

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE**

In re:

HOBBICO, INC., *et al.*,<sup>1</sup>

Debtors.

Chapter 11

Case No. 18-10055 (KG)

Jointly Administered

**Re: D.I. 192, 243, 298, 306**

**ORDER (A) APPROVING THE SALE OF CERTAIN ASSETS OF THE DEBTORS  
PURSUANT TO SECTION 363 OF THE BANKRUPTCY CODE FREE AND CLEAR OF  
ALL LIENS, CLAIMS, INTERESTS, AND ENCUMBRANCES; (B) APPROVING THE  
ASSUMPTION AND ASSIGNMENT OF CERTAIN EXECUTORY CONTRACTS AND  
UNEXPIRED LEASES PURSUANT TO SECTION 365 OF THE BANKRUPTCY CODE;  
(C) AUTHORIZING THE DEBTORS TO CONSUMMATE TRANSACTION RELATED  
TO THE ABOVE; AND (D) GRANTING CERTAIN OTHER RELIEF**

Upon the motion (the “Motion”)<sup>2</sup> of the above-captioned debtors and debtors in possession (collectively, the “Debtors”) pursuant to sections 105(a), 363, and 365 of title 11 of the United States Code (the “Bankruptcy Code”) and Rules 2002, 6004, 6006, and 9014 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”) for entry of an order (this “Sale Order”) (a) approving the sale of the Acquired Assets to Estes Industries, LLC (“Buyer”) pursuant to the Asset Purchase Agreement dated as of March 23, 2018, as may have been subsequently amended, by and between Estes-Cox Corp. and Buyer (the “Asset Purchase Agreement”), (b) approving the assumption and assignment of certain executory contracts and unexpired leases pursuant to section 365 of the Bankruptcy Code, (c) authorizing the Debtors to consummate the sale transaction, and (d) granting other relief, all as more fully described in the

<sup>1</sup> The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, are as follows: Hobbico, Inc. (9545); Arrma Durango Limited; Axial R/C Inc. (0233); Estes-Cox Corp. (2196); Great Planes Model Manufacturing, Inc. (5259); Revell Inc. (8545); Tower Hobbies, Inc. (5185); and United Model, Inc. (5302). The Debtors’ headquarters are located at 2904 Research Road, Champaign, Illinois 61822.

<sup>2</sup> Capitalized terms not otherwise defined herein shall have the meanings ascribed to such terms in the Asset Purchase Agreement (as defined herein) or the Bidding Procedures Order (as defined herein), as applicable.

Motion; and the Court having entered on March 14, 2018, the *Order (A) Establishing Bidding Procedures for the Sale of All, or Substantially All, of the Debtors' Assets; (B) Approving Bid Protection Procedures; (C) Establishing Procedures Relating to the Assumption and Assignment of Executory Contracts and Unexpired Leases; (D) Approving Form and Manner of the Sale, Cure and Other Notices; and (E) Scheduling an Auction and a Hearing to Consider the Approval of the Sale* [Docket No. 243] (the "Bidding Procedures Order"); and the Debtors having determined that the highest and otherwise best offer for the Acquired Assets was made by Buyer; and the Court having conducted a hearing on April 2, 2018 (the "Sale Hearing"), at which time all parties in interest were offered an opportunity to be heard with respect to the proposed sale of the Acquired Assets, and the Court having considered: (i) the Motion and any objections thereto; (ii) the proposed sale of the Acquired Assets by Sellers to Buyer pursuant to the Asset Purchase Agreement (the "Sale"); (iii) the arguments of counsel made, and evidence adduced, related thereto; and (iv) the full record in these Chapter 11 Cases, including the record related to the hearing to consider the Bidding Procedures Order and the Sale Hearing held before the Court; all parties in interest having been heard, or having had the opportunity to be heard, regarding the sale of the Acquired Assets and other related transactions; and it appearing that the relief requested in the Motion is in the best interests of the Debtors, their estates, their creditors, and other parties in interest; it is hereby

**FOUND, CONCLUDED, AND DETERMINED THAT:<sup>3</sup>**

A. The findings and conclusions set forth herein constitute this Court's findings of fact and conclusions of law pursuant to Bankruptcy Rule 7052, made applicable to these Chapter 11 Cases pursuant to Bankruptcy Rule 9014.

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<sup>3</sup> All findings of fact and conclusions of law announced by the Court at the Sale Hearing in relation to the Motion are hereby incorporated herein to the extent not inconsistent herewith.

B. To the extent that any of the following findings of fact constitute conclusions of law, they are adopted as such. To the extent any of the following conclusions of law constitute findings of fact, they are adopted as such.

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

D. This Sale Order constitutes a final order within the meaning of 28 U.S.C. § 158(a). Notwithstanding Bankruptcy Rules 6004(h) and 6006(d), and to any extent necessary under Bankruptcy Rule 9014 and rule 54(b) of the Federal Rules of Civil Procedure, as made applicable by Bankruptcy Rule 7054, this Court finds that time is of the essence in effectuating the Asset Purchase Agreement and that there is no just reason for delay in the implementation of this Sale Order. Accordingly, cause exists to modify the stay contemplated by Bankruptcy Rules 4001(a) and 6004(h) and permit the immediate effectiveness of this order, and the Court directs entry of judgment as set forth herein.

E. The Acquired Assets constitute property of Sellers' estates and title thereto is vested in Sellers' estates within the meaning of section 541(a) of the Bankruptcy Code.

F. The statutory bases for the relief requested in the Motion are sections 105(a), 363, and 365 of the Bankruptcy Code, Bankruptcy Rules 2002, 4001, 6004, 6006, and 9014 and Local Rule 4001-2.

G. On January 10, 2018 (the "Petition Date"), the Debtors other than Arrma Durango Limited each filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code in the

United States Bankruptcy Court for the District of Delaware (the “Court”) commencing these Chapter 11 Cases. On the Petition Date, the Debtors other than Arrma Durango Limited also jointly filed motions or applications seeking certain typical “first day” relief. Debtor Arrma Durango Limited filed its voluntary petition and similar motions for “first day” relief on January 26, 2018.

H. The Debtors are continuing in the management and operation of their businesses and properties as debtors in possession pursuant to Sections 1107 and 1108 of the Bankruptcy Code. No trustee or examiner has been appointed in these Cases.

I. On January 22, 2018, the Office of the United States Trustee (the “U.S. Trustee”) appointed an official committee of unsecured creditors in these Cases pursuant to Section 1102 of the Bankruptcy Code (the “Committee”).

J. This Court entered the Bidding Procedures Order on March 14, 2018: (1) establishing bidding and auction procedures for the sale of the Acquired Assets; (2) approving bid protection procedures; (3) establishing procedures relating to the assumption and assignment of executory contracts and unexpired leases; (4) approving the form and manner of the sale, cure and other notices; and (5) scheduling the Auction and the Sale Hearing to consider the sale of the Acquired Assets.

K. As evidenced by the affidavits of service and publication previously filed with the Court [Docket Nos. 196, 198, 237, 244, 251, 254, 255, 274, 294, 303 and 304], and based on the representations of counsel at the Sale Hearing, due, proper, timely, adequate, and sufficient notice of the Motion, the Sale Hearing, the Auction, the Sale, the Stalking Horse and Bid Protection Notice related to Buyer, the Stalking Horse and Bid Protections Objection Deadline related to Buyer, and the assumption and assignment of the executory contracts and unexpired

leases to be assumed and assigned at Closing pursuant to this Sale Order has been provided in accordance with sections 102(1), 363, and 365 of the Bankruptcy Code and Bankruptcy Rules 2002, 6004, 9007, and 9014 and in compliance with the Bidding Procedures Order, to each party entitled to such notice, including, as applicable: (a) all entities known to have expressed a *bona fide* interest in a transaction with respect to the Acquired Assets within the past two years; (b) all entities known to have asserted any lien, claim or encumbrance in or upon any of the Acquired Assets; (c) all federal, state and local environmental, regulatory or taxing authorities or recording offices which have a reasonably known interest in the relief requested by the Motion; (d) the U.S. Trustee; (e) counsel to Wells Fargo Bank, National Association, in its capacity as Prepetition Agent and Postpetition Agent (in such capacities, collectively, “Agents”) on behalf of the Prepetition Lenders and the Postpetition Lenders (collectively, the “Lenders”), respectively, and the other Secured Parties (as such terms are defined in the DIP Financing Order<sup>4</sup>); (f) the Internal Revenue Service; (g) the SEC; (h) the U.S. Attorney for the District of Delaware; and (i) all persons and entities that have filed a request for service of filings in these Chapter 11 Cases pursuant to Bankruptcy Rule 2002. With respect to entities whose identities are not reasonably ascertained by the Debtors, publication of the Sale Notice in *USA Today* and *The News-Gazette* on March 14, 2018, as evidenced by the affidavits of publication filed by the Debtors’ notice and claims agent on March 16, 2018, [Docket Nos. 254 and 255], was, and is deemed, sufficient, and reasonably calculated under the circumstances to reach such entities. The notices described above were good, sufficient, and appropriate under the circumstances, and provided a reasonable opportunity to object or be heard regarding the relief requested, and no

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<sup>4</sup> Order Authorizing Debtors To: (A) Use Cash Collateral On A Final Basis; (B) Incur Postpetition Debt On A Final Basis; and (C) Grant Adequate Protection And Provide Security And Other Relief To Wells Fargo Bank, National Association, As Agent, And The Other Secured Parties (Docket No. 162) (as amended, supplemented or modified from time to time in accordance with the terms thereof, the “DIP Financing Order”).

other or further notice of the Motion, the Auction, the Sale, the designation of Buyer as a stalking horse, and the Sale Hearing is, or shall be, required.

L. The Debtors and their professionals marketed the Acquired Assets and conducted the marketing and sale process in compliance with the Bidding Procedures and the Bidding Procedures Order. Based upon the record of these proceedings, creditors and other parties in interest and prospective purchasers were afforded a reasonable and fair opportunity to bid for the Acquired Assets.

M. At the conclusion of the Auction and after reviewing all Qualified Bids, the Debtors determined in a valid and sound exercise of their business judgment and in consultation with the Consultation Parties that the highest and best Qualified Bid for the Acquired Assets is represented by the terms contained in the Successful Bid(s) submitted by Buyer.

N. The Debtors have articulated good and sufficient reasons for this Court to grant the relief requested in the Motion regarding the sales process, including approval and authorization to serve the Sale Notice.

O. The Sale Notice provided all interested parties with timely and proper notice of the Sale, the Sale Hearing, and the Auction.

P. The disclosures made by the Debtors in the Motion, the Sale Notice, and related documents filed with the Court concerning the Auction, the Sale, the designation of Buyer as a stalking horse, and the Sale Hearing were good, complete and adequate.

Q. The Bidding Procedures set forth in the Bidding Procedures Order were non-collusive, proposed and executed in good faith as a result of arms'-length negotiations, and were substantively and procedurally fair to all parties.

R. The Debtors conducted the sale process in accordance with, and have otherwise complied in all respects with, the Bidding Procedures Order. The sale process set forth in the Bidding Procedures Order afforded a full, fair, and reasonable opportunity for any entity to make a higher and otherwise better offer to purchase the Acquired Assets.

S. The terms contained in the Asset Purchase Agreement constitute the highest and best offer for the Acquired Assets and will provide a greater recovery for Sellers' estate for the Acquired Assets than would be provided by any other available alternative. Sellers' determination that the Asset Purchase Agreement constitutes the highest and best offer for the Acquired Assets constitutes a valid and sound exercise of Sellers' business judgment.

T. The Asset Purchase Agreement and the Sale contemplated thereby represent a fair and reasonable offer to purchase the Acquired Assets under the circumstances of the Chapter 11 Cases. No other entity or group of entities has presented a higher and better offer to Sellers to purchase the Acquired Assets.

U. Approval of the Motion and the Asset Purchase Agreement and the consummation of the Sale contemplated thereby is in the best interests of the Debtors, their creditors and estates, and other parties in interest.

V. The Debtors have demonstrated compelling circumstances and a good, sufficient, and sound business purpose and justification for the Sale of the Acquired Assets because, among other reasons: (1) the Asset Purchase Agreement constitutes the highest and best offer for the Acquired Assets; (2) the Asset Purchase Agreement and the consummation thereof will present the best opportunity to realize the value of the Acquired Assets on a going-concern basis and avoid decline and devaluation of the Acquired Assets; and (3) any other transaction would not have yielded as favorable an economic result.

W. The Buyer is purchasing the Acquired Assets in good faith and is a good-faith buyer within the meaning of section 363(m) of the Bankruptcy Code and is not an “insider” of any Debtor (as defined under section 101(31) of the Bankruptcy Code), and, therefore, is entitled to the full protections of that provision, and otherwise has proceeded in good faith in all respects in connection with these Chapter 11 Cases in that: (1) the Buyer recognized that the Debtors were free to deal with any other party interested in acquiring the Acquired Assets; (2) the Buyer complied with the provisions in the Bidding Procedures Order; (3) the Buyer agreed to subject its bid to the competitive bidding procedures set forth in the Bidding Procedures Order; (4) all payments to be made by the Buyer and other agreements or arrangements entered into by the Buyer in connection with the Sale have been disclosed; (5) the Buyer has not violated section 363(n) of the Bankruptcy Code by any action or inaction; and (6) the negotiation and execution of the Asset Purchase Agreement, including the Sale contemplated thereby, was completed by the Sellers and Buyer in a diligent, noncollusive, fair, arms’ length, and good faith manner. Specifically, the Buyer has not acted in a collusive manner with any person, including any other potential buyer, or was controlled by any agreement among bidders. The Buyer’s prospective performance and payment of amounts owing under the Asset Purchase Agreement are in good faith and for valid business purposes and uses.

X. The Asset Purchase Agreement and the transactions contemplated thereby cannot be avoided under section 363(n) of the Bankruptcy Code. The Debtors and the Buyer have not engaged in any conduct that would cause or permit the Asset Purchase Agreement or the consummation of the transactions contemplated thereby to be avoided, or costs or damages to be imposed, under section 363(n) of the Bankruptcy Code.



Y. The consideration provided by the Buyer pursuant to the Asset Purchase Agreement: (1) was negotiated at arm's-length; (2) is fair and adequate and constitutes reasonably equivalent value and fair consideration for the Acquired Assets under the Bankruptcy Code and under the laws of the United States, any state, territory, possession, or the District of Columbia (including the Uniform Fraudulent Transfer Act, the Uniform Voidable Transactions Act, and the Uniform Fraudulent Conveyance Act); and (3) will provide a greater recovery for the Debtors' creditors than would be provided by any other reasonably practicable available alternative.

Z. The Asset Purchase Agreement, which constitutes reasonably equivalent value and fair consideration, was not entered into, and the Sale is not consummated, for the purpose of hindering, delaying or defrauding creditors of the Debtors under the Bankruptcy Code or under any other law of the United States, any state, territory, possession thereof, or the District of Columbia, or any other applicable law. Neither the Sellers, any Debtor nor the Buyer has entered into the Asset Purchase Agreement or is consummating the Sale with any fraudulent or otherwise improper purpose.

AA. By consummating the Sale, the Buyer is not a mere continuation of Sellers or any other Debtor or any Debtor's estate, and there is no continuity between the Buyer and any Debtor. The Buyer is not holding itself out to the public as a continuation of any Debtor. The Buyer is not a successor to any Debtor or any Debtor's estate by reason of any theory of law or equity, and the Sale does not amount to a consolidation, merger, or de facto merger of the Buyer and the Debtors. Except as provided in the Asset Purchase Agreement, neither the Buyer nor any of its Affiliates shall assume any obligation or liability of any Debtor and/or any Debtor's estate. Neither the disposition of the Acquired Assets pursuant to the Asset Purchase Agreement nor

entry into the Asset Purchase Agreement will subject the Buyer to any liability for claims, obligations, or Interests or Claims (as defined below) asserted against the Debtors or the Debtors' interests in such Acquired Assets by reason of such transfer under any laws, including without limitation any bulk-transfer laws or any theory of successor continuity or similar theories.

BB. The Sale neither impermissibly restructures the rights of the Debtors' creditors nor impermissibly dictates the terms of a liquidating plan of reorganization of the Debtors. The Sale does not constitute a *sub rosa* plan.

CC. The Debtors, acting by and through their existing agents, representatives, and officers, have full corporate power and authority to execute and deliver the Asset Purchase Agreement and all other documents contemplated thereby, and the Debtors require no further consents or approvals are required for the Debtors to consummate the Sale contemplated by the Asset Purchase Agreement, except as otherwise set forth in the Asset Purchase Agreement.

DD. The transfer of each of the Acquired Assets to the Buyer will be, subject to the consummation of the Closing, a legal, valid, and effective transfer of such assets, and vests or will vest the Buyer with all right, title, and interest of Sellers to the Acquired Assets free and clear of all Interests or Claims (as defined below) accruing, arising or relating thereto any time prior to the consummation of the Closing unless otherwise assumed pursuant to the Asset Purchase Agreement with such Interests or Claims to attach to the proceeds of the Sale of the Acquired Assets with the same validity and priority as such Interests or Claims applied against the Acquired Assets immediately prior to the consummation of the Closing, except as otherwise specifically provided Asset Purchase Agreement and consented to by the Agents.

EE. Sellers may sell the Acquired Assets pursuant to the Asset Purchase Agreement free and clear of all Interests or Claims against the Acquired Assets (unless otherwise assumed in the Asset Purchase Agreement) because, in each case, the standards set forth in section 363(f)(1)-(5) of the Bankruptcy Code has been satisfied. Those holders of Interests or Claims against the Acquired Assets who did not object, or who withdrew their objections, to the Sale or the Motion are deemed to have consented thereto pursuant to section 363(f)(2) of the Bankruptcy Code. Those holders of such Interests or Claims against the Acquired Assets who did object fall within one or more of the other subsections of section 363(f) and are adequately protected by having their Interests or Claims against the Acquired Assets, if any, in each instance against Sellers, their estates, or any of the Acquired Assets, attach to the proceeds of the Sale, in the same order of priority, with the same validity, force, and effect that such creditor had immediately prior to the Sale, subject to any claims and defenses that Sellers or any other Debtor may possess with respect thereto.

FF. If the Sale were not free and clear of all Interests or Claims against the Acquired Assets (except as otherwise assumed in the Asset Purchase Agreement), or if the Buyer would, or in the future could, be liable for any of the Interests or Claims against the Acquired Assets (except as otherwise assumed in the Asset Purchase Agreement), the Buyer would not have submitted the Asset Purchase Agreement and would not consummate the Sale, thus adversely affecting the Debtors and their estates and creditors. Therefore, approval of the Asset Purchase Agreement and the consummation of the Sale free and clear of all Interests or Claims (subject to the terms and conditions of the Purchase Agreement and this Order) is appropriate pursuant to section 363(f) of the Bankruptcy Code and is in the best interests of the Debtors' estates, their creditors and other parties in interest.

GG. Sellers have demonstrated that it is an exercise of their sound business judgment for Sellers to assume and assign the Assigned Contracts identified on **Exhibit A** to this Order (“Assigned Contracts”) to the Buyer, in each case in connection with the consummation of the Sale, and the assumption and assignment of the Assigned Contracts is in the best interests of Sellers, the other Debtors, their estates and creditors, and other parties in interest. The Assigned Contracts being assigned to the Buyer under the Asset Purchase Agreement are an integral part of the Asset Purchase Agreement and the Sale and, accordingly, such assumptions and assignments are reasonable and enhance value to the Debtors estates. Any non-Debtor counterparty to any Assigned Contract that has not actually filed with the Court an objection to such assumption as of the date hereof is deemed to have consented to such assumption and assignment.

HH. Sellers and the Buyer have, to the extent necessary, satisfied the requirements of section 365 of the Bankruptcy Code, including sections 365(b)(1)(A), 365(b)(1)(B), and 365(f) of the Bankruptcy Code, in connection with the sale and assumption and assignment of the Assigned Contracts to the extent provided under the Asset Purchase Agreement and have: (1) cured, or provided adequate assurance of cure of, any default existing prior to the date hereof under any of the Assigned Contracts, within the meaning of section 365(b)(1)(A) of the Bankruptcy Code; and (2) provided compensation or adequate assurance of compensation to any party for any actual pecuniary loss to such party resulting from a default prior to the date hereof under any of the Assigned Contracts, within the meaning of section 365(b)(1)(B) of the Bankruptcy Code, and the Buyer has provided adequate assurance of future performance of and under the Assigned Contracts, within the meaning of sections 365(b)(1) and 365(f)(2) of the Bankruptcy Code. Each provision of the Assigned Contracts or applicable non-bankruptcy law

that purports to prohibit, restrict or condition, or could be construed as prohibiting, restricting or conditioning, assignment of any Assigned Contracts has been satisfied or is otherwise unenforceable under Bankruptcy Code section 365. The Cure Costs (as defined below) are hereby deemed to be the sole amounts necessary to cure any and all monetary defaults under the Assigned Contracts, under section 365(b) of the Bankruptcy Code.

II. The specific Avoidance Actions being transferred pursuant to the Asset Purchase Agreement (the “Avoidance Actions”) are an express condition to the Buyer’s consummation of the Sale and are required to implement the free and clear nature of the Sale. The Sale viewed as a whole, together with such transfer of the Avoidance Actions, will provide a greater benefit to the Debtors, their estate, and their creditors than would the prosecution of the Avoidance Actions in the absence of the Sale.

JJ. The Asset Purchase Agreement and Sale must be approved and the Closing must occur promptly to preserve the value of the Debtors’ assets.

KK. Given all of the circumstances of the Chapter 11 Cases and the adequacy and fair value of the consideration provided by the Buyer under the Asset Purchase Agreement, the Sale constitutes a reasonable and sound exercise of Sellers’ business judgment, is in the best interests of Sellers and the other Debtors, their estates, their creditors, and other parties in interest, and should be approved.

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

MM. The consummation of the Sale will not, and will not be deemed to, release, waive, compromise, modify, or otherwise affect in any manner whatsoever any Interests or Claims of any Person in, under, to, or against any assets or properties of the Debtors (including, without limitation, any Excluded Assets) or any other Person that are not Acquired Assets.

Based upon the foregoing findings and conclusions, the Motion and the record before the Court with respect to the Motion, and good and sufficient cause appearing therefor,

**IT IS HEREBY ORDERED** that:

1. The relief requested in the Motion is granted as set forth herein.
2. Any and all objections and responses to the Motion that have not been withdrawn, waived, settled, or resolved, and all reservations of rights included therein, are hereby overruled and denied on the merits.
3. Notice of the Motion, the Auction, the designation of the Buyer as a stalking horse, the Sale Hearing, and the Sale was fair and equitable under the circumstances and complied in all respects with section 102(1) of the Bankruptcy Code, Bankruptcy Rules 2002, 6004, and 6006, and the Bidding Procedures Order.

**Approval of the Sale of the Acquired Assets Pursuant to the Asset Purchase Agreement**

4. Pursuant to section 363(b) of the Bankruptcy Code, the Asset Purchase Agreement is approved, and each of the Debtors and the Buyer, acting by and through their existing agents, representatives and officers, are authorized, empowered, and directed to take any and all actions necessary or appropriate to: (a) consummate the Sale pursuant to and in accordance with the terms and conditions of the Asset Purchase Agreement; (b) consummate the Sale as contemplated in the Asset Purchase Agreement and this Sale Order; (c) transfer and assign all right, title, and interest to all property, licenses, and rights to be conveyed in accordance with the terms and conditions of the Asset Purchase Agreement; and (d) execute and

deliver, perform under, consummate, and implement the Asset Purchase Agreement and all additional instruments and documents, that may be reasonably necessary or desirable to implement the Asset Purchase Agreement and the Sale, including one or more Transition Services Agreements (each, a “TSA”) or any other ancillary documents, or as may be reasonably necessary or appropriate to the performance of the obligations as contemplated by the Asset Purchase Agreement, any TSA, and such other ancillary documents. No other consents or approvals are necessary or required for the Debtors to carry out the Sale and effectuate the Asset Purchase Agreement and the related actions contemplated or set forth therein.

5. This Sale Order shall be binding in all respects upon the Debtors, their estates, all creditors (including the Committee), all holders of equity interests in the Debtors, all holders of any Interests or Claims (whether known or unknown) against any Debtor, any holders of Interests or Claims against or on all or any portion of the Acquired Assets, all counterparties to any executory contract or unexpired lease of the Debtors, the Buyer and all successors and assigns of the Buyer, and any trustees, examiners, or other fiduciary under any section of the Bankruptcy Code, if any, subsequently appointed in any of the Debtors’ Chapter 11 Cases or upon a conversion to chapter 7 under the Bankruptcy Code of the Debtors’ cases.

6. The terms and provisions of the Asset Purchase Agreement and this Sale Order shall inure to the benefit of the Debtors, their estates, and their creditors, the Buyer, and their respective Affiliates, successors and assigns, and any other affected third parties, including all persons asserting any Interests or Claims in the Acquired Assets to be sold to the Buyer pursuant to the Asset Purchase Agreement, notwithstanding any subsequent appointment of any trustee, party, entity, or other fiduciary under any section of any chapter of the Bankruptcy Code, as to which trustee, party, entity, or other fiduciary such terms and provisions likewise shall be

binding. The provisions of this Sale Order and the terms and provisions of the Asset Purchase Agreement, and any actions taken pursuant hereto or thereto shall survive the entry of any order which may be entered confirming or consummating any plan(s) of the Debtors or converting the Debtors' cases from chapter 11 to chapter 7.

### **Sale and Transfer of Acquired Assets**

7. Pursuant to sections 105(a), 363(b), 363(f), 365(b) and 365(f) of the Bankruptcy Code, subject to the consummation of the Closing, and pursuant to and except as otherwise set forth in the Asset Purchase Agreement, the Acquired Assets shall be transferred to the Buyer free and clear of liens, claims, encumbrances, defenses, and interests other than the Assumed Liabilities and any other obligations imposed by the Asset Purchase Agreement, in each case, whether known or unknown, choate or inchoate, filed or unfiled, scheduled or unscheduled, noticed or unnoticed, recorded or unrecorded, perfected or unperfected, allowed or disallowed, contingent or non-contingent, liquidated or unliquidated, matured or unmatured, material or non-material, disputed or undisputed, whether arising prior to or subsequent to the commencement of these chapter 11 cases, and whether imposed by agreement, understanding, law, equity or otherwise, including without limitation: (i) mortgages, deeds of trust, pledges, charges, security interests, rights of first refusal, hypothecations, encumbrances, easements, servitudes, leases or subleases, rights-of-way, encroachments, restrictive covenants, restrictions on transferability or other similar restrictions, rights of offset or recoupment, right of use or possession, subleases, leases, condition sale arrangements, or any similar rights, (ii) all claims as defined in section 101(5) of the Bankruptcy Code, including, without limitation, all rights or causes of action (whether in law or equity), proceedings, warranties, guarantees, indemnities, rights of recovery, setoff, recoupment, indemnity or contribution, obligations, demands, restrictions, indemnification claims, or liabilities relating to any act or omission of the Debtors or any other



person, consent rights, options, contract rights, covenants, and interests of any kind or nature whatsoever (known or unknown, matured or unmatured, accrued, or contingent and regardless of whether currently exercisable), whether arising prior to or subsequent to the commencement of these chapter 11 cases, and whether imposed by agreement, understanding, law, equity or otherwise; (iii) all debts, liabilities, obligations, contractual rights and claims and labor, employment and pension claims; (iv) any rights based on any successor or transferee liability; (v) any rights that purport to give any party a right or option to effect any forfeiture, modification, right of first offer or first refusal, or consents, or termination of the Debtors' or the Buyer's interest in the Acquired Assets, or any similar rights; (vi) any rights under labor or employment agreements; (vii) any rights under pension, multiemployer plan (as such term is defined in section 3(37) or section 4001(a)(3) of the Employment Retirement Income Security Act of 1974 (as amended, "ERISA"), health or welfare, compensation or other employee benefit plans, agreements, practices, and programs, including without limitation any pension plans of the Debtors or any multiemployer plan to which the Debtors have at any time contributed to or had any liability or potential liability; (viii) any other employee claims related to worker's compensation, occupation disease, or unemployment or temporary disability, including without limitation claims that might otherwise arise under or pursuant to (a) ERISA, (b) the Fair Labor Standards Act, (c) Title VII of the Civil Rights Act of 1964, (d) the Federal Rehabilitation Act of 1973, (e) the National Labor Relations Act, (f) the Age Discrimination and Employment Act of 1967 and Age Discrimination in Employment Act, each as amended, (g) the Americans with Disabilities Act of 1990, (h) the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended, including without limitation the requirements of Part 6 of Subtitle B of Title I of ERISA and Section 4980B of the Internal Revenue Code of any similar state law, (i) state

discrimination laws, (j) state unemployment compensation laws or any other similar state laws, (k) any other state or federal benefits or claims relating to any employment with the Debtors or any of their predecessors, or (l) the WARN Act (29 U.S.C. §§ 2101, *et seq.*); (ix) any bulk sales or similar law; (x) any tax statutes or ordinances, including without limitation the Internal Revenue Code of 1986, as amended, and any taxes arising under or out of, in connection with, or in any way relating to the operation of the Acquired Assets prior to the Closing; (xi) any unexpired and executory contract or unexpired lease to which a Debtor is a party that is not an Assigned Contract; and (xii) any other Excluded Liabilities under the Asset Purchase Agreement (collectively, the “Interests or Claims”), with all such Interests or Claims to attach to the proceeds of the Sale in the order of their priority, with the same validity, force, and effect that they have immediately prior to the consummation of the Closing as against the Acquired Assets, subject to any claims and defenses the Debtors may possess with respect thereto. Furthermore, except as otherwise provided in the Asset Purchase Agreement, the Buyer and/or its Affiliates shall not have any liabilities for the prepetition and pre-Closing Date conduct of the Debtors or any of their officers, directors, employees, or agents, including any conduct which may be the subject of ongoing investigations by the federal government. Without limiting the foregoing, subject to the DIP Financing Order, the transfers of the Acquired Assets by the Debtors to Buyer shall vest Buyer with all right, title and interest of the Debtors in and to the Acquired Assets, including but not limited to, the Real Property (as defined in the Asset Purchase Agreement), free and clear of all Liens in favor of Wells Fargo Bank National Association, Cyprium Investors IV AIV I LP, and Western States Fire Protection Company, including those certain liens as shown in the records of the County of Fremont, Colorado, in favor of (i) Cyprium Investors IV AIV I LP (as reflected in the Deed of Trust from Seller for the use of Cyprium Investors IV AIV

I LP, a Delaware limited partnership, to secure \$30,000,000.00 dated July 11, 2014 recorded July 15, 2014 at Reception No. 918886; and a Financing Statement from Seller, as debtor(s) in favor of Cyprium Investors IV AIV I LP, secured party, recorded July 15, 2014 at Reception No. 919887); (ii) Wells Fargo Bank National Association (as reflected in the Deed of Trust from Seller for the use of Wells Fargo Bank National Association, to secure \$45,000,000.00 dated March 17, 2010 recorded March 23, 2010 at Reception No. 872877; First Amendment to deed of Trust recorded January, 26, 2017 at Reception No. 946886; and a Financing Statement from Seller, as debtor(s) in favor of Wells Fargo Bank, secured party, recorded October 19, 2016 at Reception No. 943946 and amended by instrument recorded September 7, 2017 at Reception No. 953976); and (iii) Western States Fire Protection Company (recorded February 5, 2018 at Reception No. 958595, in the amount of \$15,650.43), and all such Liens in favor of Wells Fargo Bank National Association, Cyprium Investors IV AIV I LP and Western States Fire Protection Company shall attach to the proceeds of the sale of the Acquired Assets to the same extent, priority and validity that applied to the Acquired Assets immediately prior to the consummation of the Sale, subject to the DIP Financing Order and the Cyprium Subordination and Intercreditor Agreement (as defined in the DIP Financing Order).

8. Upon consummation of the Closing, this Sale Order shall be construed and shall constitute for any and all purposes a full and complete general assignment, conveyance, and transfer of all of the Acquired Assets or a bill of sale transferring good and marketable title in such Acquired Assets to the Buyer pursuant to the terms and allocations set forth in the Asset Purchase Agreement. For the avoidance of doubt, the Excluded Assets set forth in the Asset Purchase Agreement are not included in the Acquired Assets.

9. Subject to the terms and conditions of this Sale Order, the transfer of Acquired Assets to the Buyer pursuant to the Asset Purchase Agreement and the consummation of the Sale and any related actions contemplated thereby (x) do not require any consents other than as specifically provided for in the Asset Purchase Agreement, (y) will, upon consummation of the Closing, constitute a legal, valid, and effective transfer of the Acquired Assets, and (z) upon consummation of the Closing, shall vest the Buyer with right, title, and interest of the Debtors in and to the Acquired Assets as set forth in the Asset Purchase Agreement, as applicable, free and clear of all Interests or Claims of any kind or nature whatsoever, including free and clear of those liens and claims set forth in paragraph 7 above, (except as otherwise assumed in the Asset Purchase Agreement), with all such Interests or Claims to attach to the proceeds of the Sale in the order of their priority, with the same validity, force, and effect that they have immediately prior to the consummation of the Closing as against the Acquired Assets, subject to any claims and defenses the Debtors may possess with respect thereto.

10. Subject to the DIP Financing Order, all amounts (if any) that are or may become payable to the Buyer under the Purchase Agreement shall be payable to the Buyer without the need for any application of the Buyer or the Debtors therefor or any further order of the Court and shall constitute administrative expenses under section 503(b)(1)(A) and 507(a)(2) of the Bankruptcy Code that shall not be subordinated to any other administrative expense claim against the Debtors or altered, amended, discharged, or affected by any chapter 11 plan proposed or confirmed in these chapter 11 cases without the prior written consent of the Buyer. Subject to the DIP Financing Order, the Buyer is hereby authorized, without any further motion or filing before this Court, to set off any amounts payable by the Debtors to the Buyer under any TSA against any amounts payable to the Debtors by the Buyer under any TSA. Subject to the DIP

Financing Order, the Debtors are hereby authorized, without any further motion or filing before this Court, to set off any amounts payable by the Buyer to the Debtors under any TSA against any amounts payable to the Buyer by the Debtors under any TSA.

11. At the Closing of the transactions contemplated by the Asset Purchase Agreement, the Buyer is hereby authorized in connection with the consummation of the Sale to allocate the applicable Acquired Assets, including the Assigned Contracts, among its affiliates, agents, designees, assigns, and/or successors, in a manner as it in its sole discretion deems appropriate, and to assign, lease, sublease, license, sublicense, transfer, or otherwise dispose of any of the Acquired Assets, including the Assigned Contracts, to its affiliates, designees, assignees and/or successors, with all of the rights and protections afforded to the Buyer under this Sale Order and the Asset Purchase Agreement with respect thereto, and the Debtors shall cooperate with and take all actions reasonably requested by the Buyer to effectuate any of the foregoing; provided, however, that any such allocation, assignment, lease, sublease, license, sublicense, transfer or other disposition shall not release Buyer from its obligations under any Assigned Contract.

12. To the greatest extent available under applicable law and except as provided in the Asset Purchase Agreement, the Buyer, as provided by the Asset Purchase Agreement, shall be authorized, upon consummation of the Closing, to operate under any license, permit, registration, and governmental authorization or approval of the Debtors with respect to the Acquired Assets, and all such licenses, permits, registrations, and governmental authorizations and approvals are deemed to have been, and hereby are, directed to be transferred to the Buyer upon consummation of the Closing as provided by the Asset Purchase Agreement. To the extent provided by section 525 of the Bankruptcy Code, no governmental unit may revoke or suspend

any grant, permit, or license relating to the operation of the Acquired Assets sold, transferred, assigned, or conveyed to the Buyer on account of the filing or pendency of these Chapter 11 Cases or the consummation of the Sale.

13. This Sale Order shall be binding upon and shall govern the acts of all entities, including, without limitation, all filing agents, filing officers, title agents, title companies, recorders of mortgages, recorders of deeds, registrars of deeds, administrative agencies, governmental departments, secretaries of state, federal, state and local officials, and all other persons and entities who may be required by operation of law, the duties of their office, or contract, to accept, file, register or otherwise record or release any documents or instruments, or who may be required to report or insure any title or state of title in or to the Acquired Assets. Each and every federal, state, and local governmental agency or department is hereby authorized to accept any and all documents and instruments necessary and appropriate to consummate the transactions contemplated by the Asset Purchase Agreement, including without limitation, recordation of this Sale Order.

14. All entities that are presently, or immediately prior to the consummation of the Closing may be, in possession of the Acquired Assets to be sold, transferred, or conveyed (wherever located) to the Buyer pursuant to the Asset Purchase Agreement are hereby directed to surrender possession of the Acquired Assets to the Buyer upon consummation of the Closing.

15. Upon consummation of the Closing set forth in the Asset Purchase Agreement, if any person or entity that has filed financing statements, mortgages, mechanic's liens, *lis pendens*, or other documents or agreements evidencing Interests or Claims against or in the Acquired Assets shall not have delivered to the Debtors prior to the Closing, in proper form for filing and executed by the appropriate parties, termination statements, instruments of satisfactions, releases

of all Interests or Claims that the person or entity has with respect to the Acquired Assets (unless otherwise assumed in the Asset Purchase Agreement), or otherwise, then: the Buyer is hereby authorized to file, register, or otherwise record a certified copy of this Sale Order, which, once filed, registered or otherwise recorded, shall constitute conclusive evidence of the release of all Interests or Claims in the Acquired Assets of any kind or nature (except as otherwise assumed in the Asset Purchase Agreement). For the avoidance of doubt, such liens which this Sale Order shall constitute conclusive evidence of the release of shall include those certain liens as shown in the records of the County of Fremont, Colorado, in favor of (i) Cyprium Investors IV AIV I LP (as reflected in the Deed of Trust from Seller for the use of Cyprium Investors IV AIV I LP, a Delaware limited partnership, to secure \$30,000,000.00 dated July 11, 2014 recorded July 15, 2014 at Reception No. 918886; and a Financing Statement from Seller, as debtor(s) in favor of Cyprium Investors IV AIV I LP, secured party, recorded July 15, 2014 at Reception No. 919887); (ii) Wells Fargo Bank National Association (as reflected in the Deed of Trust from Seller for the use of Wells Fargo Bank National Association, to secure \$45,000,000.00 dated March 17, 2010 recorded March 23, 2010 at Reception No. 872877; First Amendment to deed of Trust recorded January, 26, 2017 at Reception No. 946886; and a Financing Statement from Seller, as debtor(s) in favor of Wells Fargo Bank, secured party, recorded October 19, 2016 at Reception No. 943946 and amended by instrument recorded September 7, 2017 at Reception No. 953976); and (iii) Western States Fire Protection Company (recorded February 5, 2018 at Reception No. 958595, in the amount of \$15,650.43). Each and every federal, state and local governmental unit is hereby directed to accept any and all documents and instruments necessary or appropriate to give effect to the Sale and related transactions.

16. Upon consummation of the Closing, all entities, including all lenders, debt security holders, equity security holders, governmental, tax, and regulatory authorities, parties to executory contracts and unexpired leases, customers, employees and former employees, dealers and sale representatives, and trade or other creditors holding Claims or Interests of any kind or nature whatsoever against or in the Acquired Assets prior to the consummation of the Closing will be deemed barred, estopped, and permanently enjoined from asserting any such Claims or Interests in the Acquired Assets of any kind or nature whatsoever (except to the extent such Claims or Interests are assumed by the Buyer pursuant to the Asset Purchase Agreement) against the Buyer and its successors, designees, permitted assigns, or property, or the Acquired Assets conveyed in accordance with the Asset Purchase Agreement.

17. The Buyer (and any assignee of the Buyer' rights under the Asset Purchase Agreement) and their respective owners, members, shareholders, managers, directors, officers, partners, employees, agents, attorneys, investment bankers and financial advisors are hereby generally released by the Debtors, their Affiliates, their respective estates and their respective owners, members, shareholders, managers, directors, officers, partners, employees, agents, attorneys, investment bankers and financial advisors from any and all claims that the Debtors and their Affiliates or estates or any party claiming derivatively through the Debtors may have against the Buyer, other than claims against the Buyer arising under the Asset Purchase Agreement or as otherwise provided in this Sale Order; provided however that such release will not be in effect until the later of the Closing or all obligations under the Asset Purchase Agreement have been fulfilled.

18. The Debtors, their estates and their respective owners, members, shareholders, managers, directors, officers, partners, employees, agents, attorneys, investment bankers and



financial advisors are hereby generally released by the Buyer and its Affiliates and their respective owners, members, shareholders, managers, directors, officers, partners, employees, agents, attorneys, investment bankers and financial advisors from any and all claims that the Buyer and its Affiliates may have against the Debtors, their Affiliates and estates, other than claims against the Debtors, their Affiliates and estates arising under the Asset Purchase Agreement or as otherwise provided in this Sale Order; provided however that such release will not be in effect until the later of the Closing or all obligations under the Asset Purchase Agreement have been fulfilled.

19. As of and after the consummation of the Closing: (a) each of the Debtors' creditors is hereby authorized and directed to execute such documents and take all other actions as may be necessary to release their Claims or Interests in the Acquired Assets (if any) as such Claims or Interests may have been recorded or may otherwise exist; and (b) any Acquired Asset that may be subject to a statutory or mechanic's lien shall be turned over to the Buyer and such liens shall attach to the Sale proceeds in the same priority they currently enjoy with respect to the Acquired Assets, unless otherwise specifically provided in the Asset Purchase Agreement and consented to by the Agents.

20. The consummation of the Sale will not, and will not be deemed to, release, waive, compromise, modify, or otherwise affect in any manner whatsoever any Interests or Claims of any Person in, under, to, or against any assets or properties of the Debtors (including, without limitation, any Excluded Assets) or any other Person that are not Acquired Assets.

21. If after Closing, any Seller or any of its lenders receives or collects, including pursuant to any lockbox arrangement, any amounts that constitute Acquired Assets or the proceeds thereof, including without limitation with respect to any Accounts Receivable included

in the Acquired Assets, such payments will be held in trust for the benefit of the Buyer by such Seller or such lender, and such party will not have any rights with respect thereto, and the Seller and applicable lender will promptly pay over such received payment to Buyer. For the avoidance of doubt, any amounts received or collected that constitute Acquired Assets or the proceeds thereof shall not become property of the estate as contemplated by section 541 of the Bankruptcy Code by virtue of such receipt or collection, and no liens, including but not limited to liens under the DIP Financing Order, the Prepetition Documents, the Postpetition Documents, or otherwise, shall attach to such amounts constituting Acquired Assets by virtue of such receipt or collection.

**Contracts to be Assumed and Assigned**

22. Pursuant to sections 105(a), 363, and 365 of the Bankruptcy Code, and subject to and conditioned upon the occurrence of the Closing Date, Sellers' assumption and assignment to the Buyer, and the Buyer's assumption on the terms set forth in the Asset Purchase Agreement of the Assigned Contracts is hereby approved in its entirety, and the requirements of section 365 of the Bankruptcy Code with respect thereto are hereby deemed satisfied.

23. The Debtors are hereby authorized in accordance with sections 105(a), 363, and 365 of the Bankruptcy Code to assume and assign to the Buyer, effective upon the consummation of the Closing of the sale of the Acquired Assets, the Assigned Contracts free and clear of all Interests or Claims of any kind or nature whatsoever and execute and deliver to the Buyer such documents or other instruments as may be necessary to assign and transfer the Assigned Contracts to the Buyer.

24. To the extent that an objection by a counterparty to any Assigned Contract, including all objections related to Cure Costs (as defined below), is not resolved prior to the Closing Date, the Debtors, in consultation with the Buyer, may elect to: (i) not assume such

Assigned Contract; (ii) postpone the assumption of such Assigned Contract until the resolution of such objection; or (iii) reserve the disputed Cure Cost and assume the Assigned Contract on the Closing Date. So long as the Debtors hold the claimed Cure Cost in reserve, and there are no other unresolved objections to the assumption and assignment of the applicable Assigned Contract, the Debtors can, without further delay, assume and assign the Assigned Contract that is the subject of the objection. Under such circumstances, the respective objecting counterparty's recourse is limited to the funds held in reserve.

25. Upon the consummation of the Closing or such later date by which an objection by a counterparty is resolved, in accordance with sections 363 and 365 of the Bankruptcy Code, the Buyer shall be fully and irrevocably vested in all right, title, and interest of each Assigned Contract. To the extent provided in the Asset Purchase Agreement, the Debtors shall cooperate with, and take all actions reasonably requested by, the Buyer to effectuate the foregoing, including but not limited to executing and delivering to the buyer such documents or other instruments as the Buyer may deem necessary to assign and transfer such Assigned Contracts to the Buyer.

26. Upon the consummation of the Closing or such later date by which an objection by a counterparty is resolved, the Assigned Contracts shall be transferred to, and remain in full force and effect for the benefit of, the Buyer in accordance with their respective terms, notwithstanding any provision in any such Assigned Contract that is assumed and assigned to the Buyer pursuant to the Asset Purchase Agreement (including those of the type described in sections 365(b)(2) and (f) of the Bankruptcy Code) that prohibits, restricts, or conditions such assignment or transfer.

27. All monetary defaults and other monetary obligations of the Debtors under the Assigned Contracts occurring, arising, or accruing prior to the assignment thereof are deemed to have been cured or satisfied by the payment of the proposed amount necessary, if any, to cure all monetary defaults, if any, under each such Assigned Contract in the amounts set forth in the Notice of Potential Assumption and Assignment of Certain Executory Contracts and Unexpired Leases and Proposed Cure Amounts [Docket No. 253] (the “Cure Notice”), which was served in compliance with the Bidding Procedures Order, or any other cure cost agreed among the Debtors, the Buyer, and a counterparty to an Assigned Contract or such cure amount as determined by the Court, in accordance with Exhibit \_\_\_\_ (collectively, the “Cure Costs”), and which Cure Costs shall be satisfied by the Buyer as provided in the Asset Purchase Agreement upon the latest to occur of (a) the Closing, or (b) for any Assigned Contract for which a timely objection has been filed to the assumption and assignment thereof, the resolution of such objection by agreement among the Debtors, the Buyer, and the objecting party or by order of this Court. Unless an objection to the proposed Cure Costs was filed and served before the Contract Objection Deadline, the applicable counterparty is forever barred from objecting to the Cure Costs and from asserting any additional cure or other amounts with respect to the applicable Assigned Contract.

28. The payment of the Cure Costs (if any) shall effect a cure of all defaults existing as of the date that such executory contracts or unexpired leases are assumed and compensate for any actual pecuniary loss to such non-Debtor party resulting from such default. No other amounts will be owed by the Debtors, their estates or the Buyer with respect to amounts first arising or accruing during, or attributable or related to, the period before Closing with respect to the Assigned Contracts, and any and all persons or entities shall be forever barred and estopped

from asserting a claim against the Debtors, their estates, or the Buyer that any additional amounts are due or defaults exist under the Assigned Contracts that arose or accrued, or relate to or are attributable to the period before the Closing.

29. Upon the consummation of the Closing or such later date by which an objection by a counterparty is resolved, the Buyer shall have assumed the Assigned Contracts, and pursuant to section 365(f) of the Bankruptcy Code, the assignment by the Debtors of such Assigned Contracts shall not be a default thereunder. After the payment of the relevant Cure Costs, neither the Debtors nor the Buyer shall have any further liabilities to the counterparties to the Assigned Contracts, other than the Buyer's obligations under the Assigned Contracts that accrue and become due and payable on or after the date that such Assigned Contracts are assumed.

30. Any provisions in any Assigned Contracts that prohibit or condition the assignment of such Assigned Contract or allow the party to such Assumed Contract to terminate, recapture, impose any penalty, condition on renewal or extension or modify any term or condition upon the assignment of such Assigned Contract constitute unenforceable anti-assignment provisions that are void and of no force and effect. All other requirements and conditions under sections 363 and 365 of the Bankruptcy Code for the assumption by the Debtors and assignment to the Buyer of the Assigned Contracts have been satisfied.

31. Any party having the right to consent to the assumption or assignment of any Assigned Contract that failed to object to such assumption or assignment as of the Contract Objection Deadline or the Adequate Assurance Objection Deadline, as applicable, is deemed to have consented to such assumption and assignment as required by section 365(c) of the Bankruptcy Code.

32. Upon the consummation of the Closing or such later date by which an objection by a counterparty is resolved, the Buyer shall be deemed to be substituted for the Debtors as a party to the applicable Assigned Contracts, and the Debtors shall be relieved, pursuant to section 365(k) of the Bankruptcy Code, from any further liability under the Assigned Contracts.

33. The Buyer provided adequate assurance on or before the Closing of future performance under the relevant Assigned Contracts within the meaning of sections 365(b)(1)(C), 365(b)(3) (to the extent applicable) and 365(f)(2)(B) of the Bankruptcy Code.

34. There shall be no assignment fees, increases, rent-acceleration, or any other fees charged to the Buyer or the Debtors as a result of the assumption and assignment of the Assigned Contracts. Pursuant to sections 105(a), 363, and 365 of the Bankruptcy Code, upon the consummation of the Closing or such later date by which an objection by a counterparty is resolved, if applicable, each counterparty to an Assigned Contract is forever barred and permanently enjoined from raising or asserting against the Debtors or the Buyer any assignment fee, default, breach, claim, pecuniary loss, or condition to assignment, arising under or related to the Assigned Contract, existing as of the date that such Assigned Contract is assumed or arising by reason of the Closing.

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

36. Neither the Buyer nor any successor of the Buyer shall be responsible for or have any Interests or Claims or obligations arising out of any of the contracts, agreements, or

understandings that are Non-Assigned Contracts after the Closing Date (except as specifically provided by the Asset Purchase Agreement).

**No Successorship**

37. Neither the Buyer nor any of its Affiliates are successors to the Debtors or their estates by reason of any theory of law or equity, and neither the Buyer nor any of its Affiliates shall assume or in any way be responsible for any liability or obligation of any of the Debtors and/or their estates, except as otherwise provided in the Asset Purchase Agreement.

38. The Buyer shall not be liable for any claims against the Debtors, and the Debtors shall not be liable for any claims against the Buyer, in each case, other than as expressly provided for in the Asset Purchase Agreement. The Buyer shall have no successor liability whatsoever with respect to any Claims or Interests or claims of any nature that may exist against the Debtors. Without limiting the foregoing, the Buyer shall not be, or be deemed to be, pursuant to any theory of law or equity: (i) a successor in interest or within the meaning of any law, including any revenue, successor liability, pension, labor, ERISA, bulk-transfer, products liability, tax or environmental law, rule or regulation, or any theory of successor or transferee liability, antitrust, environmental, warranty, product line, de facto merger, mere continuation, or substantial continuity or similar theories; or (ii) a joint employer, co-employer or successor employer with the Debtors, and the Buyer shall have no obligation to pay the Debtors' wages, bonuses, severance pay, vacation pay, WARN act claims (if any), benefits or any other payments to employees of the Debtors, including pursuant to any collective bargaining agreement, employee pension plan, or otherwise, in each case (y) whether known or unknown as of the Closing, now existing or hereafter arising, whether fixed or contingent and (z) except as expressly set forth in the Asset Purchase Agreement.

**Time is of the Essence**

39. Time is of the essence in consummating the Sale. In order to maximize the value of the Acquired Assets, it is essential that the sale and assignment of the Acquired Assets occur within the time constraints set forth in the Asset Purchase Agreement.

**Modification of the Automatic Stay**

40. The automatic stay provisions of section 362 of the Bankruptcy Code are lifted and modified to the extent necessary to implement the terms and conditions of the Asset Purchase Agreement and the provisions of this Sale Order.

**Payment of Certain Indebtedness**

41. The Debtors are authorized and directed to immediately remit the Purchase Price to Agents for application to the Aggregate Debt (as defined in the DIP Financing Order) in accordance with the Aggregate Debt, the Prepetition Documents and the Postpetition Documents; provided, however, that notwithstanding anything to the contrary contained in this Order, any such payments to the Agents shall be expressly subject to the terms of the DIP Financing Order, specifically including such terms in paragraphs 6 and 12 of the DIP Financing Order, as well as the Lincoln Consent and Acknowledgement (as defined in the DIP Financing Order) as provided in the DIP Financing Order.

**Additional Provisions**

42. Effective upon the consummation of the Closing and except as otherwise provided in this Sale Order or the Asset Purchase Agreement, all entities are forever prohibited and permanently enjoined from commencing or continuing in any manner any action or other proceeding, whether in law or equity, in any judicial, administrative, arbitral, or other proceeding against the Buyer, its successors and assigns, or the Acquired Assets, with respect to any:

(a) Interests or Claims arising under, out of, in connection with, or in any way relating to the



Debtors, the Acquired Assets, or the operation of the Debtors' businesses or the Acquired Assets prior to the consummation of the Sale; or (b) successor liability by virtue of the consummation of the Sale contemplated by the Asset Purchase Agreement (except to the extent the Buyer assumed any such successor liability pursuant to the Asset Purchase Agreement), including the following actions: (i) commencing or continuing in any manner any action or other proceeding against the Buyer, its successors or assigns, assets, or properties, including with respect to the Interests or Claims; (ii) enforcing, attaching, collecting, or recovering in any manner any judgment, award, decree, or order against the Buyer, its successors, assigns, assets, or properties; (iii) creating, perfecting, or enforcing any Interests or Claims against the Buyer, its successors, assigns, assets, or properties; (iv) asserting any setoff, right of subrogation, or recoupment of any kind against any obligation due the Buyer or its successors or assigns; (v) commencing or continuing any action, in any manner or place, that does not comply or is inconsistent with the provisions of this Sale Order or other orders of this Court, or the agreements or actions contemplated or taken in respect thereof, or (vi) revoking, terminating, or failing or refusing to issue or renew any license, permit, or authorization to operate any of the Acquired Assets or conduct any of the businesses operated with the Acquired Assets.

43. Except as otherwise provided in the Asset Purchase Agreement, the Buyer shall have no obligation, as successor or otherwise (including with respect to successor or vicarious liabilities of any kind or character), to pay wages, bonuses, severance pay, benefits (including contributions or payments on account of any under-funding with respect to any and all pension plans) or any other payment to employees of Debtors or their Affiliates. Except as otherwise provided in the Asset Purchase Agreement, the Buyer shall have no liability, as successor or otherwise (including with respect to successor or vicarious liabilities of any kind or character),

with respect to any collective bargaining agreement, labor practice agreement, employee pension plan, employee welfare or retention, benefit, and/or incentive plan to which Debtors or their Affiliates are a party and relating to the Debtors' businesses (including arising from or related to the rejection or other termination of any such agreement), and the Buyer shall in no way, as successor or otherwise (including with respect to successor or vicarious liabilities of any kind or character), be deemed a party to or assignee of any such agreement, and no employee of the Buyer shall be deemed in any way covered by or a party to any such agreement, and all parties to any such agreement are hereby enjoined from asserting against the Buyer any and all Interests or Claims arising from or relating to such agreement.

44. Except as provided in the Asset Purchase Agreement and without limiting other applicable provisions of this Sale Order, the Buyer is not, by virtue of the consummation of the Sale, assuming, nor shall it be liable or responsible for, as a successor or otherwise (including with respect to successor or vicarious liabilities of any kind or character), under any theory of law or equity, including any theory of antitrust, environmental successor or transferee liability, labor law, de facto merger, or substantial continuity, whether known or unknown as of the Closing Date, now existing or hereafter raised, which may be asserted or unasserted, fixed or contingent, liquidated or unliquidated with respect to the Debtors, or any of their predecessors or Affiliates or any obligations of the Debtors or their predecessors or Affiliates arising prior to the Closing Date, for any liabilities, debts, commitments, or obligations (whether known or unknown, disclosed or undisclosed, absolute, contingent, inchoate, fixed or otherwise) in any way whatsoever relating to or arising from the Acquired Assets or the Debtors' operation of their businesses or use of the Acquired Assets prior to the Closing Date or any such liabilities, debts, commitments, or obligations that in any way whatsoever relate to periods prior to the Closing

Date or are to be observed, paid, discharged, or performed prior to the Closing Date (in each case, including any liabilities that result from, relate to or arise out of tort or other product liability claims), or any liabilities calculable by reference to the Debtors or their assets or operations, or relating to continuing conditions existing prior to the Closing Date, including with respect to any of Debtors' predecessors or Affiliates, which liabilities, debts, commitments, and obligations are hereby extinguished insofar as they may give rise to successor liability, without regard to whether the claimant asserting any such liabilities, debts, commitments, or obligations has delivered to the Buyer a release thereof. Without limiting the generality of the foregoing and except as provided in the Asset Purchase Agreement, by virtue of the consummation of the Sale contemplated by the Asset Purchase Agreement, the Buyer shall not be liable or responsible, as a successor or otherwise, including with respect to successor or vicarious liabilities of any kind or character, for the Debtors' liabilities, debts, commitments, or obligations, whether calculable by reference to the Debtors, arising prior to the Closing and under or in connection with: (a) any employment or labor agreements (including any collective bargaining agreements or labor practice agreements), consulting agreements, severance arrangements, change-in-control agreements or other similar agreement to which the Debtors are a party; (b) any pension, welfare, compensation or other employee benefit plans, agreements, practices, and programs, including any pension plan of the Debtors; (c) the cessation of the Debtors' operations, dismissal of employees, or termination (including rejection) of employment or labor agreements (including any collective bargaining agreements or labor practice agreements) or pension, welfare, compensation or other employee benefit plans, agreements, practices, and programs, obligations that might otherwise arise from or pursuant to ERISA, the Fair Labor Standard Act, Title VII of the Civil Rights Act of 1964, the Age Discrimination and Employment Act of 1967, the Federal

Rehabilitation Act of 1973, the National Labor Relations Act, the Consolidated Omnibus Budget Reconciliation Act of 1985, the Consolidated Omnibus Budget Reconciliation Act, or the Worker Adjustment and Retraining Notification Act; (d) workmen's compensation, occupational disease or unemployment or temporary disability insurance claims, (e) environmental liabilities, debts, claims or obligations arising from conditions first existing on or prior to Closing (including the presence of hazardous, toxic, polluting, or contaminating substances or wastes), which may be asserted on any basis, including under the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. § 9601 *et seq.*; (f) any bulk sales, bulk transfer, or similar law; (g) any liabilities, debts, commitments, or obligations of, or required to be paid by, the Debtors for any Taxes of any kind; (h) any liabilities, debts, commitments, or obligations relating to the businesses of the Debtors or the Acquired Assets for or applicable to the pre-Closing period; (i) any litigation; (j) any products liability, other tort or similar claims, whether pursuant to any state or any federal laws or otherwise including those arising from products or distribution thereof by or on behalf of Debtors; and (k) any Excluded Liabilities as set forth in the Asset Purchase Agreement. The Buyer has given substantial consideration under the Asset Purchase Agreement for the benefit of the holders of any Interests or Claims. The consideration given by the Buyer shall constitute valid and valuable consideration for the releases of any potential claims of successor liability of the Buyer, which releases shall be deemed to have been given in favor of the Buyer by all holders of Interests or Claims against or interests in the Debtors or any of the Acquired Assets.

45. The recitation, in the immediately preceding paragraph of this Sale Order, of specific agreements, plans, or statutes is not intended, and shall not be construed, to limit the generality of the categories of liabilities, debts, commitments, or obligations referred to therein.

46. The Sale may include the transfer of “personally identifiable information” within the meaning of section 101(41A) of the Bankruptcy Code.

47. The Buyer hereby waives, and shall be deemed to waive, any requirement of compliance with, and any claims related to non-compliance with, the provisions of any bulk sales, bulk transfer, or similar law of any jurisdiction that may be applicable.

48. Following the Closing, no holder of a Claim or Interest in or against the Debtors or the Acquired Assets shall interfere with the Buyer’s title to or use and enjoyment of the Acquired Assets based on or related to such Claim or Interest or any actions that the Debtors may take in these Chapter 11 Cases or any successor cases.

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

50. The Sale contemplated by the Asset Purchase Agreement, and entry into the Asset Purchase Agreement, is undertaken by the Buyer without collusion and in good faith, as that term is defined in section 363(m) of the Bankruptcy Code, and accordingly, the reversal or modification on appeal of the authorization provided herein to consummate the Sale shall not affect the validity of the Sale (including the assumption and assignment of the Assigned Contracts by the Buyer, and the Sale free and clear of all Interests or Claims in the Acquired Assets (unless otherwise assumed in the Asset Purchase Agreement)), unless such authorization and consummation of such Sale are duly stayed pending such appeal. The Buyer is a good-faith

buyer within the meaning of section 363(m) of the Bankruptcy Code and, as such, is entitled to the full protections of section 363(m) of the Bankruptcy Code.

51. As a good-faith purchaser of the Acquired Assets, the Buyer has not colluded with any of the other bidders, potential bidders, or any other parties interested in the Acquired Assets, and therefore neither the Debtors nor any successor in interest to the Debtors' estates nor any other party in interest shall be entitled to bring an action against the Buyer or any of its Affiliates, and the sale of the Acquired Assets may not be avoided pursuant to section 363(n) of the Bankruptcy Code.

52. Nothing contained in any plan of reorganization or liquidation, or order of any type or kind entered in these Chapter 11 Cases, any subsequent chapter 7 or chapter 11 case of the Debtors, or any related proceeding subsequent to entry of this Sale Order, shall directly conflict with or directly derogate from the provisions of the Asset Purchase Agreement or the terms of this Sale Order.

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

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

55. To the extent that this Sale Order is inconsistent with any prior order or pleading with respect to the Motion in these Chapter 11 Cases, the terms of this Sale Order shall govern.

56. To the extent there are any inconsistencies between the terms of this Sale Order and the Asset Purchase Agreement (including all ancillary documents executed in connection therewith), the terms of this Sale Order shall govern.

57. The Asset Purchase Agreement and any agreements, documents, or other instruments related to the Asset Purchase Agreement may be modified, amended or supplemented by the parties thereto in accordance with the terms thereof without further order of this Court; provided, however, that any such modification, amendment or supplement shall not modify the Purchase Price or any terms or provisions pertaining to the payment thereof or otherwise have a material adverse effect on the Debtors' estates unless consented to by Agents or approved by order of the Court after notice and a hearing.

58. The Buyer is a party in interest and shall have the ability to appear and be heard on all issues related to or otherwise connected to this Sale Order, the various procedures contemplated herein and in the Bidding Procedures Order (including but not limited to the Auction), and any issues related to or otherwise connected to the Sale or the Asset Purchase Agreement.

59. Nothing in this Order or the Asset Purchase Agreement releases, nullifies, precludes, or enjoins the enforcement of any environmental liability to a governmental unit that any entity would be subject to as the owner or operator of property after the date of entry of this Order. Nothing in this Order or the Asset Purchase Agreement authorizes the transfer or assignment of any governmental (a) license, (b) permit, (c) registration, (d) authorization or (e) approval, or the discontinuation of any obligation thereunder, without compliance with all applicable legal requirements and approvals under police or regulatory law.

60. ~~In addition to and separately from the Purchase Price and other consideration to be paid by the Buyer pursuant to the Asset Purchase Agreement, Buyer shall assume not less than \$250,000.00 of general unsecured liabilities (the "Assumed Claims") held by certain of the Debtors' prepetition vendors. The Buyer, in its sole discretion, shall select which vendors' claims it will assume and in what amount. For the avoidance of doubt, the Buyer may choose to assume claims in whole or in part. The payments to vendors may be in cash or other consideration agreed to by the vendors, provided that the total value of the cash and other consideration equals at least \$250,000.00 and is in satisfaction, in full or in part, of the Assumed Claims. Payments shall be made directly from the Buyer to the selected vendors. On or before 45 days after the Closing, the Buyer will identify to the Debtors, the Committee, and the Agents the names of the vendors whose claims were assumed, and confirm that it made payments to those vendors of cash or other consideration in the total aggregate value of at least \$250,000.00 and that such Assumed Claims were satisfied and in what amount.~~

61. The provisions of this Sale Order are nonseverable and mutually dependent.

62. Notwithstanding Bankruptcy Rules 6004(h), 6006(d), 7062, and 9014, or any other law that would serve to stay or limit the immediate effect of this Sale Order, this Sale Order shall be effective immediately upon entry, and the Debtors and the Buyer are authorized to consummate the Sale immediately upon entry of this Sale Order, in accordance with the Asset Purchase Agreement.

63. The Debtors are authorized to take all actions necessary to effectuate the relief granted pursuant to this Sale Order.

64. This Court shall retain jurisdiction to, among other things, interpret, implement, and enforce the terms and provisions of this Sale Order and the Asset Purchase Agreement, all



amendments thereto and any waivers and consents thereunder and each of the agreements executed in connection therewith to which the Debtors are a party or which has been assigned by the Debtors to the Buyer, and to adjudicate, if necessary, any and all disputes concerning or relating in any way to the Asset Purchase Agreement or the Sale.

Dated: April 2, 2018  
Wilmington, Delaware

  
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THE HONORABLE KEVIN GROSS  
UNITED STATES BANKRUPTCY JUDGE

**Exhibit A****ASSIGNED CONTRACTS AND CURE COSTS**

<b>Contract ID</b>	<b>Counterparty</b>	<b>Type of Contract</b>	<b>Cure Amount/Cure Cost</b>
7003	ACE HARDWARE CORPORATION	Customer/Supplier Agreement	
7004	AMAZON.COM INC.	Customer/Supplier Agreement	
7005	AMAZON.COM.CA, INC.	Customer/Supplier Agreement	
7006	BENNYS INC DBA STEWART DISTRIBUTING	Customer/Supplier Agreement	
7007	BI-MART CORPORATION	Customer/Supplier Agreement	
7008	BLAIN'S FARM & FLEET	Customer/Supplier Agreement	
7009	CABELA'S	Customer/Supplier Agreement	
7010	DO IT BEST CORPORATION	Customer/Supplier Agreement	
7011	FRED MEYER, INC	Customer/Supplier Agreement	
7012	FRY'S ELECTRONICS	Customer/Supplier Agreement	
7013	JENSEN DISTRIBUTION SERVICES	Customer/Supplier Agreement	
7014	MEIJER, INC.	Customer/Supplier Agreement	
7015	MID-STATES DISTR COMPANY	Customer/Supplier Agreement	
7016	MILITARY MODEL	Customer/Supplier Agreement	
7017	MMP, LLC	Customer/Supplier Agreement	
7018	SUPERVALU	Customer/Supplier Agreement	
7019	TARGET NORTHERN OPER.CTR.	Customer/Supplier Agreement	
7020	Target.com, a Div of Target Corp.	Customer/Supplier Agreement	
7021	TOYS 'R' US	Customer/Supplier Agreement	
7022	TRUE VALUE COMPANY	Customer/Supplier Agreement	
7023	UNITED HARDWARE DISTR CO.	Customer/Supplier Agreement	
7024	WALMART	Customer/Supplier Agreement	
7065	AEROMODELLI LTDA	Distribution	
7072	ARTSKIN SRL	Distribution	
7073	CLICKTALE	Distribution	
7074	DAWN TRADING	Distribution	
7075	EIJI SATO	Distribution	
7076	ESBAS / SPACE CAMP - TURKEY	Distribution	
7064	GAMETEC SA.	Distribution	
7077	HOBBIES AUSTRALIA	Distribution	
7066	HOBBY CENTER	Distribution	
7078	HOBBY CENTER	Distribution	
7071	INNOVATION COMPUTERS	Distribution	

Contract ID	Counterparty	Type of Contract	Cure Amount/Cure Cost
7079	JAPAN ASSOC. OF ROCKETRY	Distribution	
7080	LOGIC RC, LTD	Distribution	
7067	LUIS GONZAGA OBREGON ZETINA	Distribution	
7069	MPM SA S.A.	Distribution	
7068	PELIKAN DANIEL	Distribution	
7081	R4SKY	Distribution	
7082	REVELL GmbH	Distribution	
7083	SPREE TRADING, LLC	Distribution	
7084	TREVOR BRINGANS, LTD	Distribution	
7070	ZALAQUETT Y AVENDANO LIMITADA	Distribution	
7025	Veritiv	Equipment	
7026	AFCO	Financing	
7027	Fireman's Fund Ins Co	Insurance	
7028	First Mercury Ins Co	Insurance	
7029	Navigators	Insurance	
7030	Pinnacol Assurance	Insurance	
7031	Trade Risk Guaranty Brokerage Services, LLC	Insurance	
7032	Verlan Fire Ins Co	Insurance	
7033	Kuebix	IT Software License	
7034	Magento	IT Software License	
7035	Thomson Reuters	IT Software License	
7036	TOPS Software Corporation	IT Software Maintenance	\$450.00
7037	EXTOL	IT Software Support	\$248.65
7038	Fujitsu Glovia, Inc.	IT Software Support	
7039	1 World Sync	IT Subscription	
7040	CommerceHub	IT Subscription	\$65.00
7041	ShipWorks	IT Subscription	
7042	UL Information & Insights Inc DBA The Wercs	IT Subscription	
7043	unleaded	IT Website Hosting	
7044	Avalara	IT Website Support	
7045	Miller Enterprises	Land Lease	
7046	AeroTech Division of RCS Rocket Motor Companies	Licensing	
7047	Johnson Research & Development Co. (licensee is Hobbico, Inc.)	Licensing	
7048	Leisure Inc dba WhiteBoard Product Solutions	Licensing	\$107.37
7050	Banghart-Corin & Associates	Manufacturing Representative	\$739.67
7051	BDC Group, Inc.	Manufacturing Representative	\$1,647.44
7052	Besco Associates	Manufacturing Representative	\$2,800.65

<b>Contract ID</b>	<b>Counterparty</b>	<b>Type of Contract</b>	<b>Cure Amount/Cure Cost</b>
7053	CDZ Sales, Inc	Manufacturing Representative	\$80.20
7054	Chapman-Bingham Assoc Inc	Manufacturing Representative	
7055	Intermarket Enterprises	Manufacturing Representative	
7056	M squared sales	Manufacturing Representative	
7057	Strategic Marketing Partners, Inc.	Manufacturing Representative	
7058	Terry Toy's Inc	Manufacturing Representative	
7059	The O'Keefe Company	Manufacturing Representative	\$119.79
7060	Toyco Inc.	Manufacturing Representative	
7061	National Association of Rocketry	Print Advertising	\$510.00
7062	ChemTel Inc	Service Subscription	
7063	CSC	Statutory Representation	
		<b>TOTAL</b>	<b>\$6,768.77</b>