes, and that BUYER has not relied upon, any express or implied representation or warranty whatsoever.

9. CONDUCT OF SELLERS PRIOR TO CLOSING. SELLERS agree that, except (a) as contemplated by this Agreement, (b) disclosed in the Schedules attached to this Agreement, (c) with the prior written consent of BUYER (which shall not be unreasonably withheld, conditioned or delayed), (d) as required by, arising out of, relating to, or resulting from the Bankruptcy Code, the Bankruptcy Case (including any debtor-in-possession financing and/or cash collateral order related thereto), the Bankruptcy Court, and (e) as otherwise required by law, after the date hereof and prior to the Closing Date SELLERS shall use commercially reasonable efforts to operate in the ordinary course of business as conducted during the Bankruptcy Case.

10. BUYER EFFORTS.

(a) BUYER, on behalf of itself and its affiliates, covenants and agrees to exercise due diligence, good faith, and its best, immediate, and bona fide efforts to take, or cause to be taken, all actions, and to do, or cause to be done, and to assist and cooperate with SELLERS in doing, all things necessary, proper or advisable to consummate and make effective, in the most expeditious manner practicable, the transactions contemplated hereby, including using best efforts to (i) cause the conditions of BUYER set forth in Section 5(a) to be satisfied as soon as possible after the date hereof, (ii) obtain all necessary consents and approvals of any governmental authority or third party and the making of all necessary registrations, declarations and filings with any governmental authority or third party as soon as possible after the date hereof, (iii) defend any actions, suits or proceedings challenging this Agreement or the transactions contemplated hereby, including seeking to have any stay or temporary restraining order entered by any court or other governmental authority vacated or reversed as soon as possible after entry thereof, (iv) execute or deliver any additional instruments necessary to consummate the transactions contemplated hereby and to fully carry out the intents and purposes of this Agreement as soon as possible after the date hereof, (v) take such actions as are reasonably requested by SELLERS to obtain entry of the Sale Order, including furnishing affidavits or other documents or information for filing with the Bankruptcy Court, and (vi) obtain the Franchise Approval as soon as possible after the date hereof.

(b) BUYER and its affiliates (i) shall promptly inform SELLERS of any communication from any governmental authority concerning this Agreement, the transactions contemplated hereby, and any filing, notification or request for approval and (ii) shall permit SELLERS to review in advance any proposed written or material oral communication or information submitted to any such governmental authority in response thereto and shall discuss and attempt to reasonably account for any comments or suggestions of SELLERS. In addition, BUYER and its affiliates shall not 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 contemplated hereby, unless BUYER consults with SELLERS in advance and, to the extent not prohibited by any such governmental authority, gives SELLERS the opportunity to attend and participate thereat, in each case to the maximum extent practicable. Subject to any restrictions under applicable laws, rules or regulations, Buyer and its affiliates shall furnish SELLERS 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 contemplated hereby or any such filing, notification or request for approval. In carrying out its obligations under this Section 10(b), subject to applicable law, BUYER and its affiliates shall not submit or otherwise provide any information to such governmental authority without first having provided a reasonable opportunity to SELLERS and their counsel to comment upon such information.

(c) Neither Buyer nor any of its affiliates shall enter into any agreement that would have the effect of delaying the consummation of any action contemplated by this Agreement

without the written consent of SELLERS. Neither Buyer nor any of its affiliates shall take any action or acquire any assets or securities of any other person or entity or agree to acquire assets or securities of any other person or entity if such action, acquisition or agreement would reasonably be expected to impair Buyer's ability to consummate the transactions contemplated hereby. BUYER and its affiliates shall offer and consent to, and thereafter implement, any of the following measures if doing so is necessary to enable the parties to avoid, resolve, or lift an order, action, suit or proceeding or to obtain any approval of a governmental authority to consummate the transactions contemplated by this Agreement: (i) make any payment to any governmental authority as required by applicable law or the terms of any governmental grant, authorization or permit, (ii) sell, license, assign, transfer, divest, hold separate or otherwise dispose of any assets, business or portion of business of BUYER, its affiliates, or any of the Purchased Assets, (iii) conduct, restrict, operate, invest or otherwise change the assets, business or portion of business of BUYER, its affiliates, or any of the Purchased Assets, or (iv) impose any restriction, requirement or limitation on the operation of the business or portion of the business of BUYER, its affiliates or any of the Purchased Assets.

(d) SELLERS shall cooperate with BUYER in connection with the Franchise Approval, provided, however, that nothing herein contained shall obligate any SELLER to participate in any action, suit, litigation or proceeding or arbitration relating to same. SELLERS shall promptly dispatch notification of this Agreement to [JLRNA, FMC and Maserati] in accordance with the applicable provisions of the New York Motor Vehicle Dealers Franchise Act (the "Act"), and BUYER shall promptly submit to [JLRNA, FMC and Maserati] all information and take all actions required by the Act and such franchisors to obtain all approvals required to consummate the transactions contemplated by this Agreement. BUYER covenants and agrees to cooperate with [JLRNA, FMC and Maserati] with respect to the Franchise Approval, and further covenants and agrees that the franchise applications have been completed and filed on or prior to the date hereof.

11. ADEQUATE ASSURANCE OF FUTURE PERFORMANCE. BUYER acknowledges that BUYER must provide adequate assurance of future performance under the Purchased Contracts to be assigned by SELLERS to BUYER at the Closing. BUYER agrees that it will promptly take such actions as are reasonably requested by SELLERS to assist in obtaining the entry of the Sale Order and a finding by the Bankruptcy Court of adequate assurance of future performance by BUYER.

12. EMPLOYEE MATTERS.

(a) Prior to the Closing, BUYER shall provide substantially all employees of SELLERS (other than those employees of SELLERS set forth on Exhibit "H" attached hereto) an offer of employment on terms which are substantially similar to the terms such employees were subject prior to the date hereof. All unused vacation and paid time off and accrued and unpaid

compensation, bonuses and other benefits of such SELLERS' employees shall, effective as of the Closing Date, be transferred to and assumed by BUYER.

(b) Nothing in this Section 12 shall confer any rights or benefits on any person other than the parties to this Agreement.

13. ACCOUNTS RECEIVABLE OF SELLERS. SELLERS' accounts receivable, including, without limitation, manufacturer incentives, factory receivables, shall remain the sole property of SELLERS. BUYER agrees to accept payment on account of such accounts receivable if and to the extent tendered to BUYER and to remit promptly said payments to SELLERS and to cooperate with SELLERS in the collection of said accounts receivable.

14. WORK IN PROCESS. BUYER shall reimburse SELLERS on the Closing Date for SELLERS' costs of completed labor and parts installed, and materials used, or in process of installation on any uncompleted repair orders in process on the Closing Date. Said uncompleted repair orders shall become the property of BUYER. BUYER shall complete such repair work and shall be entitled to collect the entire proceeds covering such repair work from the customers of SELLERS, and shall indemnify and hold SELLERS harmless from any and all claims in connection with same for post-closing work (including reasonable attorneys' fees and costs).

15. OUTSTANDING SALES CONTRACTS AND ORDERS. The parties understand that there may be, on the date of closing, outstanding sales contracts and/or orders ("Contracts and/or Orders") between SELLERS and third-party purchasers for the sale or lease of motor vehicles. BUYER covenants and agrees to perform the Contracts and/or Orders in place and instead of SELLERS, and to indemnify and hold SELLERS harmless in respect to same (including reasonable attorneys' fees and costs). In consideration of the foregoing, SELLERS shall receive from BUYER a sum equal to fifty (50%) percent of the gross profit thereon as and when each such Contract and/or Order is fully consummated (to be paid within five (5) business days of consummation of each subject sale), less any deposit monies received by SELLERS in respect to said Contract and/or Order. The term "gross profit", as used herein, shall mean sales price received plus any manufacturer incentives, less (i) dealer cost (including flooring and preparation cost) and (ii) actual and customary sales commissions to be paid on such Contracts and/or Orders. BUYER covenants and agrees to satisfy said commission when a Contract and/or Order is consummated.

16. ASSUMED DEALER OBLIGATIONS. Any and all payments, charges, administrative claims and/or other cure costs with respect to any Assumed Dealer Obligations, and any fees or costs associated with the actual assignment which are asserted by the lienholder, lessor, or owner (i.e., preparation of documents, transfer fees), shall be paid by BUYER. BUYER shall indemnify and hold the SELLERS harmless from any and all loss, liability, damage or expense (including attorneys' fees and costs of litigation) resulting from the BUYER's failure to perform any act or fulfill any obligation under any of said Assumed Dealer Obligations. [BUYER's responsibilities under this paragraph include, but are not limited to, purchasing any of the Assumed Dealer Obligations if the lessor or obligee refuses to an assumption of same.]⁵ To the extent

⁵ Note to Sellers: Please clarify what this refers to.

property must be delivered or returned to any third party as a result of the assumption, transfer, or termination of any of the Assumed Dealer Obligations, the BUYER agrees to cooperate in and effect such return.

17. BUYER REIMBURSEMENTS. BUYER shall reimburse SELLER at Closing for (a) any and all dealer preparation costs and dealer-installed parts and accessories with respect to each new, never registered unused motor vehicle to be purchased by BUYER hereunder; and (b) any and all "special" tools and equipment which SELLERS must purchase from [JLRNA, FMC and/or Maserati] from and after the date hereof through to the date of Closing.

18. RISK OF LOSS. Risk of loss and/or damage to the Premises and the subject matter of this Agreement by casualty and liability for personal injury, property and leasehold improvement damage shall be borne by BUYER; provided that at the Closing SELLERS shall provide BUYER with any insurance proceeds actually received by SELLERS with respect to any loss and/or damage to the Purchased Assets less any costs, expenses and liabilities incurred by SELLERS in connection with recovering such insurance proceeds.

19. ACCESS TO INFORMATION. From the date hereof through the Closing Date, if BUYER is the Successful Bidder or Back-Up Bidder, BUYER will be entitled, through its representatives, to make such investigation of the Purchased Assets and the Assumed Liabilities as it reasonably requests. Any such investigation and examination will be conducted upon reasonable advance notice during normal business hours and under reasonable circumstances and will be subject to restrictions under applicable Law. Notwithstanding anything herein to the contrary, no such investigation or examination will be permitted to the extent that it would require SELLERS to disclose information that would cause material competitive harm to a SELLER or would violate any contract or attorney-client privilege.

20. NOTICES. Any notice, communication, request, reply or advice or other notice pertaining to this Agreement to be given, made or accepted by either party to the other must be in writing and shall be given or be served only by dispatching the same by Federal Express (or any other established overnight delivery service), or by electronic mail or facsimile, and such notice so dispatched shall become effective on the date of receipt, or by United States certified mail and addressed to the party to be notified, with return receipt requested, and receipted by the postal authority, and such notice so dispatched shall be effective five (5) days after the date it is dispatched. For purposes thereof, the addresses of the parties hereto are as follows:

If to SELLERS:

BICOM NY, LLC
BAY RIDGE AUTOMOTIVE COMPANY, LLC
ISCOM NY, LLC
787 11th Avenue
New York, NY 10019
Attention: Steven Agran
Email: sagran@carlmarks.com

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

JOSEPH S. ABOYOUN, ESQ.
ABOYOUN & HELLER, L.L.C. ("A&H")
77 Bloomfield Avenue (Route 46 West)
Pine Brook, New Jersey 07058
Email: jaboyoun@aboylelaw.com

If to BUYER:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
Email: [REDACTED]

21. BINDING EFFECT; THIRD PARTY BENEFICIARIES. All of the terms, covenants and conditions herein contained shall be for and shall inure to the benefit of and shall bind the respective parties hereto and their successors and assigns respectively. This Agreement may not be amended, assigned, waived or terminated by SELLERS without the prior written consent of JPM. JPM and its affiliates are intended third party beneficiaries of this Agreement with respect to the enforcement of the preceding sentence.

22. NO SURVIVAL OF SELLERS' REPRESENTATIONS; ABSENCE OF CERTAIN REPRESENTATIONS; "AS IS, WHERE IS".

(a) Notwithstanding anything to the contrary in this Agreement, none of the representations and/or warranties of SELLERS shall survive the Closing or termination of this Agreement.

(b) SELLERS makes no representations as to: (i) values, gross profits, expenses or net profits; or (ii) the value or condition of the assets being transferred. EXCEPT AS SET FORTH IN THIS AGREEMENT, SELLERS HEREBY DISCLAIM ALL LIABILITY AND RESPONSIBILITY FOR ANY REPRESENTATION, WARRANTY, PROJECTION, FORECAST, STATEMENT, OR INFORMATION MADE, COMMUNICATED, OR FURNISHED (ORALLY OR IN WRITING) TO BUYER OR ITS AFFILIATES OR REPRESENTATIVES (INCLUDING ANY OPINION, INFORMATION, PROJECTION, OR ADVICE THAT MAY HAVE BEEN OR MAY BE PROVIDED TO BUYER BY ANY DIRECTOR, OFFICER, MANAGER, EMPLOYEE, AGENT, CONSULTANT, OR REPRESENTATIVE OF SELLERS OR ANY OF THEIR AFFILIATES). SELLERS MAKE NO REPRESENTATIONS OR WARRANTIES TO BUYER REGARDING THE PROBABLE SUCCESS, PROFITABILITY OR VALUE OF ANY OF THE ACQUIRED ASSETS.

(b) BUYER acknowledges that in entering into this Agreement, BUYER is relying solely on its own business judgment and accepts the Purchased Assets, Assumed Liabilities and the Business on an "as is, where is" basis.

23. NO BUYER BROKER. BUYER warrants and represents to SELLERS that no agent or broker has been involved in this transaction or shown the BUYER the Premises or called the Premises to the BUYER's attention. BUYER hereby indemnifies and holds harmless SELLERS against all liability with respect to any agent or real estate and/or business broker, whether or not licensed, in connection with the transactions contemplated by this Agreement, together with all reasonable legal expenses and costs of SELLERS necessitated in connection therewith.

24. INDEPENDENT COUNSEL. BUYER is expressly advised to obtain independent counsel and advice with respect to the subject matter of this Agreement, and has been afforded an ample period of time to do so. In this regard, BUYER represents that it has retained the services of [REDACTED] in connection herewith. BUYER further confirms that it has not relied, directly or indirectly, upon any communication, advice, or consultation with counsel to SELLERS or JPM but, in fact, has relied solely and exclusively upon its independent judgment and upon the advice of the independent counsel employed by it.

25. MISCELLANEOUS PROVISIONS.

(a) Tax Returns and Transfer Taxes. BUYER shall prepare and file all necessary tax returns or other documents with respect to, and pay, all Transfer Taxes. In the event any such tax return requires execution by SELLERS, BUYER shall prepare and deliver to SELLERS for their review, comment and approval, which approval shall not be unreasonably withheld, a copy of such tax return at least twenty (20) business days before the due date thereof, and upon SELLERS' approval thereof, SELLERS shall promptly execute such tax return and deliver it to BUYER, which shall cause it to be filed. In the event any tax authority shall appraise the Purchased Assets at an amount in excess of the allocation herein made thereon, BUYER agrees to pay the Transfer Taxes on the amount of said excess, upon three (3) days' written notice for such payment, which notice shall be sent to SELLERS by certified mail, return receipt requested, after BUYER has either waived or exhausted its remedies to contest said assessment.

(b) Tax Cooperation. BUYER and SELLERS agree to furnish or cause to be furnished to each other, upon reasonable request, as promptly as practicable, such information and assistance relating to the Business and the Purchased Assets (including access to documents) as is reasonably necessary for the filing of all tax returns, the making of any election relating to taxes, the preparation for any audit by any governmental authority and the prosecution or defense of any claims, suit or proceeding relating to any tax; provided, however, that neither BUYER nor any SELLER shall be required to disclose the contents of its income tax returns to any person or entity. Any expenses incurred in furnishing such information or assistance pursuant to this Section 25(b) shall be borne by the Party requesting it.

(c) Waiver of Bulk Sales Laws. Notwithstanding any other provisions in this Agreement, BUYER and SELLERS hereby waive compliance with all "bulk sales," "bulk transfer" and similar laws that may be applicable with respect to the sale and transfer of any or all of the Purchased Assets to BUYER. BUYER shall not make or permit its affiliates to make any tax-related elections with respect to the Purchased Assets (including any election under Section 338 of the

Code) that could have an adverse impact on SELLERS without the advance written consent of SELLERS.

(d) SELLERS Service Records. SELLERS shall permit their service records to remain with BUYER. BUYER will safeguard such records and permit SELLERS access thereto during normal business hours. SELLERS shall be permitted to remove said records in the event of a manufacturer, state or federal audit or litigation, if such information is reasonably necessary to wind up SELLERS' business affairs, or to pursue, investigate or defend any suit, claim, investigation or proceeding, or to comply with any applicable law, or for any other reasonable business purpose.

(e) Governing Law; Jurisdiction; WAIVER OF JURY TRIAL. Except to the extent of the mandatory provisions of the Bankruptcy Code, this Agreement shall be construed in accordance with the laws of the State of New York 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. Without limiting 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, other than disputes referenced in the dispute resolution procedure set forth in Sections 3(b)-(d), and (ii) any and all claims related to the foregoing shall be filed and maintained only in the 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 proceeding. The parties consent to service of process by mail in accordance with Section 20 or any other manner permitted by law. **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 SELLERS OR BUYER OR THEIR RESPECTIVE REPRESENTATIVES IN THE NEGOTIATION OR PERFORMANCE HEREOF.**

(f) Entire Agreement; Amendment. This Agreement and the exhibits and schedules annexed hereto are intended by the parties as a final expression of their understanding and/or a complete and exclusive statement of the terms and conditions thereof. Notwithstanding that SELLERS may not execute this Agreement unless and until the Sale Order is entered by the Bankruptcy Court, this Agreement (and all terms and conditions set forth herein) shall be binding upon and irrevocable by BUYER from and after the date hereof, including with respect to all obligations under this Agreement required to be performed by BUYER prior to the entry of the Sale Order. This Agreement may only be modified in a writing executed by the parties hereto. For the avoidance of doubt, the parties acknowledge and agree, that in the event that BUYER submits a Subsequent Bid at the Auction (each as defined in the sale procedures order in the Bankruptcy Case, then SELLERS shall be permitted to amend this Agreement (including the Purchase Price) to reflect such Subsequent Bid.

(g) Counterparts. This Agreement may be executed in more than one counterpart via email or facsimile, each copy of which shall serve as an original for all purposes, but all copies shall constitute but one and the same Agreement.

(h) Headings. The "headings" contained in this Agreement are for the purposes of expediency and are not intended to otherwise bind the parties or interpret the content of the paragraph language they precede.

(i) Interpretation. As used herein, the masculine shall include the feminine; the singular shall include the plural; the neuter shall include the masculine and feminine; and vice versa.

(j) Joint Negotiation and Drafting. The parties have jointly participated in the negotiation and drafting this Agreement. In the event of an ambiguity or question of intent or interpretation arises, this Agreement shall be construed as if drafted jointly by the parties and no presumptions or burdens of proof shall arise favoring any party by virtue of the authorship of any of the provisions of this Agreement. Any reference to any federal, state, local, or foreign statute or law shall be deemed also to refer to all rules and regulations promulgated thereunder, unless the context requires otherwise.

(k) Calculation of Days. In the event that any day or date specified herein falls on a day other than a business day, such day or date shall mean the next succeeding business day, which for purposes of this Agreement means a day on which banks are required to be open for business in the State of New York.

(l) Buyer Release. Notwithstanding anything to the contrary contained herein, effective upon the Closing, BUYER and its affiliates hereby releases and forever discharges each SELLER and each of its affiliates and their respective successors and assigns and all officers, directors, partners, members, shareholders, employees, agents of each of them from any and all actual or potential claims, causes of action, proceedings, liabilities, damages, expenses and/or losses of whatever kind or nature (including attorneys' fees and costs), in law or equity, known or unknown, suspected or unsuspected, now existing or hereafter arising, whether contractual, in tort or otherwise, which BUYER and its affiliates had, have, or may have in the future relating in any way to the Purchased Assets or the Assumed Liabilities; provided that nothing in this Agreement shall be construed to release SELLERS from any of its contractual obligations under this Agreement.

(m) Public Announcements. The initial press release relating to this Agreement shall be a joint press release, the text of which shall be agreed to by BUYER, on the one hand, and SELLERS, on the other hand. BUYER, on the one hand, and SELLERS, on the other hand, shall consult with each other before issuing any other press release or otherwise making any public statement with respect to this Agreement, the transactions contemplated hereby 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); provided that the foregoing shall not prohibit SELLERS from making any motion or filing in the Bankruptcy Case.

(n) Confidentiality. BUYER acknowledges that [Evaluation Material] (as defined in the [Confidentiality Agreement]) has been, and in the future will be, provided to BUYER in

connection with this Agreement, and that such information is subject to the terms of the [Confidentiality Agreement, dated _____, 2017 between SELLERS and BUYER] (the “Confidentiality Agreement”), the terms of which are incorporated herein by reference. BUYER acknowledges and understands that this Agreement may be publicly filed in the Bankruptcy Court and that such disclosure will not be deemed to violate any confidentiality obligations owing to BUYER, whether pursuant to this Agreement, the Confidentiality Agreement or otherwise.

(o) 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 applicable law, (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.

(p) 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 and JPM (which consent may be granted or withheld in the sole discretion of such other party and JPM).

(q) 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 entity 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 entities or circumstances shall not be affected by such invalidity or unenforceability.

(r) Expenses. Whether or not the transactions contemplated by this Agreement 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 contemplated hereby (except as otherwise specified herein).

(s) Specific Performance. The parties acknowledge and agree that (a) irreparable injury, for which monetary damages, even if available, would not be an adequate remedy, will occur in the event that any of the provisions of this Agreement are not performed in accordance with the specific terms hereof or are otherwise breached by BUYER, and (b) SELLERS shall therefore be entitled, in addition to any other remedies that may be available, to obtain (without the posting of any bond) specific performance of the terms of this Agreement against BUYER. If any action, suit

or proceeding is brought by SELLERS to enforce this Agreement against BUYER, BUYER shall waive the defense that there is an adequate remedy at law.

[SIGNATURE PAGES FOLLOW]

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

SELLERS:

BICOM NY, LLC

By: _____
Name:
Title:

BAY RIDGE AUTOMOTIVE COMPANY, LLC

By: _____
Name:
Title:

ISCOM, LLC

By: _____
Name:
Title:

BUYER:

[REDACTED]

By: _____
Name:
Title:

EXHIBIT "A"

SCHEDULE OF OPERATING ASSETS

[TO BE INSERTED]

EXHIBIT "B"

SCHEDULE OF MOTOR VEHICLE INVENTORY

[TO BE INSERTED]

EXHIBIT "C"

SCHEDULE OF PURCHASED CONTRACTS

[TO BE INSERTED]

EXHIBIT "D"

ASSUMED DEALER OBLIGATIONS

[TO BE INSERTED]

EXHIBIT "E"

VALUATION OF OPERATING ASSETS AND MOTOR VEHICLE INVENTORY

[TO BE INSERTED]

EXHIBIT "F"

Form of Assignment and Assumption Agreement

[TO BE INSERTED]

EXHIBIT "G"

Form of Bill of Sale

[TO BE INSERTED]

EXHIBIT "H"

SPECIFIED SELLER EMPLOYEES

[TO BE INSERTED]

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

----- X
 In re: :
 : Chapter 11
 BICOM NY, LLC, *et al.*,¹ :
 : Case No. 17-11906(MEW)
 Debtors. :
 : (Jointly Administered)
 ----- X

**DECLARATION OF ERIC J. SNYDER PURSUANT TO LOCAL BANKRUPTCY RULE
 9077-1(a) AND IN SUPPORT OF DEBTORS’ MOTION FOR, *INTER ALIA*: (I) AN
 ORDER (A) SCHEDULING A SALE AND AUCTION OF CERTAIN ASSETS OF THE
 DEBTOR; (B) APPROVING BIDDING PROCEDURES; AND (C) APPROVING FORM
 AND MANNER OF NOTICE; AND (II) A SECOND ORDER APPROVING (A) THE
 SALE OF SAID ASSETS PURSUANT TO SECTION 363 OF THE BANKRUPTCY
 CODE AND (B) THE ASSUMPTION OF ASSUMED CONTRACTS PURSUANT TO
SECTION 365 OF THE BANKRUPTCY CODE**

I, Eric J. Snyder, hereby declare under penalty of perjury pursuant to 28 U.S.C. § 1746
 that the foregoing is true and correct to the best of my knowledge, information, and belief:

1. I am a partner with Wilk Auslander, LLP, proposed counsel for BICOM NY, LLC
 d/b/a Jaguar Land Rover Manhattan (“BICOM”), ISCOM NY, LLC d/b/a Maserati of Manhattan
 (“ISCOM”), and Bay Ridge Automotive Company, LLC d/b/a Bay Ridge Ford (“BRAC”), the
 above-captioned Chapter 11 debtors (collectively, the “Debtors”). I submit this declaration in
 support of the Debtors’ motion (the “Sale Motion”) pursuant to sections 105(a), 363, and 365 of
 title 11, United States Code (the “Bankruptcy Code”), seeking the entry of: (I) an Order (the
 “Sale Procedures Order”), (A) scheduling a sale date for the sale of substantially all of the
 Debtors’ tangible and intangible assets (the “Assets”) in one or more lots, which are presently
 encumbered by liens securing the Debtors’ obligations under a DIP Credit Agreement, dated July

¹ The last four digits of each Debtor’s taxpayer identification number are as follows: BICOM NY, LLC (9990);
 ISCOM NY, LLC (1589); and Bay Ridge Automotive Company, LLC (0694). The Debtors’ addresses are 787 11th
 Avenue, New York, NY 10019; 1 York Street, New York, NY 10013; and 612 86th Street, Brooklyn, NY 11228,
 respectively.

14, 2017, as well as other pre-petition loan facilities described below, between the Debtors and JPMorgan Chase Bank, N.A. (“Chase”), (B) approving bidding procedures and protections in connection therewith; and (C) approving the form and manner of notice (the “Bid Procedures Notice”) pursuant to Federal Rule of Bankruptcy Procedure 2002; (II) a second Order (the “Sale Order”) approving (A) the sale of the Assets to the holder or holders of the highest or otherwise best bid for the Assets, free and clear of any and all liens, claims, encumbrances and other interests (with such liens, claims and encumbrances to attach to the proceeds of such sale); and (B) the assumption and assignment of certain contracts (the “Assumed Contracts”).

2. I also submit this declaration pursuant to Rule 9077-1(a) of the Local Bankruptcy Rules for the Southern District of New York to provide the reasons why the Court should hear and decide the Motion on an expedited basis.

BACKGROUND

3. On July 10, 2017 (the “Petition Date”), the Debtors filed voluntary petitions for reorganization pursuant to Chapter 11 of the Bankruptcy Code and are authorized to continue to operate their businesses and manage their properties as debtors in possession, pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.

4. No trustee or examiner has been appointed in this case. There are no pending motions for the appointment of a committee.

5. BICOM, a New York limited liability company, owns and operates a “dual” Jaguar/Land Rover vehicle franchise (the “J/LR Dealership”), pursuant to franchise agreements (the “J/LR Franchise Agreements”) by and between BICOM and Jaguar Land Rover North America, LLC (“J/LR”), the manufacturer. The J/LR Dealership, as of the Petition Date, is located at 787 Eleventh Avenue, New York, New York (“J/LR Facility”) and operates under the

names “Land Rover Manhattan”, “Jaguar Manhattan”, and “Jaguar Land Rover Manhattan” pursuant to a lease (the “Georgetown Lease”) with Georgetown Eleventh Avenue Owners, LLC (“Georgetown”).

6. From the J/LR Facility, the J/LR Dealership sells new and used vehicles and operates its parts and service department. In addition, BICOM leases vehicle storage facilities located at 77 Metro Way, Secaucus, New Jersey. The sole member of BICOM is BNF Partners NY, LLC (“BNF Partners”). The members of BNF Partners are Alexander Boyko (“Boyko”), Venjamin Nilva (“Nilva”), and Gary Flom.

7. On June 28, 2017, BICOM received a notice of termination from J/LR of the J/LR Franchise Agreements, effective July 14, 2017. On June 30, 2017, BICOM received a notice of termination of the lease from Georgetown, effective July 11, 2017 (the “J/LR Facility Lease”).

8. ISCOM, a New York limited liability company, owns and operates a Maserati vehicle franchise (the “Maserati Dealership”), pursuant to a franchise agreement (the “Maserati Franchise Agreement”) by and between ISCOM and Maserati North America, Inc. (“Maserati”), the manufacturer. The Maserati Dealership, as of the Petition Date, is located at 1 York Street, New York, New York (“Maserati Facility”) and operates under the name “Maserati of Manhattan”. From the Maserati Facility, the Maserati Dealership sells new and used vehicles. The Maserati Dealership operates its parts and service department from the J/LR Facility and stores vehicles at the NJ Storage Facility. The sole member of ISCOM is BNF Partners.

9. BRAC, a New York limited liability company, owns and operates a Ford vehicle franchise (the “Ford Dealership”, with the J/LR Dealership and the Maserati Dealership, the “Dealerships”), pursuant to a franchise agreement (the “Ford Franchise Agreement” with the J/LR Franchise Agreements and the Maserati Franchise Agreement, the “Franchise

Agreements”) by and between BRAC and Ford Motor Company (“Ford”, with J/LR and Maserati, the “Manufacturers”), the manufacturer. As of the Petition Date, the Ford Dealership, which operates under the name “Bay Ridge Ford”, is located at 612 86th Street, Brooklyn, New York where it sells new vehicles (the “Main Ford Facility”). The Ford Dealership maintains its service department at a facility located at 152 58th Street, Brooklyn, New York and sells pre-owned vehicles at a facility located at 636-640 86th Street, Brooklyn, New York. Messrs. Boyko, Nilva and Flom are the members of BRAC.

10. As of December 11, 2015, the Debtors and Chase entered into, among other agreements, a line of credit, in the original principal amount of \$82,000,000 and related agreements (collectively, the “Floorplan Agreement”), pursuant to which the Debtors requested that Chase finance the purchase by the Debtors of new and used vehicles from manufacturers and distributors (“Advances”).

11. In 2016 and 2017, due to a series of defaults by the Debtors under the Floorplan Agreement, the Debtors and Chase entered into a series of forbearance agreements and other modifications to their relationship under the Floorplan Agreement. In one of these modifications, in an effort to fund the Debtors’ efforts to restructure their affairs, Chase agreed to enter into a working capital agreement with the Debtors for a maximum amount up to \$5,000,000 (the “Working Capital Loan”).

12. On May 4, 2017, Chase notified the Debtor that it: a) would no longer make Advances; b) declared immediately due and payable the sums owed under the Floorplan Agreement, equal to approximately \$57 million; and c) declared immediately due and payable the sum owed under the Working Capital Loan, equal to approximately \$2 million.

13. On May 9, 2017, Chase commenced an action in the Supreme Court for the State of New York, County of New York (the State Court Action”) seeking to: a) seize the vehicles, parts and all of Chase’s collateral (the “Collateral”) owned by the Dealerships; and b) restrain the Debtors from removing or selling any of the Collateral. On May 10, 2017, the Supreme Court entered a Temporary Restraining Order (“TRO”) prohibiting the Debtors from selling or transferring any of the Collateral.

14. For the reasons set forth in the State Court Action, Chase informed the Debtors that: a) it would not finance the sales of any vehicles owned by the Debtors; and b) would not finance the purchase of any new vehicles.

15. Subsequent to May 9, 2017, the Debtors began soliciting offers for the Dealerships. Their efforts ran a parallel track: the Debtors through their principals, contacted other J/LR, Maserati and Ford dealers to gauge their level of interest in the Dealerships. At the same time, the Debtors’ transaction counsel, Aboyoun & Heller (“A&H”), reached out to its substantial client base of foreign “high-line” (*i.e.*, Mercedes-Benz, Audi, Lexus, Porsche, Ferrari) dealers in the tri-state area. A&H is one of the leading vehicle franchise transaction counsel in the Northeast, with hundreds of clients, a substantial number of which operate “high-line” dealerships.

16. As a result of the efforts of the Debtors and A&H, approximately ten non-disclosure agreements were executed and the Debtors had meetings with at least six additional entities interested in purchasing same or all of the Assets.

17. In addition, during the month of June, the Debtors entered into advanced discussions with one dealer who demonstrated an interest in not only purchasing the J/LR Dealership but providing DIP financing.

18. On June 15, 2017, after weeks of negotiation, the Debtors and Chase entered into a Forbearance Agreement, dated as of June 1, 2017, allowing the Debtors to operate, under certain conditions, until July 17, 2017, if they could secure an agreement (“APA”) to sell the Dealerships and provide the APA to Chase by June 23, 2017 (the “APA Date”). Upon default under the Forbearance Agreement, Chase has the authority to seize the Collateral on two business days’ notice.

19. However, the Debtors lacked both sufficient liquid assets and the ability to generate sufficient revenue from their operations to satisfy the costs of operating the Dealerships in order to consummate the sale of the Assets as contemplated herein. Therefore, in order to address the imminent termination of the J/LR Franchise Agreements and J/LR Facility Lease, the Debtors sought Chapter 11 relief on the Petition Date.

20. On or about the Petition Date, Georgetown drew down on the \$6 million letter of credit posted for its benefit by Chase to secure rent under the Georgetown Lease.

21. According to the Debtors’ Bankruptcy Schedules there are approximately \$7 million in priority claims that will be required to be satisfied before distributions can be made to general unsecured creditors: a) approximately 220 current and former employees of the Debtors are owed approximately \$1 million in unpaid wages earned prior to the Petition Date; and b) the Debtors owe approximately \$6 million in unpaid sales tax to the New York State Department of Taxation and Finance.

22. As a result of the Debtors’ inability to satisfy expenses subsequent to the Petition Date, the Debtors entered into debtor-in-possession financing (the “DIP Financing Facility”) with Chase on July 15, 2017. Under the post-petition loan with Chase, Chase will only finance the Debtors’ operations through September 29, 2017 (the “Loan Termination Date”). As of the

Loan Termination Date, it is projected that the Debtors will owe Chase: a) \$2.5 million under the DIP Financing Facility; b) \$2.3 million with respect to vehicles sold that remained unpaid prior to the Petition Date; c) \$2 million on account of the Working Capital Loan; d) \$6.43 million on account of letters of credit posted by Chase on behalf of the Debtors for the benefit of third-party landlords that have been drawn upon; and e) \$47 million secured by the Debtors' vehicle inventory, totaling approximately \$60 million.

23. Subsequent to the Petition Date, the Debtors also entered into a Stipulation (the "Georgetown Stipulation") with Georgetown wherein Georgetown agreed to defer rent obligations under the J/LR Facility Lease through September 30, 2017. A hearing to approve the Georgetown Stipulation is scheduled to be heard on July 28, 2017.

24. On the Petition Date, the Debtors also retained Carl Marks Advisory Group ("CMAG") to both assist in the Debtors' operations and in the solicitation of interested parties to purchase the Assets.

NEED FOR SHORTENED NOTICE

25. Since the DIP Financing Facility and Georgetown Stipulation are only effective through the end of September, the Debtors are required to take all steps necessary to sell the Assets as expeditiously as possible. The first step in the sale process requires the Debtors to seek authority to approve the bidding procedures set forth in the Sale Motion in order to conduct an auction of the Assets.

26. Therefore, the Debtors seek to shorten the time period for the Court to hear the Sale Motion to allow for the appropriate milestones (bid deadlines (September 8), an auction (September 14), and a hearing to confirm any Asset sale, September 15) to occur during the first half of September. With this time line, the Debtors believe there is a chance the sale of the Assets

can be consummated consistent with the time constrains dictated by the constraints set forth by Chase and Georgetown.

27. If the Sale Motion were heard on regular notice, there would be insufficient time to market the Assets, conduct an auction and potentially consummate the sale of the Assets within this time period.

28. Accordingly, the Debtors respectfully request that the Court schedule for August 8, 2017 a hearing on the Sale Motion on shortened notice.

Executed on the 27th day of July 2017

/s/Eric J. Snyder
ERIC J. SNYDER