

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

IN RE:

**LIMETREE BAY SERVICES, LLC, *et al.*,¹
Debtors.**

CHAPTER 11

**CASE NO.: 21-32351 (DRJ)
(Jointly Administered)**

**DEBTORS' EMERGENCY MOTION TO (I) REOPEN AUCTION PURSUANT TO
BIDDING PROCEDURES, (II) APPROVE SCHEDULE AND PROCEDURES FOR
CONTINUED AUCTION, AND (III) GRANT RELATED RELIEF**

Emergency relief has been requested. A hearing will be conducted on this matter on December 6, 2021, at 4:30 p.m. (prevailing Central Time) in Courtroom 400, 4th floor, 515 Rusk St., Houston, Texas 77002. You may participate in the hearing by audio/video connection.

Audio communication will be by use of the Court's dial-in facility. You may access the facility at (832) 917-1510. You will be responsible for your own long-distance charges. Once connected, you will be asked to enter the conference room number. Judge Jones's conference room number is 205691.

You may view video via GoToMeeting. To use GoToMeeting, the Court recommends that you download the free GoToMeeting application. To connect, you should enter the meeting code "JudgeJones" in the GoToMeeting app or click the link on Judge Jones's home page on the Southern District of Texas website. Once connected, click the settings icon in the upper right corner and enter your name under the personal information setting.

Hearing appearances must be made electronically in advance of the hearing. To make your electronic appearance, go to the Southern District of Texas website and select "Bankruptcy Court" from the top menu. Select "Judges' Procedures," then "View Home Page" for Judge Jones. Under "Electronic Appearance" select "Click here to submit Electronic Appearance". Select the case name, complete the required fields and click "Submit" to complete your appearance.

If you object to the relief requested or you believe that emergency consideration is not warranted, you must either appear at the hearing or file a written response prior to the hearing. Otherwise, the Court may treat the pleading as unopposed and grant the relief requested.

Relief is requested not later than December 6, 2021.

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, as applicable, are: Limetree Bay Services, LLC (1866); Limetree Bay Refining Holdings, LLC (1776); Limetree Bay Refining Holdings II, LLC (1815); Limetree Bay Refining, LLC (8671); Limetree Bay Refining Operating, LLC (9067); Limetree Bay Refining Marketing, LLC (9222). The Debtors' mailing address is Limetree Bay Services, LLC, 11100 Brittmoore Park Drive, Houston, TX 77041.

Limetree Bay Services, LLC and its debtor affiliates (collectively, the “**Debtors**”), as debtors and debtors in possession in the above-captioned, jointly administered chapter 11 cases (collectively, the “**Chapter 11 Cases**”), respectfully represent as follows in support of this motion (the “**Motion**”).

Introduction

1. The Debtors devised and implemented the Bidding Procedures² (defined below) in an effort to provide the best opportunity to maximize the value of the assets of the Debtors’ estates (collectively, the “**Estates**”) for the benefit of creditors in satisfaction of its fiduciary duty. In so doing, the Debtors identified two potential going concern bidders—St. Croix Energy, LLLP (“**SCE**”) and West Indies Petroleum Limited (“**WIPL**”)—and worked diligently with these entities to qualify their bids prior to the Auction. Despite the Debtors’ best efforts, the Debtors were unable to designate WIPL as a Qualified Bidder prior to the Auction principally due to the failure to pay the requisite deposit, which ultimately left SCE without a competing going concern bid. Notwithstanding, due to the Debtors severe liquidity issues, which necessitated an unusually expedited sale process, the Debtors proceeded with the Auction and, ultimately, designated SCE as the Winning Bidder. Although SCE has been designated the winning bidder, it should be noted that the SCE transaction is not finalized and the Transition Services Agreement (the “**SCE TSA**”) has not been agreed upon, particularly with respect to the potential need for spending on health and safety in the event SCE is unsuccessful in its restart attempt.

2. The Debtors have learned that WIPL’s initial failure to pay the requisite deposit before the Bid Deadline resulted from a sudden and unforeseen medical emergency that

² Unless otherwise defined herein, all capitalized terms shall have the meaning ascribed to them in the Bidding Procedures and *Order Granting Debtors’ Emergency Motion for Entry of Order: (I) Establishing Bidding and Sale Procedures; (II) Approving the Sale of Assets; and (III) Granting Related Relief* [Docket No. 392] (the “**Bidding Procedures Order**”), as applicable.

incapacitated WIPL's CEO on the eve of the Bid Deadline—leaving WIPL unable to formally qualify as a bidder or participate in the Auction. The CEO was the only person at WIPL who had sufficient knowledge of the proposed refinery transaction and sale process and was the only person at WIPL who could authorize a deposit or execute an asset purchase agreement. WIPL's CEO is steadily recovering from his ordeal and, although he remains under doctors' care, is now able to resume business responsibilities. As such, WIPL approached the Debtors in the hopes of formally presenting their offer for the purchase of substantially all assets of the Estates on terms more favorable than those under the SCE bid. More precisely, WIPL proposes to acquire substantially all assets of the Estates for the sum of \$30 million, cash at closing on December 22, 2021, without the need for an extended transition period or prolonged “designation” period for certain going-concern assets. As a sign of good faith, WIPL has delivered a fully-executed asset purchase agreement (the “**WIPL APA**”) and paid a \$3 million deposit (the “**WIPL Deposit**”)—actions that cured the previous deficiencies of the WIPL bid and permit the qualification of WIPL under the Bidding Procedures. Due to the sudden and unforeseen medical emergency, which occurred just before the Bid Deadline, the initial failure of WIPL to provide a deposit and executed asset purchase agreement was clearly the result of extraordinary circumstances beyond the control of WIPL or the Debtors and, at worst, excusable neglect. The Debtors have a fiduciary obligation to maximize the value of the Estates for the benefit of creditors. The WIPL APA memorializes a transaction that is preferrable to the SCE bid in several respects, including, without limitation, an increase in the purchase price by \$10 million to \$30 million and the ability to acquire all assets at closing. Accordingly, in consultation

with the Notice Parties,³ the Debtors wish to reopen the Auction in accordance with Section 24.h. of the Bidding Procedures to permit the consideration of the WIPL bid pursuant to the WIPL APA.⁴

4. While Court authorization is not required to reopen the Auction, the Debtors bring this Motion due to the advanced stage of the sale process to inform and obtain guidance from the Court and to provide interested parties an opportunity to be heard in the hopes of resolving any objections to the reopening of the Auction in advance of the Sale Hearing and, in so doing, ensuring (to the extent possible) a streamlined closing by December 22, 2021 as provided for in the WIPL APA. Alternatively, if reopening the Auction is not possible, or unreasonably delays or increases costs of the transaction, the Debtors are considering, and reserve the right, in consultation with the Notice Parties, to reject the bids received to date and terminate the bidding/sale process as being contrary to the best interests of the creditors in order to permit the transaction with WIPL to proceed pursuant to the WIPL APA.⁵ For myriad reasons, the Debtors and Notice Parties prefer proceeding via a reopened Auction in accordance with Section 24.h and the other provisions of the Bidding Procedures, as herein modified, and, thus, out of an abundance of caution, hereby seeks Court approval of the proposed course of action.

Relief Requested

5. Pursuant to the Bidding Procedures Order and Bidding Procedures, each as amended, Sections 105 and 363 of title 11 of the United States Code, 11 U.S.C. §§ 101, *et seq.*

³ As used herein, “Notice Parties” refers to, collectively, the DIP Agent, the Prepetition Secured Parties, and Committee. “Notice Parties” previously included J. Aron; however, pursuant to the Stipulation by and among Debtors, Committee, J. Aron & Company LLC, and BP Products North America Inc. [see Docket No. 712], J. Aron no longer has any consultation rights with respect to the administration of the Chapter 11 Cases or the Estates.

⁴ Bidding Procedures, Docket No. 392, at p. 26 (“the Debtors, in consultation with the Notice Parties, may ... re-open the Auction at any time prior to the commencement of the Sale Hearing....”).

⁵ Bidding Procedures, Docket No. 392, at p. 26-27 (“[T]he Debtors reserve all rights to terminate the bidding process at any time if the Debtors, consistent with their fiduciary duties and business judgment, in consultation with the Notice Parties, determine that the bidding process will not maximize the value of the Assets. ... [T]he Debtors, in consultation with the Notice Parties, may reject at any time before entry of a Sale Order approving such bid, any Bid that, in the Debtors’ discretion, is ... (iii) contrary to the best interests of the Debtors, their Estates and creditors.”)

(the “**Bankruptcy Code**”), Rules 2002, 6004, 6006, and 9014 of the Federal Rules of Bankruptcy Procedure, and Section K of the Procedures for Complex Cases in the Southern District of Texas, the Debtors hereby move for entry of an order, substantially in the form attached hereto as **Exhibit A** (the “**Proposed Order**”), approving the reopening of the Auction pursuant to Section 24.h of the Bidding Procedures, scheduling the reopened Auction as soon as practicable, in consultation with the bidders, and approving the procedures set forth herein for the reopened Auction. The declarations of Mark Shapiro and Michael O’Hara in support of the Motion are attached hereto, respectively, as **Exhibit B** and **Exhibit C** and incorporated herein by reference.

Jurisdiction and Venue

6. The United States Bankruptcy Court for the Southern District of Texas (the “**Court**”) has jurisdiction to consider this Motion pursuant to 28 U.S.C. § 1334. Venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409. This matter is a core proceeding within the meaning of 28 U.S.C. § 157(b). This Court has constitutional authority to enter final orders with respect to the relief requested herein. The Debtors further confirm their consent to this Court’s entry of final orders or judgments on this Motion, if it is later determined that, in the absence of the consent of the parties, this Court does not have constitutional authority to enter final orders or judgments.

Background

7. On July 12, 2021 (the “**Petition Date**”), each of the Debtors filed with this Court a voluntary petition for relief under Chapter 11 of the Bankruptcy Code—thereby commencing the above-captioned Chapter 11 Cases. The Debtors continue to operate their businesses as debtors in possession pursuant to Sections 1107(a) and 1108 of the Bankruptcy Code. No request for the appointment of a trustee or examiner has been made in these Chapter 11 Cases. On or about July

26, 2021, an Official Committee of Unsecured Creditors (the “**Committee**”) was appointed [Docket No. 189].

8. On July 13, 2021, the Court entered an order jointly administering the Chapter 11 Cases under Case No. 21-32351 (DRJ) (Doc. 20).

A. Approval of Bidding Procedures and Auction

9. On July 26, 2021, the Debtors filed the *Debtors’ Emergency Motion for Entry of Order: (I) Establishing Bidding and Sale Procedures; (II) Approving the Sale of Assets; and (III) Granting Related Relief* [Docket No. 191] (the “**Bid Procedures Motion**”), seeking entry of an order, among other things, (a) approving procedures for the solicitation of bids in connection with a sale (the “**Sale**”) of substantially all asset of the Debtors (the “**Assets**”), (b) approving the Sale of Assets as a going concern or liquidation via one or more transactions, subject to final approval, and (c) approving certain procedures for the assumption and assignment of executory contracts and unexpired leases pursuant to Section 365 of the Bankruptcy Code. On August 11, 2021, the Court entered an order granting the Bid Procedures Motion [Docket No. 392] (the “**Bid Procedures Order**”) and approving the bidding procedures appended thereto as Appendix A (as amended, the “**Bidding Procedures**”).

10. Following entry of the Bid Procedures Order, the Debtors, through their investment bankers Jefferies LLC (“**Jefferies**”), commenced an extensive “going-concern sale” marketing process. The Debtors, through B. Riley Advisory Services (“**B. Riley**”), also simultaneously performed a liquidation sale process. In connection with the Debtors’ going-concern sale marketing process, the Debtors officially contacted 183 potential buyers. The Debtors signed NDAs with 35 potentially interested parties who accessed the Debtors’ data room and performed due diligence.

11. In connection with the “going-concern sale” marketing process, the Debtors engaged in extensive discussions with WIPL regarding a potential transaction for the acquisition of the Assets—discussions that culminated in WIPL presenting a formal bid in accordance with the Bidding Procedures. Pursuant to Section 4 of the Bidding Procedures, the Debtors worked with WIPL, as well as SCE, in an effort to cure technical issues and qualify WIPL as a bidder prior to the Auction. Indeed, prior to the designation of SCE as the Stalking Horse Bid, the Debtors intended to designate WIPL as the lead bid for the Auction. Unfortunately, despite the parties’ best efforts, the Debtors were unable to qualify WIPL prior to the Auction due to the failure to provide an executed version of the WIPL APA and pay the requisite deposit.

12. As such, the Debtors designated SCE as the Stalking Horse Bidder pursuant to the Bidding Procedures and, on November 14, 2021, filed a motion to approve certain modifications to the Bidding Procedures to approve the allowance and, if necessary, payment of certain bid protections (the “**SCE Bid Protections**”) for SCE [Docket No. 760] (the “**Bid Protections Motion**”). Following a hearing on November 15, 2021, the Court granted the Bid Protections Motion and, in so doing, approved the SCE Bid Protections—namely, \$1 million in expense reimbursement for SCE.

13. On November 18, 2021, the Debtors commenced the Auction. Due to WIPL’s inability to qualify as a bidder, SCE’s going concern bid was unchallenged and, as such, selected as the winning bid. Thereafter, the Debtors held an auction among several liquidation bids to select a composite Back-up Bid comprised of a bid for the catalyst and a bid for the liquidation of the remaining hard assets of the Debtors.⁶ Ultimately, the Debtors selected Bay, Ltd. (“**Bay**”) and

⁶ It is worth noting that although provided an opportunity, the liquidation bids did not bid against the SCE bid during the Auction; rather, the liquidation bids, including the bids of Bay and Sabin, were only presented during the secondary auction following selection of SCE as the winning bid.

Sabin Metal Corporation (“**Sabin**”) as the Back-up Bidders. On November 30, 2021, the Debtors filed a Notice of (I) Designation of Winning Bid and Back-up Bids and (II) Sixth Notice of Extension of Milestones and Bid Procedures Deadlines [Docket No. 829] (“**Designation of Winning Bid**”).⁷

B. Presentment of the WIPL APA

14. On December 1, 2021, WIPL contacted the Debtors to discuss circumstances surrounding the prior inability to qualify as a bidder in advance of the Auction and possible presentation of a bid pursuant to the terms of the WIPL APA, a true and correct copy of which is attached hereto as **Exhibit D**, albeit with a higher purchase price than previously discussed—namely, \$30 million payable in full at closing. Thereafter, on or about December 3, 2021, WIPL furnished a deposit for the proposed transaction in the amount of \$3 million, which is presently on deposit with B. Riley. On or about December 5, 2021, WIPL delivered an executed version of the WIPL APA along with evidence of the financial wherewithal to close the transaction and fund operations while planning a restart of the refinery.

15. Notwithstanding the presentment of the WIPL APA, the Debtors have continued to diligently work with SCE to finalize the Transaction Documents (as defined in the SCE asset purchase agreement (“**SCE APA**”)), including, without limitation, the proposed SCE TSA. The Debtors’ willingness to render services during the transition period, as well as the lenders’ support for such an arrangement, is predicated upon SCE paying for any and all expenses associated with such services and ensuring the maintenance of adequate health and safety services. At present, the

⁷ Although the Debtors’ have designated and presented the SCE APA as the Winning Bid, the Debtors have not accepted the SCE APA and, as such, are not bound by the provisions thereof. *See* Bidding Procedures, Docket No. 392, at p. 26 (“The Debtors’ presentation of the Winning Bid to the Court for approval does not constitute the Debtors’ acceptance of such Winning Bid. The Debtors shall have accepted a Winning Bid only when the Court has entered an order approving such bid and the Sale of the Assets subject thereto.”).

SCE TSA contains provisions that limit SCE's obligation to fund budgeted expenses, including health and safety service, during the transition period, which may render the Debtors unable to fund certain health and safety measures and, further, may diminish the value ascribed to SCE's financial commitments during the transition period for purposes of valuing the consideration under the SCE APA as compared to the Back-up Bids.

16. The Debtors have consulted with the Notice Parties in accordance with the terms of the Bidding Procedures regarding the WIPL APA and proposed transaction. The Debtors also discussed with the Notice Parties the potential courses of action to enable the consideration of the WIPL APA under the Bidding Procedures—namely, (1) reopening the Auction pursuant to Section 24.h of the Bidding Procedures, (2) rejecting the existing bids and restarting the sale process, and/or (3) terminating the bidding process and proceeding with a private sale pursuant to the WIPL APA. The Debtors and Notice Parties prefer proceeding by reopening the Auction, qualifying WIPL on the terms of the WIPL APA, and permitting Qualified Bidders to present further bids for some or all of the Assets, as permitted under the Bidding Procedures.

17. The Debtors bring this Motion due to the advanced stage of the sale process as a means of providing transparency and a venue for interested parties to address the proposed reopening of the Auction and consideration of the WIPL bid. Additionally, the Debtors seek approval of certain procedures for the continued Auction intended to ensure Qualified Bidders are not unduly prejudiced by the reopening of the Auction, which are set forth below.

Basis for Relief Requested

A. The Debtors are Authorized to Reopen the Auction

18. The Bidding Procedures Order provides that “[t]he Bidding Procedures ... , including, without limitation, the procedures for the Auction ... are hereby approved in all respects

....” Bidding Procedures Order, Docket 392, at p. 2. Pursuant to Section 24.h of the Bidding Procedures, “the Debtors, in consultation with the Notice Parties, may continue the Auction from time to time, adjourn the Auction at any time, and *re-open the Auction at any time prior to the commencement of the Sale Hearing....*” See Bidding Procedures, Docket No. 392, at p. 26 (emphasis added). The Court retains exclusive jurisdiction to interpret and enforce the provisions of the Bidding Procedures Order. See Bidding Procedures Order, Docket 392, at p. 11 (“This Court shall retain jurisdiction over any and all matters arising from or related to the implementation or interpretation of this Order.”).

19. The Bidding Procedures authorize the Debtors to reopen the Auction at any time prior to the commencement of the Sale Hearing. See Bidding Procedures, Docket No. 392, at p. 26. The Sale Hearing has not commenced and will not commence prior to the reopened Auction. Further, the Court has the authority to approve the reopening of the Auction independent of the enabling provisions of the Court-approved Bidding Procedures. See, e.g., *First Nat’l Bank v. M/V Lightning Power*, 776 F.2d 1258 (5th Cir. 1985); *In re Financial News Network, Inc.*, 980 F.2d 165, 169 (2d Cir. 1992) (opining that the sale process “is to secure for the benefit of creditors the best possible bid” and “in bankruptcy proceedings substance should not give way to form, and that a bankruptcy judge’s broad discretionary power in conducting the sale of a debtor’s assets should not be narrowed by technical rules mindlessly followed.”); *In re Bigler, LP*, 443 B.R. 101 (Bankr. S.D. Tex. 2010). Under such authority, the Court possesses the authority to reopen the Auction and permit consideration of the WIPL APA as such relief presents a “reasonable degree of probability that a substantially better price will be obtained” at the reopened Auction. See *First National Bank*, 776 F.2d at 1261. Further, such relief is essential to advance the interests of the Estates and its creditors consistent with the fiduciary obligations of the Debtors in connection with

the proposed Sale of the Assets. *See, e.g., Official Committee of Subordinated Bondholders v. Integrated Resources, Inc. (In re Integrated Resources, Inc.)*, 147 B.R. 650, 659 (S.D.N.Y. 1992).

20. Wherefore, the Debtors respectfully request that the Court affirm the Debtors' authority to reopen the Auction and designate the WIPL APA as a Qualified Bid.⁸

B. Court Should Approve the Proposed Procedures for the Reopened Auction

21. Pursuant to Bankruptcy Rule 6004(f)(1), sales of property outside the ordinary course of business may be by private sale or auction. Fed. R. Bankr. P. 6004(f)(1). The paramount goal of any proposed sale of property of a debtor is to maximize the value received by the estate. *See, e.g., Integrated Resources, Inc.*, 147 B.R. at 659 ("It is a well-established principal of bankruptcy law that the Debtors' duty with respect to [Section 363] sales is to obtain the highest price or greatest overall benefit possible for the estate"), *quoting Cello Bag Co. v. Champion Int'l Corp. (In re Atlanta Packaging Prods., Inc.)*, 99 B.R. 124, 131 (Bankr. N.D. Ga. 1988).

22. To that end, debtors are granted significant latitude in devising and implementing bidding and sale procedures under Section 363 of the Bankruptcy Code. Indeed, bankruptcy courts have made clear that a debtor's business judgment is entitled to substantial deference with respect to the bid procedures to be used in selling assets of the estate. *See, e.g., In re Integrated Resources, Inc.*, 147 B.R. at 656-57 (noting that overbid procedures and break-up fee arrangements that have been negotiated by a debtor are to be reviewed according to the deferential "business judgment" standard, under which such procedures and arrangements are "presumptively valid"); *See Asarco, Inc. v. Elliott Management (In re ASARCO, L.L.C.)*, 650 F.3d 593, 601 (5th Cir. 2011) ("The business judgment standard in section 363 is flexible and encourages discretion."); *see also GBL Holding Co. v. Blackburn/Travis/Cole, Ltd.*, 331 B.R. 251, 254 (N.D. Tex. 2005) ("Great judicial

⁸ If the Court grants the relief requested, the Debtors intend to file a notice of withdrawal for the Designation of Winning Bidder to permit the Auction to proceed pursuant to the proposed Continued Auction Procedures.

deference is given to the Trustee's exercise of business judgment."), (*citing In re Gulf States Steel, Inc. of Ala.*, 285 B.R. 497, 516 (Bankr. N.D. Ala.2002)); *see also In re W.A. Mallory Co., Inc.*, 214 B.R. 834, 836–37 (Bankr. E.D. Va. 1997) (“[G]reat deference is given to a business in determining its own best interests.”); *see also In re Global Crossing, Ltd.*, 295 B.R. 726, 744 n. 58 (Bankr. S.D.N.Y. 2003) (“[T]he Court does not believe that it is appropriate for a bankruptcy court to substitute its own business judgment for that of the [d]ebtors and their advisors....”).

23. In connection with the reopened Auction, the Debtors proposed the following procedures in the exercise of their sound business judgment:

- a. The Bidding Procedures, including the Auction Procedures set forth therein, shall control unless contrary to the procedures proposed herein.
- b. As soon as practicable following entry of an order granting this Motion, the Debtors shall, upon consultation with the Notice Parties, WIPL and the bidders at the initial Auction, schedule the reopened Auction and, thereafter, provide notice of the reopened Auction to all parties entitled to the Notice Parties, WIPL, SCE, the Back-up Bidders, and all other parties notice under the Bidding Procedures.
- c. The Debtors may work with any Potential Bidder(s) in an effort to cure any defects in the Bid and to cause such Bid to become a Qualified Bid through the commencement of the reopened Auction.
- d. The Debtors may designate any Bid as a Qualified Bid through the commencement of the reopened Auction.
- e. The SCE bid shall serve as the opening bid for the reopened Auction.
- f. The Debtors, in their business judgment, shall select the order for the presentation of overbids as well as the initial minimum overbid.
- g. At the conclusion of the reopened Auction, the Debtors shall select Winning Bidder(s) and Back-up Bidder(s) in accordance with the Bidding Procedures and, no later than one (1) business day following the conclusion of the Auction, but in no event later than the commencement of the Sale Hearing, shall file a Designation of Winning Bidder based on the results of the reopened Auction.

24. The Debtors respectfully request that the Court approve the Bidding Procedures, as herein amended, for the reopened Auction as fair and reasonable and supported by the sound business judgment of the Debtors.

Waiver of Bankruptcy Rules 6004(a) and 6004(h)

25. Based on the foregoing, the Debtors respectfully submit that a waiver of the 14-day stay contained in Bankruptcy Rules 6004(h) and 6006(d) is warranted.

Request for Emergency Relief

26. Based on the foregoing, the Debtors respectfully submit that emergency consideration of this Motion is essential to permit the Debtors to close a Sale of Assets to one or more Qualified Bidders prior to the deadlines established in the applicable transaction documents, including, without limitation, the WIPL APA, which presently represents the highest and best bid for the Assets. Further, emergency consideration of the Motion will not unduly prejudice any interested parties as such parties have been notified of the intention to reopen the Auction and the exigency of the relief sought herein.

Certification of Accuracy

27. Pursuant to Local Rule 9013-1(i), this Motion is verified as to its accuracy by Debtors' counsel.

Notice

28. Notice of this Motion will be provided to the Master Service List, including: (a) the U.S. Trustee; (b) all secured creditors; (c) the Offices of the Attorney General of the State of Texas and the United States Virgin Islands; (d) the thirty (30) largest consolidated unsecured creditors for the Debtors; (e) the Debtors' identified, interested taxing authorities, including the Internal Revenue Service; (f) the Debtors' identified, interested government and regulatory entities; (g)

other interested parties as identified by the Debtors; (h) the Committee members and their counsel, if known; (i) counsel to the Committee; and (j) any party that has requested notice pursuant to Bankruptcy Rule 2002. The method of service for each party will be described more fully in the certificate of service prepared by the Debtors' claims and noticing agent. The Debtors submit that no other or further notice is required.

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WHEREFORE, the Debtors respectfully request that the Court grant the Motion in its entirety and grant the Debtors such other relief as is appropriate.

Dated: December 6, 2021

BAKER & HOSTETLER LLP

/s/ Elizabeth A. Green

Elizabeth A. Green, Esq.

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Counsel for the Debtors and Debtors in Possession

Certificate of Accuracy

I certify that the foregoing statements are true and accurate to the best of my knowledge.
This statement is being made pursuant to Bankruptcy Local Rule 9013-1(i).

/s/ Elizabeth A. Green
Elizabeth A. Green

Certificate of Service

I certify that on December 6, 2021, I caused a copy of the foregoing document to be served
by the Electronic Case Filing System for the United States Bankruptcy Court for the Southern
District of Texas.

/s/ Elizabeth A. Green
Elizabeth A. Green

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

IN RE:

**LIMETREE BAY SERVICES, LLC, *et al.*,¹
Debtors.**

CHAPTER 11

**CASE NO.: 21-32351 (DRJ)
(Jointly Administered)**

**ORDER GRANTING DEBTORS' EMERGENCY MOTION TO (I) REOPEN AUCTION
PURSUANT TO BIDDING PROCEDURES, (II) APPROVE SCHEDULE AND
PROCEDURES FOR CONTINUED AUCTION, AND (III) GRANT RELATED RELIEF**

Upon the motion (“**Motion**”)² of the debtors and debtors-in-possession (collectively, the “Debtors”) in the above-captioned chapter 11 cases (collectively, the “Chapter 11 Cases”) for entry of an order (the “Order”) reopening the Auction and approving schedule and procedures therefor, as more fully set forth in the Motion; finding this Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1334; finding that this matter is a core proceeding pursuant to 28 U.S.C. § 157; finding this Court may enter final orders in this matter consistent with Article III of the United States Constitution; finding that this matter is properly venued in this Court pursuant to 28 U.S.C. §§ 1408 and 1409; finding notice of the Motion due and proper under the circumstances and in accordance with all applicable rules and orders, and no further or additional notice of the Motion being warranted; receiving no objections to the relief requested in the Motion; having considered the Motion, and all other documents submitted in support of the Motion; and, after due deliberation, finding that the relief requested by and through the Motion is due and proper, is

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² Unless otherwise defined herein, capitalized terms shall have the meanings ascribed to them in the Motion.

premised on the Debtors' sound business judgment, and serves the best interests of the estates and their creditors; and sufficient cause appearing therefor,

IT IS HEREBY ORDERED:

1. The Motion is hereby granted in its entirety.
2. The Debtors are authorized pursuant to the terms of the Bidding Procedures, as hereby modified, to reopen the Auction.
3. Except as amended by this Order, the Bidding Procedures, including the Auction Procedures set forth therein, shall control the reopened Auction. In addition to the Bidding Procedures, the following procedures shall apply to the reopened Auction:
 - a. As soon as practicable following entry of this Order, the Debtors shall, upon consultation with the Notice Parties, WIPL and the bidders at the initial Auction, schedule the reopened Auction and, thereafter, provide notice of the reopened Auction to all parties entitled to the Notice Parties, WIPL, SCE, the Back-up Bidders, and all other parties notice under the Bidding Procedures.
 - b. The Debtors may work with any Potential Bidder(s) in an effort to cure any defects in their respective Bid and to cause such Bid to become a Qualified Bid through the commencement of the reopened Auction.
 - c. The Debtors may designate any Bid as a Qualified Bid through the commencement of the reopened Auction.
 - d. The SCE bid shall serve as the opening bid for the reopened Auction.
 - e. The Debtors, in their business judgment, shall select the order for the presentation of overbids as well as the initial minimum overbid.
 - f. At the conclusion of the reopened Auction, the Debtors shall select Winning Bidder(s) and Back-up Bidder(s) in accordance with the Bidding Procedures and, no later than one

(1) business day following the conclusion of the Auction, but in no event later than the commencement of the Sale Hearing, shall file a Designation of Winning Bidder based on the results of the reopened Auction.

4. Notice of the Motion as provided therein shall be deemed good and sufficient notice of such Motion and the requirements of Bankruptcy Rule 6004(a) and the Bankruptcy Local Rules are satisfied by such notice.

5. Notwithstanding Bankruptcy Rule 6004(h), the terms and conditions of this Order are immediately effective and enforceable upon its entry.

6. This Court retains exclusive jurisdiction with respect to all matters arising from or related to the implementation, interpretation, and enforcement of this Order.

Dated:

David R. Jones
United States Bankruptcy Judge

EXHIBIT B - DECLARATION OF MARK SHAPIRO

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

IN RE:

**LIMETREE BAY SERVICES, LLC, *et al.*,¹
Debtors.**

CHAPTER 11

**CASE NO.: 21-32351 (DRJ)
(Jointly Administered)**

**DECLARATION OF MARK SHAPIRO IN SUPPORT OF THE
DEBTORS' EMERGENCY MOTION TO (I) REOPEN AUCTION PURSUANT TO
BIDDING PROCEDURES, (II) APPROVE SCHEDULE AND PROCEDURES FOR
CONTINUED AUCTION, AND (III) GRANT RELATED RELIEF**

I, Mark Shapiro, declare as follows:

1. I am a Senior Managing Director for GlassRatner Advisory & Capital Group LLC, d/b/a B. Riley Services (“**B. Riley**” or the “**CRO**”). On or about June 17, 2021, Limetree Bay Services, LLC, Limetree Bay Refining Holdings, LLC, Limetree Bay Refining Holdings II, LLC, Limetree Bay Refining, LLC, Limetree Bay Refining Operating, LLC, and Limetree Bay Refining Marketing, LLC (collectively, the “**Debtors**”) retained B. Riley as chief restructuring officer. I am the principal representative of B. Riley in its capacity as CRO.

2. I am a duly authorized representative of the Debtors for purposes of executing any and all documents in connection with the above-captioned chapter 11 cases (collectively, the “**Chapter 11 Cases**”), and representing the Debtors in the course of these Chapter 11 Cases and any related proceedings. I am authorized to submit this Declaration on behalf of the Debtors. I submit this Declaration in support of the *Debtors' Emergency Motion to (I) Reopen Auction Pursuant to Bidding Procedures, (II) Approve Schedule and Procedures for Continued Auction,*

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, as applicable, are: Limetree Bay Services, LLC (1866); Limetree Bay Refining Holdings, LLC (1776); Limetree Bay Refining Holdings II, LLC (1815); Limetree Bay Refining, LLC (8671); Limetree Bay Refining Operating, LLC (9067); Limetree Bay Refining Marketing, LLC (9222). The Debtors' mailing address is Limetree Bay Services, LLC, 11100 Brittmoore Park Drive, Houston, TX 77041.

and (III) *Grant Related Relief* (the “**Motion**”). Unless otherwise defined herein, all capitalized terms shall have the meanings ascribed to them in the Motion.

3. I am familiar with the Debtors’ businesses, day-to-day operations, and financial affairs, as well as the Bidding Procedures and Debtors’ ongoing sale process. Except as otherwise indicated, the facts set forth in this Declaration are based upon my personal knowledge, my review of relevant documents and records created and maintained by the Debtors in the ordinary course of business, information provided to me by employees and consultants working under my supervision with personal knowledge of the veracity of such information, and/or my opinion based on experience, knowledge, and information concerning the Debtors’ operations and financial condition. If called upon to testify, I could and would testify competently to the facts set forth in this Declaration.

4. For the reasons set forth in the Motion, I believe in my business judgment that reopening the Auction, authorizing Debtors to designate the WIPL APA as a Qualified Bid, and approving the proposed amendments to the Bid Procedures, as set forth in the Motion, are fair and equitable and in the best interests of the Estates and their respective creditors. In particular, I believe that reopening the Auction and the proposed Bid Procedures amendments, as set forth in the Motion, serve the best interests of the creditors and the Estates by permitting the Debtors to maximize the value of their Assets.

I declare under penalty of perjury that the foregoing is true and correct according to the best of my knowledge, information, and belief.

Dated: December 6, 2021

/s/ Mark Shapiro

Mark Shapiro, CRO

EXHIBIT B - DECLARATION OF MICHAEL O'HARA

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

IN RE:

**LIMETREE BAY SERVICES, LLC, *et al.*,¹
Debtors.**

CHAPTER 11

**CASE NO.: 21-32351 (DRJ)
(Jointly Administered)**

**DECLARATION OF MICHAEL O'HARA IN SUPPORT OF THE
DEBTORS' EMERGENCY MOTION TO (I) REOPEN AUCTION PURSUANT TO
BIDDING PROCEDURES, (II) APPROVE SCHEDULE AND PROCEDURES FOR
CONTINUED AUCTION, AND (III) GRANT RELATED RELIEF**

I, Michael O'Hara, declare as follows:

1. I am a Managing Director at Jefferies LLC ("**Jefferies**"). On or July 16, 2021, the Court authorized Limetree Bay Services, LLC, Limetree Bay Refining Holdings, LLC, Limetree Bay Refining Holdings II, LLC, Limetree Bay Refining, LLC, Limetree Bay Refining Operating, LLC, and Limetree Bay Refining Marketing, LLC (collectively, the "**Debtors**") to retain Jefferies to serve as the Debtors' investment banker.

2. I am authorized to submit this Declaration on behalf of the Debtors. I submit this Declaration in support of the *Debtors' Emergency Motion to (I) Reopen Auction Pursuant to Bidding Procedures, (II) Approve Schedule and Procedures for Continued Auction, and (III) Grant Related Relief* (the "**Motion**"). Unless otherwise defined herein, all capitalized terms shall have the meanings ascribed to them in the Motion. Except as otherwise indicated, I have personal knowledge of the matters set forth herein, and, if called as a witness, would testify competently thereto.

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, as applicable, are: Limetree Bay Services, LLC (1866); Limetree Bay Refining Holdings, LLC (1776); Limetree Bay Refining Holdings II, LLC (1815); Limetree Bay Refining, LLC (8671); Limetree Bay Refining Operating, LLC (9067); Limetree Bay Refining Marketing, LLC (9222). The Debtors' mailing address is Limetree Bay Services, LLC, 11100 Brittmoore Park Drive, Houston, TX 77041.

3. Prior to the Bid Deadline, the Debtors were working with WIPL in an effort to qualify WIPL as a going concern bidder in advance of the Auction. Indeed, at one point, the Debtors intended to designate WIPL as the lead bid for the Auction as it presented the highest and best bid received by the Debtors at that time. Despite the parties' best efforts, however, the Debtors were unable to qualify WIPL prior to the Auction due to the failure to provide an executed version of a definitive asset purchase agreement and pay the requisite deposit.

4. The Debtors learned that WIPL's inability to execute an asset purchase agreement and pay the requisite deposit prior to the Auction was due to the WIPL CEO suffering a medical emergency just before the Bid Deadline that incapacitated and rendered him unable to work.

5. On December 1, 2021, WIPL contacted me and the Debtors' representatives to discuss the circumstances surrounding the prior inability to qualify as a bidder in advance of the Auction and possible presentation of a bid pursuant to the terms of the previously-negotiated asset purchase agreement, albeit with a higher purchase price—namely, \$30 million payable in full at closing. Thereafter, on or about December 3, 2021, WIPL paid a deposit for the proposed transaction in the amount of \$3 million, which is presently on deposit with B. Riley. On or about December 5, 2021, WIPL delivered an executed version of the WIPL APA along with evidence of the financial wherewithal to close the transaction and fund operations pending restart of the refinery.

6. Based on my review of the documents provided, I believe that WIPL has the financial wherewithal to consummate the proposed transaction on the terms and within the timeframe provided under the WIPL APA.

7. For the reasons set forth in the Motion, I believe that WIPL has addressed any outstanding issues with respect to the WIPL bid through the payment of WIPL Deposit and

execution of the WIPL APA and, as such, if the Motion is granted, WIPL will constitute a Qualified Bidder under the Bidding Procedures, as modified.

I declare under penalty of perjury that the foregoing is true and correct according to the best of my knowledge, information, and belief.

Dated: December 6, 2021

/s/ Michael O'Hara

Michael O'Hara
Managing Director
Jefferies LLC

**EXHIBIT D - ASSET PURCHASE AGREEMENT
(EXECUTED)**

ASSET PURCHASE AGREEMENT

by and among

**LIMETREE BAY SERVICES, LLC,
LIMETREE BAY REFINING HOLDINGS, LLC,
LIMETREE BAY REFINING HOLDINGS II, LLC,
LIMETREE BAY REFINING, LLC,
LIMETREE BAY REFINING OPERATING, LLC, AND
LIMETREE BAY REFINING MARKETING, LLC,
as Sellers**

and

**WEST INDIES PETROLEUM LIMITED, a Jamaican corporation, AND
ST. CROIX REFINING AND TRANSPORTATION, LLLP, a Virgin Islands limited
liability limited partnership,
as Purchaser**

Dated as of December [__], 2021

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ASSET PURCHASE AGREEMENT

THIS ASSET PURCHASE AGREEMENT ("Agreement") is made as of December [], 2021, by and among Limetree Bay Services, LLC, a Delaware limited liability company ("LBS"), Limetree Bay Refining Holdings, LLC, a United States Virgin Islands limited liability company ("LBRH"), Limetree Bay Refining Holdings II, LLC, a United States Virgin Islands limited liability company ("LBRH II"), Limetree Bay Refining, LLC, a United States Virgin Islands limited liability company ("LBR"), Limetree Bay Refining Operating, LLC, a United States Virgin Islands limited liability company ("LBRO"), Limetree Bay Refining Marketing, LLC, a United States Virgin Islands limited liability company ("LBRM"), along with LBS, LBRH, LBRH II, LBR and LBRO, each a "Seller" and collectively, "Sellers"), and West Indies Petroleum Limited ("WIPL"), a Jamaican corporation, and St. Croix Refining and Transportation, LLLP, a Virgin Islands limited liability limited partnership, formed by West Indies Petroleum Limited pursuant to the laws of the United States Virgin Islands ("SCRT" and, together with WIPL, "Purchaser"; Purchaser and Sellers, each a "Party" and collectively, the "Parties"). Capitalized terms used but not otherwise defined in the text of this Agreement have the meanings set forth in Appendix 1 attached hereto, which is incorporated herein and made a part of this Agreement.

RECITALS

A. Sellers own an oil refinery located on the island of St. Croix in the United States Virgin Islands (collectively, the "Business").

B. On July 12, 2021 (the "Petition Date"), Sellers filed voluntary petitions for relief under chapter 11 of the Bankruptcy Code in the United States Bankruptcy Court for the Southern District of Texas (the "Bankruptcy Court"), which cases are jointly administered under *In re Limetree Bay Services, LLC*, Case No. 21-32351.

C. On the terms and subject to the conditions set forth in this Agreement, Purchaser desires to purchase from Sellers, and Sellers' desire to sell to Purchaser, the Purchased Assets (the "Purchase").

D. It is intended that the acquisition of the Purchased Assets will be accomplished through the sale, transfer and assignment of the Purchased Assets by Sellers to Purchaser in a sale undertaken pursuant to §363 of the Bankruptcy Code and that certain executory contracts and unexpired leases will be assumed by Sellers and assigned to Purchaser pursuant to §365 of the Bankruptcy Code in connection therewith.

AGREEMENTS

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

ARTICLE I
Purchase and Sale of Assets

1.1 Agreement to Purchase and Sell. On the terms and subject to the conditions contained in this Agreement, Purchaser agrees to purchase from Sellers, and Sellers agree to sell, transfer and convey to Purchaser, with Purchaser taking title in the name of SCRT, all of Sellers' assets, properties, rights and interests as of the Closing Date, wherever situated or located, other than the Excluded Assets. All of such assets, properties, rights and interests (other than the Excluded Assets) are collectively referred to in this Agreement as the "Purchased Assets". The Purchased Assets shall be sold, transferred and conveyed to Purchaser as provided herein free and clear of any and all Liens, in each case to the extent resulting from the Sale Order.

1.2 Description of Purchased Assets. Without limitation of Section 1.1, the Purchased Assets shall include the following assets owned by Sellers as of the Closing Date, except to the extent that any of the following are also enumerated in Section 1.3 as being Excluded Assets:

(a) each Contract listed or described on Schedule 1.2(a) (collectively, the "Business Contracts"); provided, however, that notwithstanding the generality of Section 1.1 or anything to the contrary in this Section 1.2, Purchaser shall not acquire any rights or interest under the NRI Consignment Agreement;

(b) the real property described on Schedule 1.2(b), together with all easements, appurtenances, rights and other hereditaments appurtenant to such real property (collectively, the "Purchased Real Property"), including Sellers' easements, use rights, or options to purchase, or such rights with respect to Purchased Real Property as are used or held for use in the Business; provided, that the agreements, if any, establishing such rights are assigned to Purchaser;

(c) all Improvements;

(d) Intentionally deleted;

(e) all Parts Inventory;

(f) the Files and Records, whether in hard copy or electronic format, except that, with respect to Files and Records that any Seller or any of its Affiliates is required by Law or Order to retain, the Purchased Assets shall include copies of such Files and Records to the extent permitted by any applicable Law or Order (and, with respect to any personnel records which a Seller or Affiliate is required to retain, to the extent permitted by any applicable Law or Order, copies of such personnel records for employees or consultants who, as of the Closing, will become employees or consultants of Purchaser); provided, that any Seller shall be permitted to retain a copy of any such Files and Records that such Seller requires, including any electronically stored information;

(g) all Permits (and any pending applications for Permits), other than the Excluded Permits, that are owned, utilized, held or maintained by or licensed to a Seller primarily in connection with such Sellers' ownership or operation of the Business to the

other Purchased Assets, including those Permits described on Schedule 1.2(g) (the “Business Permits”);

- (h) the Business Intellectual Property;
- (i) the Business IT Assets;
- (j) all Furniture and Equipment owned by Sellers that is located at the Sellers’ Facilities or that is otherwise primarily used or held for use in the Business (other than the Excluded Furniture and Equipment);
- (k) Intentionally deleted;
- (l) all insurance recoveries under each Seller’s or its Affiliates’ insurance policies, in each case solely (i) to the extent Purchaser has paid all premiums and costs associated with such coverage from and after the Closing Date, (ii) with respect to any of the Purchased Assets set forth in Sections 1.2(a)-(j), and (iii) to the extent first arising with respect to incidents, actions or omissions that occur on or after the Closing Date, and any rights to assert claims with respect to any such insurance recoveries (the “Purchased Insurance Recoveries”); and
- (m) all assets specifically identified on Schedule 1.2(m).

1.3 Excluded Assets. The “Excluded Assets” means the following items and assets (whether or not such assets are otherwise described in Section 1.2):

- (a) all cash, certificates of deposit or other cash equivalents;
- (b) any real property other than Purchased Real Property;
- (c) all personal property, equipment and inventory not included in the Purchased Assets, including, without limitation, any such assets or Parts Inventory subject to the NRI Consignment Agreement;
- (d) all rights, claims, defenses, causes of action, rights of offset and counterclaims (at any time or in any manner arising or existing, whether choate or inchoate, known or unknown, contingent or non-contingent) of each Seller against any Third Parties, including with respect to any of the Purchased Assets, the Excluded Assets or the Excluded Liabilities, including, without limitation, all Avoidance Actions, and any proceeds of the foregoing;
- (e) Intentionally deleted;
- (f) Intentionally deleted;
- (g) general books of account and books of original entry that comprise a Sellers’ permanent Tax records, corporate minute books, stock books and related organizational documents and the books and records that any Seller is required to retain

pursuant to any Law or Order and the books and records solely related to the Excluded Assets or Excluded Liabilities;

(h) personnel records that any Seller is required by Law or Order to retain (provided that the copies of any such personnel records shall be Purchased Assets to the extent permitted by any applicable Law or Order pursuant to Section 1.2(f)) and personnel records of employees, former employees or consultants of each Seller who do not, as of the Closing, become employees of Purchaser;

(i) all insurance recoveries under each Seller's or its Affiliates' insurance policies with respect to the Purchased Assets or the Business and any rights to assert claims with respect to any such insurance recoveries, *provided, however*, that the Purchased Insurance Recoveries shall not constitute Excluded Assets;

(j) all claims for refund or credit of (i) income Taxes of each Seller and its Affiliates for any taxable period and (ii) non-income Taxes of each Seller and its Affiliates with respect to a Pre-Closing Period;

(k) Intentionally deleted;

(l) Intentionally deleted;

(m) each Seller's or any of its Affiliates' rights under this Agreement or any Transaction Document or relating to the Excluded Assets or the Excluded Liabilities;

(n) all deposits (including security deposits, rent, electricity, telephone or otherwise and retainers held by attorneys, accountants, financial advisors and other professional advisors retained by any Seller or by any creditors' committee in the Bankruptcy Case) and other prepaid charges of each Seller, in each case other than with respect to any Purchased Assets;

(o) any assets of each Seller in a directors and officers liability insurance policy, executive or incentive compensation, bonus, deferred compensation, pension, retiree medical, stock option or other stock purchase plan or other Employee Benefit Plan;

(p) Intentionally deleted;

(q) all accounts receivable and pre-paid assets of each Seller, including, without limitation, any BP Receivables and NRI Receivables;

(r) Intentionally deleted;

(s) all attorney client privilege and attorney work product protection of each Seller or associated with the Business (as currently or formerly conducted) as a result of legal counsel representing a Seller or the Business (as currently or formerly conducted), and all Files and Records related thereto subject to such attorney client privilege or work product protection; provided that any privilege or work product that exclusively relates to the Purchased Assets or that is necessary to operate the Business (other than such

privileges, protections and related Files and Records related to or in connection with the transactions contemplated by this Agreement or any Transaction Document) shall not be deemed to be an Excluded Asset whether or not in connection with the transactions contemplated by this agreement or any Transaction Document; and

(t) all shares of capital stock or other equity interests in any Seller or any Affiliate thereof or any securities convertible into, exchangeable or exercisable for shares of capital stock or other equity interests in any Seller or any Affiliate thereof.

For clarification purposes and without implication that the contrary would otherwise be true, it is understood and agreed that all rights and remedies with respect to the Excluded Assets or the Excluded Liabilities and which rights or remedies first arise after the Closing shall be retained by Sellers and shall not be transferred to Purchaser hereunder.

1.4 Assignment of Assigned Contracts. To the maximum extent permitted by the Bankruptcy Code, but subject to applicable Law and the other provisions of this Section 1.4, Sellers shall assume and transfer, sell and assign all Business Contracts and Business Permits to Purchaser pursuant to Sections 363 and 365 of the Bankruptcy Code as of the Closing Date or such other date as specified in the Sale Order or this Agreement, as applicable. Notwithstanding any other provision of this Agreement to the contrary, this Agreement shall not constitute an agreement to assign any Business Contract or Business Permit (or any right thereunder) if an attempted assignment without the consent of a third party, which consent has not been obtained prior to the Closing (and is not provided for or satisfied by the Sale Order, the Bankruptcy Code or applicable Law), would constitute a breach or in any way adversely affect the rights of Purchaser or Sellers thereunder and the Parties acknowledge and agree that the Closing shall proceed with respect to the remaining Business Contracts and Business Permits without any reduction in the Purchase Price; provided that the Sellers' acknowledge and agree that the Sellers shall employ its best efforts to secure any requisite consents to assume any Business Permits, or, if unable to secure such consent, shall use reasonable best efforts, at the cost of the Purchaser, to secure a new business permit in favor of the Purchaser from the issuing party prior to the Closing.

ARTICLE II Assumption of Liabilities

2.1 Agreement to Assume. Purchaser shall not assume or agree to pay, perform and discharge when due, any liabilities or obligations of Sellers. As such, all liabilities and obligations of Sellers are collectively referred to herein as "Excluded Liabilities". Purchaser shall not assume, be deemed to have assumed, or otherwise be responsible for, the Excluded Liabilities.

2.2 Assumed Liabilities. Purchaser shall not assume or agree to pay, perform and discharge when due, any liabilities or obligations of Sellers; provided, however, that Purchaser shall be obligated to pay Cure Amounts and provide any adequate assurance of performance in connection with the assumption and/or assignment of any Contracts, including, without limitation, any Business Contracts and Business Permit, pursuant to Section 1.4 of this Agreement or Section 365 of the Bankruptcy Code, which amounts shall be in addition to the

Purchase Price and shall be paid directly to the subject counterparty by Purchaser pursuant to the terms of the Sale Order.

2.3 Excluded Liabilities. Except as provided in Section 2.2, all liabilities and obligations of Sellers shall constitute Excluded Liabilities.

ARTICLE III

Purchase Price, Manner of Payment; Closing; Deposit

3.1 Purchase Price; Delivery of Funds. At the Closing, Purchaser shall in full consideration for the sale and transfer by Sellers of the Purchased Assets (a) pay to Sellers an amount (such amount, the “Closing Payment”) equal to (i) the Purchase Price, less (ii) the Good Faith Deposit Amount, by wire transfer of immediately available funds to an account or accounts designated by Sellers in writing to Purchaser at least three Business Days prior to the Closing; and (b) together with Sellers, execute and deliver a joint written instruction to the Escrow Agent instructing it to release from the Escrow Account to Sellers by wire transfer of immediately available funds to an account or accounts designated by Sellers, an amount equal to the Good Faith Deposit Amount.

3.2 Good Faith Escrow Deposit.

(a) Purchaser has paid to the Escrow Agent the Good Faith Deposit Amount, which funds shall be held in the Escrow Account by the Escrow Agent and invested as provided for in the Escrow Agreement and released by the Escrow Agent only in accordance with the terms of this Agreement and the Escrow Agreement.

(b) If the Closing occurs, then the Good Faith Deposit Amount, shall be paid to Sellers and the applicable Parties shall submit joint written instructions to the Escrow Agent (in accordance with Section 3.1) to give effect to the same.

(c) If the Closing does not occur as a result of the termination of this Agreement pursuant to Section 9.1(e), then within five Business Days of such termination, the Good Faith Deposit Amount shall be disbursed to Sellers by the Escrow Agent as liquidated damages and the applicable Parties shall submit joint written instructions to the Escrow Agent to give effect to the same.

(d) If the Closing does not occur as a result of the termination of this Agreement for any reason other than as set forth in Section 3.2(c), then the Good Faith Deposit Amount shall be returned to Purchaser by the Escrow Agent within five Business Days of such termination, and the applicable Parties shall submit joint written instructions to the Escrow Agent to give effect to the same.

(e) The Parties acknowledge that the agreements contained in this Section 3.2 are an integral part of the transactions contemplated by this Agreement and that without these agreements neither Sellers nor Purchaser would enter into this Agreement.

3.3 Time and Place of Closing. Subject to the satisfaction or waiver of all of the conditions set forth in Article VII, the closing of the Purchase (the “Closing”) shall take place at a time and location acceptable to both parties, as soon as practicable, but in any event within ten calendar days, after the last of the conditions set forth in Article VII is satisfied or waived (other than those conditions that by their nature are to be satisfied at the Closing, but subject to the fulfillment or waiver of those conditions), or at such other time, date or place as the Parties shall agree in writing; provided, however, that the Closing Date (defined hereinafter) shall occur no later than December 22, 2021, at 5:00 p.m. (prevailing Central Time), unless extended by Sellers, with the consent of the DIP Agent and Prepetition Secured Parties. Such date of Closing is herein referred to as the “Closing Date”.

3.4 Closing Deliverables.

(a) At the Closing, Sellers shall deliver or cause to be delivered to Purchaser:

(i) a certificate in a form reasonably satisfactory to Purchaser signed by an authorized officer of each Seller, dated as of the Closing Date, confirming the matters set forth in Sections 7.2(a) and (b) with respect to each Seller;

(ii) counterparts to the assignment, transfer and conveyance instruments listed on Schedule 3.4, in each case, duly executed by each Seller (as applicable);

(iii) a counterpart to the Bill of Sale and Assignment and Assumption Agreement, duly executed by each Seller;

(iv) a properly executed deed in recordable and customary form for conveyances of commercial real property in the United States Virgin Islands conveying the Purchased Real Property, which has the real property legal description approved by the Office of the Public Surveyor of the Government of the Virgin Islands, together with real property tax clearance letters from the Government of the Virgin Islands covering all the tax bills for all of the parcels of real property being conveyed by the deed, as well as a properly executed assignment in recordable and customary form in the United States Virgin Islands assigning any Sellers’ easements, use rights or options to purchase or that such rights are used or held for use in the Business; provided, however, that if any such easements, use rights or options to purchase, or rights used or held for use in the Business, are premised upon any Business Contract, such Business Contract is assigned to Purchaser; and

(v) written instructions from the Sellers and the Purchaser to the Escrow Agent to release the Good Faith Deposit Amount pursuant to Section 3.1.

(b) At the Closing, Purchaser shall deliver or cause to be delivered to Sellers, and Sellers shall have received:

(i) the Closing Payment by wire transfer of immediately available funds to an account or accounts designated by Sellers in writing to Purchaser at least three Business Days prior to the Closing;

(ii) a certificate in a form reasonably satisfactory to Sellers signed by an authorized officer of Purchaser, dated as of the Closing Date, confirming the matters set forth in Sections 7.1(a) and (b);

(iii) counterparts to the assignment, transfer and conveyance instruments listed on Schedule 3.4, in each case, duly executed by Purchaser (as applicable);

(iv) a counterpart to the Bill of Sale and Assignment and Assumption Agreement, duly executed by Purchaser; and

(v) written instructions from the Sellers and the Purchaser to the Escrow Agent to release the Good Faith Deposit Amount pursuant to Section 3.1.

3.5 Intentionally deleted.

ARTICLE IV Representations and Warranties of Sellers

Except as set forth in the disclosure letter delivered by Sellers to Purchaser (the “Sellers Disclosure Letter”) concurrently with the execution of this Agreement (it being agreed that any matter disclosed pursuant to any section of the Sellers Disclosure Letter shall be deemed disclosed for purposes of any other section of the Sellers Disclosure Letter to the extent the applicability of the disclosure to such other section is reasonably apparent on the face of such disclosure), Sellers hereby represent and warrant to Purchaser as follows as of the date hereof and as of the Closing Date (or as of such other date as may be specified herein):

4.1 Due Organization, Good Standing and Limited Liability Company Power. Each Seller is duly organized, validly existing and in good standing under the laws of its jurisdiction of organization. Each Seller has all requisite limited liability company power and authority to own, lease and operate its assets and properties and conduct its business as now being conducted. Each Seller is in good standing under the laws of each jurisdiction where the character of its assets or properties or the conduct of its business requires such qualification.

4.2 Authorization; Noncontravention.

(a) Subject to obtaining Bankruptcy Court approval pursuant to the Sale Order, each Seller has the requisite limited liability company power and authority and has taken all limited liability company action necessary to execute and deliver this Agreement, the Transaction Documents and all other instruments and agreements to be delivered by Sellers as contemplated hereby, to perform its obligations hereunder and thereunder and to consummate the transactions contemplated hereby and thereby. Subject to obtaining Bankruptcy Court approval pursuant to the Sale Order, the execution, delivery and performance by Sellers of this Agreement, the Transaction Documents and all other instruments and agreements to be delivered by Sellers as contemplated hereby, the consummation by Sellers of the transactions contemplated hereby and thereby and the performance of its obligations hereunder and thereunder have been, and in the case of documents required to be delivered at the Closing will be, duly authorized and approved

by all necessary limited liability company, member or other action. This Agreement has been, and the Transaction Documents and all other instruments and agreements to be executed and delivered by Sellers as contemplated hereby will be, duly executed and delivered by Sellers. Subject to obtaining Bankruptcy Court approval pursuant to the Sale Order, assuming that this Agreement, the Transaction Documents and all such other instruments and agreements constitute valid and binding obligations of Purchaser and each other Person (other than any Sellers or any Affiliate thereof) party hereto and thereto, this Agreement, the Transaction Documents and all such other instruments and agreements constitute valid and binding obligations of Sellers, enforceable against each applicable Seller in accordance with the terms thereof, except to the extent that such enforcement may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or other similar Laws affecting the enforcement of creditors' rights generally and by general equitable principles (whether considered in a proceeding in equity or at law).

(b) Except as a result of the Bankruptcy Cases and, subject to obtaining Bankruptcy Court approval pursuant to the Sale Order, the execution and delivery by Sellers of this Agreement, the Transaction Documents and all other instruments and agreements to be delivered by Sellers as contemplated hereby do not, and the consummation of the transactions contemplated hereby and thereby will not:

(i) conflict with any of the provisions of any Seller's certificate of formation or other formational documents;

(ii) except as provided in Section 4.2(b)(ii) of the Sellers Disclosure Letter and subject to receipt of the Consents set forth in Section 4.3 of the Sellers Disclosure Letter, conflict with or result in a breach of, or constitute a default under or give rise to any right of termination, cancellation, modification or acceleration (including any right of first refusal or similar right) or the loss of a benefit under, or require the Consent of or giving of notice to any Person under any Business Contract, Real Property Lease or Business Permit (in each case, with or without notice or lapse or time or both); except, in the case of this clause (ii) for such conflicts or breaches or Consents or notices that (if not received) would not reasonably be expected to materially and adversely affect the Business, the Purchased Assets, taken as a whole, or prevent or materially delay beyond the Termination Date Sellers' ability to consummate the transactions contemplated by this Agreement or the Transaction Documents;

(iii) subject to the receipt of the Consents referred to in Section 4.3 of the Sellers Disclosure Letter, contravene any Law or any Order applicable to Sellers or by which any of their properties or assets are bound except such contraventions that would not reasonably be expected to materially and adversely affect the Business, and the Purchased Assets, taken as a whole, or prevent or materially delay beyond the Termination Date Sellers' ability to consummate the transactions contemplated by this Agreement or the Transaction Documents; or

(iv) result in the creation or imposition of any Lien on any of the Purchased Assets.

4.3 Governmental Consents and Approvals. Except as a result of the Bankruptcy Cases and, subject to obtaining Bankruptcy Court approval pursuant to the entry of the Sale Order and the expiration, or waiver by the Bankruptcy Court, of the 14-day period set forth in rules 6004(h) and 3020(e) of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), as applicable, except as set forth in Section 4.3 of the Sellers Disclosure Letter, no Consent of or filing with any Governmental Entity must be obtained or made by Sellers in connection with the execution and delivery of this Agreement or any Transaction Document by Sellers or the consummation by Sellers of the transactions contemplated by this Agreement or any Transaction Document, except for any Consents that, if not obtained or made, would not reasonably be expected to materially and adversely affect the Business, and the Purchased Assets, taken as a whole, or prevent or materially delay beyond the Termination Date Sellers’ ability to consummate the transactions contemplated by this Agreement or the Transaction Documents.

4.4 Property.

(a) Other than the Real Property, no Seller owns any other real property. One or more Sellers has good and valid title to the Purchased Real Property (other than any Excluded Asset). There are no outstanding options, rights of first offer or rights of first refusal to purchase any Purchased Real Property or any portion thereof or interest therein. No Seller has leased or otherwise granted to any Person the right to use or occupy the Purchased Real Property or any material portion thereof, except as set forth in Section 4.4(a) of the Sellers Disclosure Letter.

(b) Section 4.4(b) of the Sellers Disclosure Letter contains an accurate and complete list as of the date hereof of all Real Property Leases and all other real property leases and subleases to which a Seller is a party. With respect to each Real Property Lease pursuant to which a Seller is a lessee or sublessee, such Seller has valid leasehold interests in all leased real property described in such Real Property Lease, free and clear of any and all Liens. Each Real Property Lease is a valid and binding obligation of the Sellers party thereto and, to the Knowledge of Sellers, is enforceable against the other parties thereto in accordance with the terms thereof, in each case, except to the extent that such enforcement may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or other similar Laws affecting the enforcement of creditors’ rights generally and by general equitable principles (whether considered in a proceeding in equity or at law). Except as set forth in Section 4.4(b) of the Sellers Disclosure Letter, there exists no material default or event of default (with or without notice or lapse of time or both) with respect to any Real Property Lease by a Seller or, to the Knowledge of Sellers, by any other party thereto, and no Seller has received or delivered any notice with respect to any alleged material default that has not been rescinded, completely cured, or will be cured on or before the Closing Date pursuant to §365 of the Bankruptcy Code or otherwise.

(c) To the Knowledge of Sellers, there is no, and no Seller has received written notice of any, existing or threatened change in the zoning classification of any Business Real Property (or any portion thereof) from that in effect on the date of this Agreement, in each instance, which would reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect. All water, sewer, gas, electric, telephone and drainage facilities and all other utilities and public or quasi-public improvements

related thereto required by Law with respect to, or required for the operation of, the Business at the Business Real Property, are installed and available to serve the Business Real Property. No condemnation proceeding, lawsuit or administrative action or other matter affecting and adversely impairing the current use or occupancy of the Business Real Property is pending or, to the Knowledge of Sellers, threatened in writing with respect to any Business Real Property which has had or would reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect. To the Knowledge of Sellers, there has been no material casualty damage at any of the Business Real Property that has had or would reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

4.5 Title to Purchased Assets. Except as set forth in Section 4.5 of the Sellers Disclosure Letter, and excluding Purchased Real Property (which is governed by Section 4.4(a)), one or more Sellers own and has good and valid title to, or a valid leasehold interest in, all personal property included in the Purchased Assets, free and clear of all Liens.

4.6 Affiliate Transactions. Except as disclosed in Section 4.6 of the Sellers Disclosure Letter and except for employment and consultant relationships and compensation, benefits, travel advances and employee or consultant loans to any officer, director, employee or consultant of Sellers, in each case, in the ordinary course of business, there is no Contract or Liability relating primarily to the Business, or the Purchased Assets between (a) a Seller, on the one hand, and (b) any Affiliate, equity holder, option holder, officer, member, partner or director of a Seller (in each case that is not also a Seller), on the other hand, that remains in force and provides for obligations of any party from and after the Closing.

4.7 Material Contracts.

(a) Section 4.7(a) of the Sellers Disclosure Letter sets forth an accurate, correct and complete list of the following Contracts which a Seller is a party and which are currently in effect as of the date hereof:

(i) each Contract whereby a Seller has created a Lien in respect of any of the Purchased Assets;

(ii) each Business Contract containing any covenant limiting the freedom of a Seller or any of its Affiliates (A) to compete with any Person, engage in any line of business or exploit the Purchased Assets, in each case, in any geographic territory, (B) which grants to any Person any exclusivity with respect to any geographic territory, any customer or any product or service, or (C) to solicit for employment, hire or employ any Person;

(iii) each Business Contract that requires capital expenditures or other outstanding payments to be made by a Seller in excess of \$100,000, in each case, following the date hereof;

(iv) each Business Contract involving the sharing of profits, losses, costs or liabilities with any other Person relating to the Business, or the Purchased Assets;

(v) each Business Contract that requires (or may require in certain circumstances) in accordance with its terms the provision of credit support, collateral, a guarantee or similar financial assurance in respect of the Business, or the Purchased Assets;

(vi) each Business Contract that (A) provides services for a fixed price or maximum fee, or pursuant to any cap or similar provisions; (B) grants “most favored nation” status (or similar status) to a Person (whether in respect of pricing or otherwise); or (C) provides any performance guarantee, material rebates, discounts, incentive or volume credits; and

(vii) each Contract with any Governmental Entity relating to the Business, or the Purchased Assets.

(b) The Contracts required to be listed in Section 4.7(a), together with the Business Contracts and the Real Property Leases are referred to as “Material Contracts”. True, correct and complete copies of each Material Contract have been made available to Purchaser prior to the date hereof. Each Business Contract is a valid and binding obligation of a Seller (except for any breach or default that results from the insolvency of a Seller or the commencement of the Bankruptcy Cases and any breach or default to be cured through the payment of the Cure Amounts) and to the Knowledge of Sellers, enforceable against the other parties thereto in accordance with the terms thereof, except to the extent that such enforcement may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or other similar Laws affecting the enforcement of creditors’ rights generally and by general equitable principles (whether considered in a proceeding in equity or at law). Except as set forth in Section 4.7(b) of the Sellers Disclosure Letter and any breach or default that results from the insolvency of a Seller or the commencement of the Bankruptcy Cases and any breach or default to be cured through the payment of the Cure Amounts, there exists no material default or event of default (with or without notice or lapse of time or both) with respect to any Business Contract by a Seller or, to the Knowledge of Sellers, by any other party thereto and no Seller has received or delivered any notice with respect to any alleged material default that has not been rescinded or cured.

4.8 Intellectual Property Rights and Claims.

(a) Except as set forth in Section 4.8(a) of the Sellers Disclosure Letter, one or more Sellers owns all right, title, and interest to or is licensed to use the Business Intellectual Property, free and clear of any Liens.

(b) No Seller has, within the last 12 months made any written claim of an infringement or misappropriation by any Third Party of its rights to any Business Intellectual Property, which claim is still pending. To the Knowledge of Sellers, no Third Party is infringing or misappropriating any Business Intellectual Property.

(c) Except for claims that have since been satisfactorily resolved or for which the statute of limitations has lapsed, no Seller has received any written notice from any Third Party challenging the right of such Seller to use any of the Business Intellectual

Property that would reasonably be expected to materially and adversely affect the Business, and the Purchased Assets, taken as a whole.

(d) There are no pending actions, suits or arbitrations by, or before any Governmental Entity for an infringement or misappropriation by any Seller of any Intellectual Property owned by any Third Party which would reasonably be expected to materially and adversely affect the Business, and the Purchased Assets, taken as a whole.

4.9 Tax Matters. Except as disclosed in Section 4.9 of the Sellers Disclosure Letter:

(a) Sellers have timely filed or caused to be timely filed, taking into account any applicable extensions, with the appropriate taxing authorities all income Tax Returns and all material non-income Tax Returns with respect to the Business or the Purchased Assets. All such Returns are correct and complete in all material respects. No Seller is currently the beneficiary of any extension of time within which to file any material tax Return with respect to the Business or the Purchased Assets. Since January 1, 2017, no written claim has been made by a Governmental Entity in a jurisdiction in which a Seller does not file Returns that such Seller is or may be subject to taxation by that jurisdiction with respect to Taxes that would be the subject of such Returns.

(b) All income Tax Liabilities and all material non-income Tax Liabilities of each Seller due and payable with respect to the Business or the Purchased Assets, in each instance for all Pre-Closing Periods, have been timely paid, taking into account any applicable extensions, to the extent the non-payment of such Taxes could reasonably be expected to result in a Lien on the Purchased Assets. There are no pending or, to the Knowledge of Sellers threatened in writing, audits, investigations, disputes, notices of deficiency, claims or other similar actions relating to Property Taxes or any other Taxes that are imposed on a periodic basis (which are not based on income) of a Seller with respect to the Business or the Purchased Assets. No Seller has waived any statute of limitations in respect of non-income Taxes or agreed to any extension of time with respect to a non-income Tax assessment or deficiency.

(c) The representations and warranties contained in Section 4.9(a) and Section 4.9(b) shall only apply if and to the extent Purchaser would be held liable for the Taxes to which such representations and warranties relate or if the Purchased Assets would become subject to a Lien in respect of such Taxes and, for the avoidance of doubt, such representations and warranties shall not be considered inaccurate or breached to the extent the applicable representation or warranty does not apply as a result of this Section 4.9(c).

4.10 Employee Benefits. Set forth in Section 4.10 of the Sellers Disclosure Letter is, as of [_____,] 2021, a true and complete list of each material employee benefit plan, within the meaning of Section 3(3) of ERISA, and each material fringe benefit, deferred compensation, severance, stock option, stock appreciation rights, incentive and bonus plan maintained or contributed to, or required to be contributed to, by a Seller or its Affiliates, in each case for the benefit of any Sellers' employees as of such date, but excepting any such plan sponsored in

whole or in part by any government, Governmental Entity or union or employee organization or any other Person (collectively, the “Employee Benefit Plans”).

4.11 Compliance with Laws. Except as set forth in Section 4.11 of the Sellers Disclosure Letter, to the Knowledge of Seller, (a) no Seller is, and no Seller has been in the past three years, in material violation of any Law or Order applicable to the Business, or the Purchased Assets, and (b) no Seller has received any written notice alleging or, to the Knowledge of Seller, been subject to any investigation by any Governmental Entity concerning, any such material violation of a Law or Order.

4.12 Environmental Matters. Except as disclosed in Section 4.12 of the Sellers Disclosure Letter, with respect to the Business:

(a) to the Knowledge of Sellers, each Seller is in material compliance with all applicable Environmental Laws;

(b) there are no Proceedings pending, or to the Knowledge of Sellers threatened in writing, against any Seller that alleges any material violation of Environmental Law and no Seller has received from any Governmental Entity any written notice of material violation or alleged material violation of Environmental Law;

(c) Sellers possess and are in material compliance with all Permits required under Environmental Laws to operate the Business as currently operated and as the Business is expected to be operated following the Closing as contemplated by the Transaction Documents (“Environmental Permits”), and there are no Proceedings pending, or to the Knowledge of Sellers threatened in writing, to modify, suspend, revoke or rescind any such Environmental Permits; and

(d) from and after December 1, 2015, to the Knowledge of Sellers, there have been no material releases of any Hazardous Materials (i) at, in, under, on, or from any Seller Facilities or (ii) at, in, under, on, or, from any third-party location for which a Seller has any material Liability under Environmental Law.

The representations and warranties in this Section 4.12 are the sole and exclusive representations and warranties of Sellers concerning any Environmental Law, Environmental Permits, Hazardous Material or other environmental matters.

4.13 Permits. Except for matters that are the subject of the representations and warranties in Section 4.12 (Environmental Matters), which matters are covered solely by Section 4.12, Sellers possess all material Permits that are necessary for the lawful operation of the Business as currently conducted by Sellers in the ordinary course. All such Permits are valid and have not lapsed, been cancelled, terminated or withdrawn. To the Knowledge of Sellers, Sellers are in compliance in all material respects with all such Permits.

4.14 Litigation. Except as set forth in Section 4.14 of the Sellers Disclosure Letter: (a) there is no Proceeding pending, or to the Knowledge of Sellers, threatened, against any Seller or its Affiliates in respect of the Business or the Purchased Assets that would, if determined adversely, materially and adversely affect the Business, and the Purchased Assets, taken as a

whole, or prevent or materially delay beyond the Termination Date Sellers' ability to consummate the transactions contemplated by this Agreement or any Transaction Document and (b) there are no material Orders outstanding applicable to the Business, or the Purchased Assets that have not been fully satisfied.

4.15 Finders; Brokers. Except for Jefferies LLC and GlassRatner Advisory & Capital LLC, doing business as B. Riley Advisory Services, (whose fees are payable by Sellers), no agent, broker, Person or firm acting on behalf of Sellers is, or shall be, entitled to any broker's fees, finder's fees or commissions from Purchaser in connection with this Agreement or any Transaction Document or any of the transactions contemplated hereby or thereby.

4.16 Exclusivity of Representations; Projections, Etc.. The representations and warranties expressly made by Sellers in this Article IV are the exclusive representations and warranties made by Sellers with respect to the Business, and the Purchased Assets. Except for any representations and warranties expressly set forth in this Article IV (as modified by the Sellers Disclosure Letter), (a) the Purchased Assets are sold "AS IS, WHERE IS," and Sellers expressly disclaim (on each of their own behalf and on behalf of each of their respective Affiliates) any other representations or warranties of any kind or nature, express or implied, as to Liabilities, operations of their businesses (as currently or formerly conducted), the title, condition, value or quality of assets of Sellers, or the prospects (financial and otherwise), risks and other incidents of Sellers and their businesses (as currently or formerly conducted), the Purchased Assets, (b) SELLERS SPECIFICALLY DISCLAIM (ON EACH OF THEIR OWN BEHALF AND ON BEHALF OF EACH OF THEIR RESPECTIVE AFFILIATES), AND PURCHASER HEREBY WAIVES, ANY REPRESENTATION OR WARRANTY OF QUALITY, VALUE, DESIGN, OPERATION, MERCHANTABILITY, NON-INFRINGEMENT, FITNESS FOR A PARTICULAR PURPOSE, ELIGIBILITY FOR A PARTICULAR TRADE, CONFORMITY TO SAMPLES, OR CONDITION OF THE ASSETS OF SELLERS (INCLUDING THE PURCHASED ASSETS) OR ANY PART THEREOF, WHETHER LATENT OR PATENT, (c) no material or information provided by or communications made by any Seller or any of its Affiliates, or by any advisor thereof, whether by use of a "data room," or in any information memorandum, or otherwise, or by any broker or investment banker, will cause or create any warranty, express or implied, as to or in respect of any Seller, any Affiliate of any Seller or the title, condition, value or quality of their businesses (as currently or formerly conducted), or the Purchased Assets, and no other Person shall be deemed to have made, or shall be deemed to make, any other express or implied representation or warranty, either written or oral, on behalf of any Seller or any Affiliate thereof with respect to the subject matter contained herein, and (d) no Seller makes any representation or warranty whatsoever with respect to any estimates, projections and other forecasts and plans (including the reasonableness of the assumptions underlying such estimates, projections and forecasts).

ARTICLE V

Representations and Warranties of Purchaser

Purchaser hereby represents and warrants to Sellers as follows as of the date hereof and as of the Closing Date (or as of such other date as may be specified herein):

5.1 Due Organization, Good Standing and Power. Purchaser is duly organized, validly existing and in good standing under the laws of its jurisdiction of Jamaica. Purchaser has all requisite corporate power and authority to own, lease and operate its assets and properties and conduct its business as now being conducted. Purchaser is in good standing under the laws of each jurisdiction where the character of its assets or properties or the conduct of its business requires such qualification, except where the failure to be in good standing would not reasonably be expected to prevent, materially delay or impair Purchaser's ability to consummate the transactions contemplated by this Agreement or any Transaction Document.

5.2 Authorization; Noncontravention.

(a) Purchaser has the requisite corporate power and authority and has taken all corporate or other action necessary to execute and deliver this Agreement, the Transaction Documents and all other instruments and agreements to be delivered by Purchaser as contemplated hereby, to perform its obligations hereunder and thereunder and to consummate the transactions contemplated hereby and thereby. The execution, delivery and performance by Purchaser of this Agreement, the Transaction Documents and all other instruments and agreements to be delivered by Purchaser as contemplated hereby, the consummation by it of the transactions contemplated hereby and thereby and the performance of its obligations hereunder and thereunder have been, and in the case of documents required to be delivered at the Closing will be, duly authorized and approved by the stockholders of Purchaser. This Agreement has been, and the Transaction Documents and all other instruments and agreements to be executed and delivered by Purchaser as contemplated hereby will be, duly executed and delivered by Purchaser. Assuming that this Agreement, the Transaction Documents and all such other instruments and agreements constitute valid and binding obligations of Sellers and each other Person (other than Purchaser) party hereto and thereto, this Agreement and all such other instruments and agreements constitute valid and binding obligations of Purchaser, enforceable against Purchaser in accordance with the terms thereof, except to the extent that such enforcement may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or other similar Laws affecting the enforcement of creditors' rights generally and by general equitable principles (whether considered in a proceeding in equity or at law).

(b) Except as a result of the Bankruptcy Cases, the execution and delivery by Purchaser of this Agreement, the Transaction Documents and all other instruments and agreements to be delivered by Purchaser as contemplated hereby do not, and the consummation of the transactions contemplated hereby and thereby will not, (i) conflict with any of the provisions of the certificate of incorporation or by-laws or similar governance documents of Purchaser, in each case, as amended to the date of this Agreement, (ii) conflict with or result in a breach of, or constitute a default under, any Contract or other instrument to which Purchaser is a party or by which Purchaser or any of its properties or assets are bound, or (iii) contravene any Law or any Order applicable to Purchaser or by which any of its properties or assets are bound, except in the case of clauses (ii) and (iii) above, for such conflicts, breaches, defaults, consents, approvals, authorizations, declarations, filings or notices which do not and would not reasonably be

5.3 Governmental Consents and Approvals. Except as a result of the Bankruptcy Cases, no additional Consent of or filing with any Governmental Entity must be obtained or made by Purchaser in connection with the execution and delivery of this Agreement or any Transaction Document by Purchaser or the consummation by Purchaser of the transactions contemplated by this Agreement or any Transaction Document, except for any Consents which have been obtained or made or, if not made or obtained, do not and would not reasonably be expected to, individually or in the aggregate, prevent, materially delay or impair Purchaser's ability to consummate the transactions contemplated by this Agreement or any Transaction Document.

5.4 Financing. Purchaser has sufficient funds to consummate the transactions contemplated hereby, to perform its obligations hereunder (including all payments to be made by it in connection herewith) and to pay its expenses related to this Agreement and the transactions contemplated hereby. The obligations of Purchaser under this Agreement are not contingent on

ARTICLE VI

Covenants

6.1 Intentionally deleted.

6.2 Conduct Prior to the Closing Date.

(a) Except (i) as set forth on Schedule 6.2(a), (ii) as may be expressly required by this Agreement, (iii) as required by Law or Order or by a Governmental Entity, (iv) as required by the Bankruptcy Court, or (v) as a consequence of the commencement and continuation of the Bankruptcy Cases, during the period commencing on the date hereof and ending on the earlier of the Closing Date and the termination of this Agreement pursuant to Article IX, Sellers shall use commercially reasonable efforts (x) to comply in all material respects with all Laws, Orders, Contracts, Permits and Environmental Permits applicable thereto and (y) to preserve, maintain and protect in all material respects the Purchased Assets, the current goodwill of the Business and Sellers' present relationships with Governmental Entities and other Persons having significant relationships with Sellers in connection with the Business (as currently conducted).

(b) Except (i) as set forth Schedule 6.2(b), (ii) as may be expressly required by this Agreement, (iii) as required by Law or Order or by a Governmental Entity, (iv) as required or approved by the Bankruptcy Court, or (v) as a consequence of the commencement and continuation of the Bankruptcy Cases, during the period commencing on the date hereof and ending on the earlier of the Closing Date and the termination of this Agreement pursuant to Article IX, Sellers shall not effect any of the following (as each pertains to or is related to the Business, or the Purchased Assets) without the prior written consent of Purchaser (such consent not to be unreasonably withheld, conditioned or delayed):

(i) sell, transfer, lease, license or otherwise dispose of any of its assets or properties that would be Purchased Assets if not sold;

(ii) except as required by GAAP, make any change in any method of accounting or auditing practice with respect to the Business;

(iii) Intentionally deleted;

(iv) create, permit, subject or allow to exist any Lien on any of the Purchased Assets and other than any Lien that will be extinguished at or prior to Closing;

(v) extend, materially amend or terminate or grant any material waiver under any Business Contract or Real Property Lease or enter into any Contract that would be categorized as a Material Contract if in effect on the date hereof;

(vi) abandon any rights under, request the rejection under Section 365 of the Bankruptcy Code of, or amend, modify or supplement the terms of, any of the Business Contracts or Real Property Leases;

(vii) fail to take any reasonable action that would prevent the expiration, lapse, termination or abandonment of any Permit or Environmental Permit, in each case that is material to the Business;

(viii) settle or compromise any Proceeding, or enter into any consent decree or settlement agreement with any Third Party, against or affecting the Business that, in each case, would constitute an Assumed Liability;

(ix) waive any material claims or rights of material value that are included in the Purchased Assets;

(x) incur, assume, or guarantee any Indebtedness or make any material capital expenditures that, in each case, would constitute an Assumed Liability; or

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

6.3 Efforts to Close.

(a) Except as otherwise provided in this Section 6.3, the Sellers shall, and shall cause their respective controlled Affiliates and Representatives to, and shall use commercially reasonable efforts to direct their respective equity holders to, cooperate and use their respective commercially reasonable efforts to take, or cause to be taken, all appropriate actions, and to make, or cause to be made, all filings necessary, proper or advisable under applicable Laws and to consummate and make effective the transactions contemplated by this Agreement, including their respective commercially reasonable efforts to obtain, prior to the Closing Date, all Permits, Consents and Orders of Governmental Entities as are necessary for consummation of the transactions contemplated by this Agreement and to fulfill the conditions to consummation of the transactions set forth in Article VII; *provided*, that, except as set forth in Section 6.3(e), (w) no Party or its Affiliates shall be required to make any concessions that would adversely affect its business or be materially more burdensome to such Party (including to amend any Contract to increase the amount payable thereunder, commence any litigation, settle or compromise any matter, offer or grant any accommodation (financial or otherwise) to any Third Party or Governmental Entity, pay any amount or bear any other incremental economic burden to obtain any such Permit, Consent or Order), (x) no Party or its Affiliates shall incur any expense that would be payable or otherwise borne by the other Party or such other Party's Affiliates without the consent of such other Party, (y) Sellers shall not make any concessions that would purport to bind the Business from and after the Closing, and (z) Purchaser shall not make any concessions that would purport to bind any Seller or any of its Affiliates.

(b) Notwithstanding anything to the contrary contained in this Agreement, no Seller nor any of its Affiliates or Representatives shall be required to repay any Indebtedness, amend or enter into any Contract or other arrangement, commence any litigation, settle or compromise any matter, offer or grant any accommodation (financial

or otherwise) to any Third Party, pay any amount or bear any other incremental economic burden to procure any amendments, modification or termination of any Contract.

6.4 Public Announcements. Each Party shall (a) consult with each other Party before issuing any press release or otherwise making any public statement with respect to the transactions contemplated by this Agreement or any Transaction Document, (b) provide to the other Parties for review a copy of any such press release or public statement and (c) not issue any such press release or make any such public statement prior to such consultation and review and the receipt of the prior consent of the other Parties, unless required by Laws or regulations applicable to such Party or its Affiliates, regulations of any stock exchange applicable to such Party or its Affiliates, or the Bankruptcy Court with respect to filings to be made with the Bankruptcy Court in connection with this Agreement, in which case, the Party required to issue the press release or make the public statement or filing shall, prior to issuing such press release or making such public statement or filing, use its commercially reasonable efforts to allow the other Parties reasonable time to comment on such release, statement or filing to the extent practicable and permitted by Law. Notwithstanding anything to the contrary contained in this Agreement, each of the Parties and its legal counsel and other Representatives shall be permitted to make filings on the docket of, or statements on the record before, the Bankruptcy Court relating to this Agreement and the transactions contemplated hereby without prior approval or consultation.

6.5 Notification of Certain Matters. Sellers, on the one hand, and Purchaser, on the other hand, shall use their respective commercially reasonable efforts to promptly notify each other of any material Proceedings in connection with the transactions contemplated by this Agreement or the Transaction Documents commenced or, to the knowledge of Purchaser or the Knowledge of Sellers, threatened, against Sellers or Purchaser, as the case may be, or any of their respective Affiliates.

6.6 Supplements to Schedules.

(a) Sellers shall have the right (but not the obligation) to deliver to Purchaser, from time to time but not later than three Business Days prior to the Closing Date, a schedule of changes (each, an “Update Schedule”) to disclose any action taken by any Seller, or Event occurring, with respect to the Business, or the Purchased Assets after the date hereof. Each such Update Schedule shall constitute an amendment to the representation, warranty or statement to which it relates for all purposes of this Agreement and the transactions contemplated hereby, and each Update Schedule shall be deemed to be incorporated into and to supplement and amend the Sellers Disclosure Letter (and all references to the “Sellers Disclosure Letter” in this Agreement shall include each such Update Schedule to the extent applicable). Except as set forth in Section 6.6(b), subject to the terms of this Agreement, Purchaser shall have the right to not consummate the transactions contemplated by this Agreement as a result of the failure of the conditions contained in Section 7.1(a) on the basis of the information disclosed in any Update Schedule.

(b) If any fact or circumstance occurring prior to the date hereof and disclosed on any Update Schedule would, but for this Section 6.6, permit Purchaser to terminate

this Agreement in accordance with Section 9.1(d), but Purchaser does not provide a written termination notice pursuant to Section 9.1(d) within ten (10) Business Days after receiving such Update Schedule, Purchaser shall be deemed to have waived, for all purposes of this Agreement and the transactions contemplated hereby, all rights to terminate this Agreement on account of the matters disclosed on such Update Schedule (including their right to not consummate the transactions contemplated hereby due to the failure of any of the conditions set forth in Section 7.1(a)).

6.7 Post-Closing Access to Records and Personnel; Litigation Support.

(a) Until the later of (i) three (3) years after the Closing Date and (ii) one (1) year after the closing or dismissal of the Bankruptcy Cases and all proceedings related to or arising out of the Bankruptcy Cases, or any of them, Purchaser shall preserve and retain all corporate, accounting, Tax, legal, auditing, human resources and other books and records, as well as all documents and communications, including, without limitation, any electronically-stored information, servers, electronic communications (e.g., e-mail, instant messages, voicemails, etc.), and other digital information or data, relating to the Purchased Assets or the Business, or any other assets of the Sellers, including any Excluded Assets or Excluded Liabilities, with respect to periods prior to the Closing Date (including (i) any documents relating to any Proceeding or other dispute and (ii) all Returns, schedules, work papers and other material records or other documents relating to Taxes relating to the Purchased Assets). At the end of such period, Purchaser may dispose of any such books and records only after they are first offered to and not accepted by Sellers.

(b) Following the Closing, Purchaser shall allow Sellers, and their Affiliates successors, including, without limitation, any post-confirmation trustee appointed in the Bankruptcy Cases, and their respective Representatives reasonable access to (i) all books and records related to the Purchased Assets and the Business, including, without limitation, any electronically-stored information, servers, electronic communications (e.g., e-mail, instant messages, voicemails, etc.), and other digital information or data, and (ii) such personnel having knowledge of the location or contents of such books and records, in each case of the foregoing clauses (i) and (ii), for legitimate business reasons, including, without limitation, any matters arising out of or relating to the Bankruptcy Cases or any related proceedings; *provided*, that no such access shall unreasonably interfere with Purchaser's operation of the Business.

(c) Following the Closing, Sellers shall allow Purchaser and its Affiliates and their respective Representatives reasonable access to (i) all books and records related to the Purchased Assets and the Business and (ii) such personnel having knowledge of the location or contents of such books and records, in each case of the foregoing clauses (i) and (ii), for legitimate business reasons.

(d) Following the Closing, Purchaser shall allow Sellers, and their Affiliates and successors, including, without limitation, any post-confirmation trustee appointed in the Bankruptcy Cases, and their respective Representatives reasonable access to (i) all books and records related to the Purchased Assets and the Business, including, without

limitation, any electronically-stored information, servers, electronic communications (e.g., e-mail, instant messages, voicemails, etc.), and other digital information or data, and (ii) such personnel having knowledge of the location or contents of such books and records, in each case of the foregoing clauses (i) and (ii), for legitimate business reasons, including, without limitation, any matters arising out of or relating to the Bankruptcy Cases or any related proceedings; *provided*, that no such access shall unreasonably interfere with Purchaser's operation of the Business.

(e) The rights and obligations of a Party under this Section 6.7 shall inure to the benefit of and be binding upon the successors and assigns of such Party. If a Party or any of its successors or assigns (i) consolidates with or merges into any other Person or (ii) with respect to Purchaser, transfers all or substantially all of the Purchased Assets to any Person, in each case proper provision shall be made so that the successors and assigns of such Party honor the obligations set forth in this Section 6.7.

6.8 Tax Matters.

(a) All stamp, transfer, documentary, sales and use, value added, registration and other such taxes and fees (including any penalties, interest and recording and filing fees) incurred in connection with the Purchase or otherwise in connection with this Agreement and not exempted under a Sale Order, whether or not customarily paid by Sellers or purchasers (collectively, the "Transfer Taxes"), shall be borne equally by Sellers and Purchaser. Purchaser shall properly file on a timely basis all necessary Returns and other documentation with respect to any Transfer Tax and provide to Sellers' evidence of payment of all Transfer Taxes.

(b) Purchaser and Sellers agree to furnish or cause to be furnished to each other, as promptly as reasonably practicable, such information and assistance relating to the Purchased Assets as is reasonably necessary for the preparation and filing of any Return, for the preparation for and proof of facts during any Tax audit, for the preparation for any Tax protest, for the prosecution or defense of any suit or other proceeding relating to Tax matters and for the answer of any governmental or regulatory inquiry relating to Tax matters.

(c) For purposes of this Agreement, all Property Taxes and any other Taxes that are imposed on a periodic basis (which are not based on income) with respect to the Purchased Assets with respect to any taxable period that begins on or before and ends after the Closing Date shall be apportioned between the portion of such period that falls within the Pre-Closing Period and the portion of such period that falls within the Post-Closing Period proportionally in accordance with the number of days in each such portion of the period.

6.9 Bulk Sales Act. Sellers shall comply in all respects with respect to any applicable bulk sale, bulk transfer, successor liability and similar Laws, or with any Laws triggered by a bulk sale or transfer of property, of any jurisdiction in connection with the transactions contemplated by this Agreement or similar Laws of any jurisdiction in connection with the Purchase.

6.10 Bankruptcy Action.

(a) The Parties shall comply in all material respects with the Bid Procedures Order and the Sale Order (after the entry of such Orders by the Bankruptcy Court).

(b) Sellers shall use commercially reasonable efforts to comply (or obtain an Order from the Bankruptcy Court waiving compliance) with all requirements under the Bankruptcy Code and the Bankruptcy Rules in connection with obtaining approval of the transactions contemplated by this Agreement. Sellers shall serve (i) all Persons who are known to possess or assert a Claim against or Interest in any of the Purchased Assets, (ii) the IRS, (iii) all applicable Governmental Entities, (iv) all applicable state and local Governmental Entities with taxing authority, (v) all other Persons required by any Order of the Bankruptcy Court, (vi) all parties to Business Contracts and Real Property Leases, and (vii) all Persons that request or are entitled to notice under Bankruptcy Rule 2002.

(c) The Parties shall use their respective commercially reasonable efforts to have the Bankruptcy Court enter the Sale Order as promptly as possible.

(d) Sellers and Purchaser shall consult with one another regarding pleadings which any of them intends to file with the Bankruptcy Court in connection with, or which might reasonably affect the Bankruptcy Court's approval of the Sale Order and shall provide each other with a reasonable opportunity to review and comment on such pleadings, related motions, applications, petitions schedules and supporting papers. Sellers shall promptly provide Purchaser and its counsel with copies of all notices, filings and orders of the Bankruptcy Court that Sellers have in their possession (or receive) pertaining to the Sale Motion, the Bid Procedures Order, the Sale Order, or any other order related to any of the transactions contemplated by this Agreement, but only to the extent such papers are not publicly available on the docket of the Bankruptcy Court or otherwise made available to Purchaser and its counsel.

(e) If the Bid Procedures Order, the Sale Order, or any other orders of the Bankruptcy Court relating to this Agreement or the transactions contemplated hereby shall be appealed by any Person (or if any petition for certiorari or motion for reconsideration, amendment, clarification, modification, vacation, stay, rehearing or reargument shall be filed with respect to the Bid Procedures Order, the Sale Order, or other such order), subject to rights otherwise arising from this Agreement, Sellers and Purchaser shall use their commercially reasonable efforts to prosecute such appeal, petition or motion and obtain an expedited resolution of any such appeal, petition or motion.

6.11 Sale Order.

(a) Sellers acknowledge that this Agreement and the sale of the Purchased Assets are subject to Bankruptcy Court approval. Sellers acknowledge that to obtain such approval, Sellers must demonstrate that they have taken steps to obtain the highest and otherwise best offer possible for the Purchased Assets including giving notice of the

transactions contemplated by this Agreement to creditors and certain other interested parties as ordered by the Bankruptcy Court and, if necessary, conducting the Auction.

(b) The Sale Order shall, among other things:

(i) approve, pursuant to Sections 105, 363 and 365 of the Bankruptcy Code, (A) the execution, delivery and performance by Sellers of this Agreement, (B) the transfer of the Purchased Assets to Purchaser free and clear of all Liens, Claims, and Liabilities of any kind whatsoever, and (C) the timely performance by Sellers of their obligations under this Agreement;

(ii) authorize and empower Sellers to assume and assign the Business Contracts and Real Property Leases to Purchaser;

(iii) find that Purchaser is a “good faith” buyer within the meaning of Section 363(m) of the Bankruptcy Code and grant Purchaser the full benefits and protections of Section 363(m) of the Bankruptcy Code;

(iv) find that this Agreement was negotiated, proposed and entered into by Sellers and Purchaser without collusion, in good faith and from arm’s length bargaining positions;

(v) find that due and adequate notice and an opportunity to be heard in accordance with all applicable Laws were given to the necessary parties in the Bankruptcy Cases;

(vi) contain findings of fact and conclusions of law that Purchaser (A) is not a successor to, or subject to successor liability for, any Seller, (B) has not, de facto or otherwise, merged with or into any Seller, (C) is not an alter ego or a continuation of any Seller, and (D) does not have any responsibility for any obligations of any Seller based on any theory of successor or similar theories of liability;

(vii) find that the Purchase Price is fair and reasonable;

(viii) find that the Bankruptcy Court retains jurisdiction to resolve any claim or dispute arising out of or related to this Agreement; and

(ix) contain such other terms and conditions as are acceptable to Sellers and Purchaser in their respective sole discretion.

(c) Purchaser agrees that it will promptly take such actions as are reasonably requested by Sellers to assist in obtaining entry by the Bankruptcy Court of the Sale Order, including furnishing affidavits or other documents or information for filing with the Bankruptcy Court for purposes, among others, of (i) demonstrating that Purchaser is a “good faith” purchaser and (ii) establishing “adequate assurance of future performance” within the meaning of Section 365 of the Bankruptcy Code.

6.12 Intentionally deleted.

6.13 Transfer of Permits. Except for those Business Permits that are not transferable to Purchaser by Law, the Parties shall use commercially reasonable efforts to cause the issuance or transfer of all of the Business Permits described on Schedule 1.1(g) and shall give and make all notices and reports that such Party is required to make to the appropriate Governmental Entities and other Persons with respect to such Business Permits. All costs and expenses associated with the issuance or transfer of the Business Permits shall be borne by Purchaser.

6.14 Expenses. Except to the extent otherwise specifically provided herein, whether or not the transactions contemplated hereby are consummated, all fees, costs and expenses incurred in connection with this Agreement and the transactions contemplated hereby shall be borne by the Party incurring such fees, costs and expenses.

6.15 Confidentiality. From and after the date of this Agreement, Purchaser and Sellers shall continue to be bound by and comply with the obligations of the Confidentiality Agreement except as otherwise required under or necessary to comply with any provision of the Bankruptcy Code, Bankruptcy Rules, applicable law, any order of the Bankruptcy Court, including, without limitation, the Bid Procedures Order, or the provisions of this Agreement. Except as specifically provided in the proviso to this sentence, unless otherwise agreed to by the Parties, at the later of (i) the Closing or (ii) the end of the remainder of the term set forth in the Confidentiality Agreement, the Confidentiality Agreement shall be deemed to have been terminated by the parties thereto and shall no longer be binding; *provided*, that notwithstanding anything in this Section 6.16 to the contrary, to the extent that Purchaser is in possession of any Information (as defined in the Confidentiality Agreement) regarding Sellers and their respective Affiliates, or the Excluded Assets or the Excluded Liabilities, Purchaser shall continue to be bound by the Confidentiality Agreement with respect to such Information until the later of (x) the end of the remainder of the term set forth in such Confidentiality Agreement and (y) if the Closing occurs, the date that is two years after the Closing.

ARTICLE VII Conditions to Closing

7.1 Conditions to Sellers' Obligations. The obligation of Sellers to consummate the transaction contemplated hereby is subject to the fulfillment of all of the following conditions on or prior to the Closing Date and as of the Closing Date, upon the non-fulfillment of any of which this Agreement may, at Sellers' option, be terminated to the extent permitted pursuant to and with the effect set forth in Article IX:

(a) The representations and warranties of Purchaser contained in Article V shall be true and correct at and as of the Closing Date as if made at and as of such time, except for such failures as do not prevent Purchaser from consummating the transactions contemplated by this Agreement.

(b) All obligations of Purchaser to be performed hereunder through, and including on, the Closing Date (including, without limitation, all obligations which Purchaser would be required to perform at the Closing if the transaction contemplated

hereby was consummated) shall have been performed in all material respects, unless waived by Sellers.

(c) Purchaser shall have delivered or caused to be delivered to Sellers each of the items set forth in Section 3.4(b).

(d) No Governmental Entity of competent jurisdiction shall have entered a valid Order that is in effect and has the effect of making the Closing illegal or otherwise prohibiting the consummation of the Closing.

(e) The Sale Order shall have been entered by the Bankruptcy Court approving the transactions contemplated under this Agreement.

7.2 Conditions to Purchaser's Obligations. The obligation of Purchaser to consummate the transaction contemplated hereby is subject to the fulfillment of all of the following conditions on or prior to the Closing Date and as of the Closing Date (in each case, so long as Purchaser has complied with its obligations under this Agreement with respect to each of the matters set forth below), upon the non-fulfillment of any of which this Agreement may, at Purchaser's option, be terminated to the extent permitted pursuant to and with the effect set forth in Article IX:

(a) The representations and warranties of Sellers in Article IV shall be true and correct in all respects as of the time of the Closing as though such representations and warranties were made at and as of such time (or, if made as of a specific date in the text of such representations and warranties, at and as of such date) except where the failure to be so true and correct would not have a Material Adverse Effect.

(b) All obligations of Sellers to be performed hereunder through, and including on, the Closing Date (including, without limitation, all obligations which Sellers would be required to perform at the Closing if the transaction contemplated hereby was consummated) shall have been performed in all material respects, unless waived by Purchaser.

(c) Sellers shall have delivered or caused to be delivered to Purchaser each of the items set forth in Section 3.4(a).

(d) No Governmental Entity of competent jurisdiction shall have entered a valid Order that is in effect and has the effect of making the Closing illegal or otherwise prohibiting the consummation of the Closing.

(e) The Sale Order shall have each been entered by the Bankruptcy Court approving the transactions contemplated under this Agreement.

7.3 Frustration of Closing Conditions. No Party may rely on the failure of any condition set forth in this Article VII to be satisfied if such failure was caused by such Party's failure to act in good faith or such Party's failure to comply with Section 6.3.

ARTICLE VIII

Compliance with WARN, Plant Closing Act and Similar Statutes

8.1 Compliance with WARN, Plant Closing Act and Similar Statutes. Sellers shall be responsible for compliance with any notice or severance obligations under WARN, the Plant Closing Act (and any comparable Law requiring notice or severance to employees) and any Contract (including, for the avoidance of doubt, any Liability for accrued but unused paid time-off and severance), in each case, arising prior to the Closing Date with respect to the termination of any employees or consultants that (a) provide services to any Seller as of the date hereof or at any other time from the date hereof through the Closing Date with respect to the termination of any employees or consultants that provide services to any Seller as of the date hereof or at any time from the date hereof through the Closing Date. Without limiting the foregoing, pursuant to Section 473(a)(3) of the Plant Closing Act, Sellers assume responsibility and liability as successor employer under the Plant Closing Act for all the prior years of service, along with any years accumulated moving forward. Sellers shall be responsible for compliance with any notice or severance obligations relating to the Business (as currently or formerly conducted), or the Purchased Assets under WARN and the Plant Closing Act (and any comparable Law requiring notice or severance to employees) arising prior to the Closing Date. Sellers shall notify Purchaser prior to the Closing of any “employment loss”, in the 90-day period immediately prior to the Closing with respect to any such employees or consultants.

ARTICLE IX

Termination

9.1 Termination Events. This Agreement and the transaction contemplated hereby may only be terminated as follows, at any time prior to the Closing:

- (a) by the mutual written consent of Purchaser and Sellers;
- (b) by either Purchaser or Sellers upon (i) the issuance of a final and non-appealable Order by a Governmental Entity to restrain, enjoin or otherwise prohibit the purchase and sale transaction contemplated hereby, (ii) the appointment of an examiner with expanded powers or a Chapter 11 trustee in the Bankruptcy Cases, or (iii) the Bankruptcy Cases being converted into a case under Chapter 7 of the Bankruptcy Code or dismissed;
- (c) by either Purchaser or Sellers if the Bankruptcy Court has not entered the Sale Order by December 22, 2021, provided that such date may be extended as otherwise agreed to in writing by Purchaser and Sellers; *provided, however*, that Purchaser’s right to terminate this Agreement under this Section 9.1(c) shall not be available to Purchaser if Purchaser’s failure to fulfill any of its obligations under this Agreement has been the cause of, or resulted in, the failure of the Sale Order to have been entered on or prior to the aforesaid date;
- (d) by Purchaser if any condition set forth in Sections 7.2(a) through (c), inclusive, becomes incapable of being satisfied prior to the Termination Date (other than

through the failure of Purchaser to comply with its obligations under this Agreement) and Purchaser has not waived such condition or (ii) if the Closing shall not have occurred at or before 5:00 p.m. (prevailing Central Time) on December 22, 2021, or such later date as extended in accordance with the Bid Procedures Order (such date, as may be extended, the “Termination Date”); *provided, however*, that Purchaser’s right to terminate this Agreement under this clause (ii) of this Section 9.1(d) shall not be available to Purchaser if Purchaser’s failure to fulfill any of its obligations under this Agreement has been the cause of, or resulted in, the failure of the Closing to occur on or prior to the Termination Date;

(e) by Sellers, (i) if any condition set forth in Section 7.1(a) through (c), inclusive, becomes incapable of being satisfied prior to the Termination Date (other than through the failure of Sellers to comply with their obligations under this Agreement) and Sellers have not waived such condition, or (ii) if the Closing shall not have occurred at or before 5:00 p.m. (prevailing Central Time) on the Termination Date through the failure of Purchaser to comply with its obligations under this Agreement;

(f) by Sellers if any condition set forth in Sections 7.2(a) through (c), inclusive, becomes incapable of being satisfied prior to the Termination Date (other than through the failure of Sellers to comply with their obligations under this Agreement) and Purchaser has not waived such condition; and

(g) automatically upon consummation of an Alternative Transaction.

9.2 Effect of Termination. In the event of the termination of this Agreement pursuant to Section 9.1 by Purchaser, on the one hand, or Sellers, on the other hand, written notice thereof shall forthwith be given to the other specifying the provision hereof pursuant to which such termination is made, and this Agreement shall be terminated and become void and have no effect and there shall be no Liability hereunder on the part of any Party, except that Section 3.2 (Good Faith Escrow Deposit), Section 6.14 (Expense), this Section 9.2 and Article XI (Miscellaneous) and the defined terms and rules of construction used therein and set forth on Appendix I shall survive any termination of this Agreement; *provided, however*, that (a) subject to the terms and conditions of Section 3.2(c), no Party shall be relieved of or released from any Liability arising from any material breach by such Party of any provision of this Agreement, and (b) the Confidentiality Agreement shall remain in full force and effect.

ARTICLE X

Survival and Release

10.1 Survival; Certain Post-Closing Matters. Purchaser and Sellers acknowledge and agree that: (a) Sellers’ representations and warranties set forth in this Agreement and in the documents and instruments delivered or entered into by Sellers in connection with this Agreement shall not survive the Closing and shall expire immediately upon the Closing; and (b) the covenants and agreements of Sellers set forth in this Agreement and in any documents and instruments delivered or entered into by Sellers in connection with this Agreement, in each case that do not by their terms extend beyond the Closing, shall not survive the Closing and shall

expire immediately upon the Closing. Accordingly, for clarification purposes, it is acknowledged, understood and agreed by the Parties that Sellers shall not have any liability or other obligation following the Closing with respect to any breach by Sellers or claimed breach by Sellers of (x) any representations or warranties contained in this Agreement or any of the documents or instruments delivered or entered into by Sellers in connection with this Agreement or (y) any of Sellers' covenants and agreements contained in this Agreement or any of the documents or instruments delivered or entered into by Sellers in connection with this Agreement that do not by their terms extend beyond the Closing. Notwithstanding anything expressed or implied herein to the contrary, the Parties acknowledge and agree that (1) Purchaser shall be solely responsible for the ownership of the Purchased Assets from and after the Closing Date, the operation of the Business from and after the Closing Date, and acts or omissions of Purchaser with respect thereto, and (2) Sellers shall have no responsibility or obligation with respect to, or arising out of, any of the foregoing.

10.2 Intentionally deleted.

ARTICLE XI Miscellaneous

11.1 Notices. All notices, requests, demands and other communications under this Agreement shall be in writing and shall be deemed to have been duly given: (a) on the day of service if served personally on the party to whom notice is to be given; (b) on the day of transmission if delivered by electronic mail during regular business hours on a Business Day and, if not, then on the following Business Day; or (c) on the day of delivery (if a Business Day, and if not a Business Day, on the next Business Day) if sent by Federal Express or similar overnight courier or United States mail:

If to Sellers:

Addressed to:

Limetree Bay Services, LLC et al.
c/o B. Riley Advisory Services
3500 Maple Avenue, Suite 420
Dallas, Texas 75219
Attn: Mark Shapiro
Email: mshapiro@brileyfin.com

with a copy to:

Baker & Hostetler LLP
200 South Orange Avenue, Suite 2300
Orlando, Florida 32801
Attn: Elizabeth A. Green
Email: egreen@bakerlaw.com

Baker & Hostetler LLP
45 Rockefeller Plaza
New York, New York 10011
Attn: Jorian L. Rose
Email: jrose@bakerlaw.com

If to Purchaser or Parent:

Addressed to:

St. Croix Refining and Transportation, LLLP
2555 Ponce de Leon Boulevard, Suite 600
Coral Gables, Florida 33134
Attn: Thomas V. Eagan
Email: teagan@rascoklock.com

with a copy to:

Rasco Klock
2555 Ponce de Leon Boulevard, Suite 600
Coral Gables, Florida 33134
Attn: Thomas V. Eagan
Email: teagan@rascoklock.com

Any Party may change its address for the purpose of this Section 10.2 by giving the other Party written notice of its new address in the manner set forth above.

11.2 Entire Agreement. This Agreement, the agreements, documents and instruments to be delivered by the Parties pursuant to the provisions hereof, and the Confidentiality Agreement, each as may be amended or supplemented, constitute the entire agreement between the Parties and shall be binding upon and inure to the benefit of the Parties hereto and their respective legal representatives, successors and permitted assigns. Each Appendix, Exhibit, Schedule and the Sellers Disclosure Letter, each as may be amended or supplemented, shall be considered incorporated into this Agreement. The inclusion of any item in the Sellers Disclosure Letter is not evidence of the materiality of such item for the purposes of this Agreement.

11.3 Severability. Whenever possible, each provision of this Agreement shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Agreement is held to be invalid, illegal or unenforceable in any respect under any applicable law or rule in any jurisdiction, such invalidity, illegality or unenforceability shall not affect any other provision or any other jurisdiction, and, for purposes of such jurisdiction, such provision or portion thereof shall be struck from the remainder of this Agreement, which shall remain in full force and effect. This Agreement shall be reformed, construed and enforced in such jurisdiction so as to best give effect to the intent of the Parties under this Agreement.

11.4 Binding Effect; Benefit. This Agreement shall inure to the benefit of and be binding upon the Parties hereto, and their successors and permitted assigns. Nothing in this Agreement, express or implied, shall confer on any Person other than the Parties hereto, and their respective successors and permitted assigns any rights, remedies, obligations or liabilities under or by reason of this Agreement, including, without limitation, third party beneficiary rights. Nothing in this Agreement is intended to relieve or discharge the obligations or liability of any third Persons to Sellers or Purchaser. No provision of this Agreement shall give any third Persons any right of subrogation or action over or against Sellers or Purchaser.

11.5 Assignability. This Agreement and the various rights and obligations arising hereunder inure to the benefit of and are binding upon Sellers and their respective successors and permitted assigns, and Purchaser and its successors and permitted assigns. Neither this Agreement nor any of the rights, interests or obligations hereunder may be transferred or assigned (including by operation of law in connection with a merger or sale of stock, or sale of substantially all the assets, of a Person) by any of the Parties hereto without the prior written consent of the other Party or Parties (not to be unreasonably withheld, conditioned or delayed); provided, however, the Purchaser may assign its rights hereunder to a wholly-owned entity and take title in such entity at time of Closing. No assignment shall relieve a Party of its liability or obligations hereunder. Notwithstanding anything expressed or implied herein to the contrary, following the Closing, Sellers (or any of them) may assign to any successor in the Bankruptcy Cases all or any portion of their rights hereunder in accordance with an Order of the Bankruptcy Court; provided, however, that any such assignment shall not assign any Purchased Assets.

11.6 Amendments. This Agreement shall not be modified or amended except pursuant to an instrument in writing executed and delivered on behalf of each of the Parties hereto.

11.7 Non-Waiver. Except as otherwise contemplated herein, the failure in any one or more instances of a Party to insist upon performance of any of the terms, covenants or conditions of this Agreement, to exercise any right or privilege in this Agreement conferred, or the waiver by such Party of any breach of any of the terms, covenants or conditions of this Agreement, shall not be construed as a subsequent waiver of any such terms, covenants, conditions, rights or privileges, but the same shall continue and remain in full force and effect as if no such forbearance or waiver had occurred.

11.8 Applicable Law. This Agreement shall be governed and controlled as to validity, enforcement, interpretation, construction, effect and in all other respects by the internal laws of the State of Texas applicable to contracts made in that state and the applicable provisions of the Bankruptcy Code, without giving effect to any choice of law or conflict of law provision or rule that would cause the application of laws of any other jurisdiction.

11.9 Consent to Jurisdiction. Purchaser and Sellers agree that the Bankruptcy Court shall retain sole jurisdiction over any legal action or proceeding with respect to this Agreement. Each of Purchaser and Sellers irrevocably waives any objection, including any objection to the laying of venue or based on the grounds of *forum non conveniens*, which it may now or hereafter have to the bringing of any action or proceeding in such jurisdiction in respect of this Agreement or the transactions contemplated hereby. Purchaser and Sellers consent to the jurisdiction and authority of the Bankruptcy Court, including, without limitation, to the entry of final orders,

decrees and judgments with respect to any matters arising under or relating to this Agreement or the transaction(s) contemplated hereby.

11.10 WAIVER OF TRIAL BY JURY. EACH OF THE PARTIES HERETO WAIVES THE RIGHT TO A JURY TRIAL IN CONNECTION WITH ANY SUIT, ACTION OR PROCEEDING SEEKING ENFORCEMENT OF SUCH PARTY'S RIGHTS UNDER THIS AGREEMENT.

11.11 Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be deemed an original and all of which together shall constitute one instrument. This Agreement may be executed through the exchange of scanned .pdf signature pages, which shall have the same legal effect as original signatures.

11.12 Headings. The headings contained in this Agreement are for convenience of reference only and shall not affect the meaning or interpretation of this Agreement.

11.13 Time of the Essence. Time is of the essence of this Agreement. When calculating the period of time before which, within which or following which, any act is to be done or step taken pursuant to this Agreement, the date that is the reference date in calculating such period shall be excluded. If the last day of such period is a non-Business Day, the period in question shall end on the next succeeding Business Day.

11.14 Rules of Construction. The Parties acknowledge and agree that each has negotiated and reviewed the terms of this Agreement, assisted by such legal and tax counsel as they desired, and has contributed to its revisions, and, as such, each of the Parties shall be deemed drafters of this Agreement and equally responsible for any ambiguities contained herein. The Parties further agree that the rule of construction that any ambiguities are resolved against the drafting party will be subordinated to the principle that the terms and provisions of this Agreement will be construed fairly as to all Parties and not in favor of or against any Party. The word "including" means "including, without limitation." The phrase "ordinary course of business" or words of similar import shall mean the ordinary course of business consistent with past custom and practice, subject, in the case of Sellers or the Business, to changes in the business, operations or custom or practice of Sellers to the extent resulting from matters arising as a result of, or in connection with, Sellers' status as filers under Chapter 11 of the Bankruptcy Code.

[SIGNATURE PAGES FOLLOW]

IN WITNESS WHEREOF, the Parties have executed this Asset Purchase Agreement as of the date first above written.

SELLERS:

Limetree Bay Services, LLC

By: _____
Name: _____
Title: _____

Limetree Bay Refining Holdings, LLC

By: _____
Name: _____
Title: _____

Limetree Bay Refining Holdings II, LLC

By: _____
Name: _____
Title: _____

Limetree Bay Refining, LLC

By: _____
Name: _____
Title: _____

Limetree Bay Refining Operating, LLC

By: _____
Name: _____
Title: _____

Limetree Bay Refining Marketing, LLC

By: _____
Name: _____
Title: _____

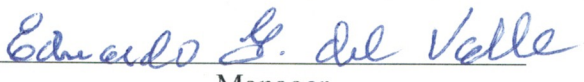
PURCHASER:

West Indies Petroleum Limited, a Jamaican corporation

By: 
Name: CHARLES CHAMBERS
Title: CEO

St. Croix Refining and Transportation LLLP, a Virgin Islands limited liability limited partnership

By: Virgin Islands Refining Company, LLC, a Florida limited liability company

By: 
Manager
Name: EDUARDO G. del VALLE
Title: MANAGER

APPENDIX 1

DEFINED TERMS

As used in this Agreement, the following terms shall have the following meanings:

“Affiliate” with respect to any Person means any other Person who directly or indirectly Controls, is Controlled by, or is under common Control with such Person including in the case of any Person who is an individual, his or her spouse, any of his or her descendants (lineal or adopted) or ancestors, and any of their spouses.

“Agreement” is defined in the Introduction to this Agreement.

“Alternative Transaction” means one or more sales, assignments, leases, transfers, or other dispositions of all or any material portion of the Purchased Assets to any Person (or group of Persons), whether in one transaction or a series of transactions, whether by merger, asset purchase, equity purchase or other similar transaction, in each case other than to Purchaser or its Affiliates.

“Antitrust Authorities” means the Federal Trade Commission, the Antitrust Division of the United States Department of Justice, the attorneys general of the several states of the United States and any other Governmental Entity having jurisdiction with respect to the transactions contemplated hereby pursuant to applicable Antitrust Laws.

“Antitrust Laws” means the Sherman Act, 15 U.S.C. §§ 1-7, as amended, the Clayton Act, 15 U.S.C. §§ 12-27, 29 U.S.C. §§ 52-53, as amended, the Hart-Scott-Rodino Antitrust Improvements Act of 1976, 15 U.S.C. § 18a et seq., as amended, the Federal Trade Commission Act, 15 U.S.C. § 41-58, as amended, and all other Laws and Orders that are designed or intended to prohibit, restrict or regulate actions having the purpose or effect of monopolization, restraint of trade, or lessening of competition through merger or acquisition.

“Auction” means a sale in which the Purchased Assets shall be offered for sale to a bidder or bidders making the highest or best offer, which will be scheduled by the Bankruptcy Court in the Bankruptcy Cases.

“Avoidance Actions” means any and all claims and causes of action of a Seller arising under the Bankruptcy Code, including, without limitation, Sections 544, 545, 547, 548, 549 and 550 thereof.

“Back-up Bid” shall have the meaning ascribed to such term in the Bid Procedures Order.

“Back-up Bidder” shall have the meaning ascribed to such term in the Bid Procedures Order.

“Bankruptcy Cases” means, individually and collectively, the following chapter 11 bankruptcy cases pending in the Bankruptcy Court: (i) *In re Limetree Bay Services, LLC*, case no. 21-32351; (ii) *In re Limetree Bay Refining Holdings, LLC*, case no. 21-32352; (iii) *In re Limetree Bay Refining Holdings II, LLC*, case no. 21-32353; (iv) *In re Limetree Bay Refining, LLC*, case

no. 21-32354; (v) *In re Limetree Bay Refining Operating, LLC*, case no. 21-32355; and (vi) *In re Limetree Bay Refining Marketing, LLC*, case no. 21-32356.

“Bankruptcy Code” means the Bankruptcy Reform Act of 1978, 11 U.S.C. §§ 101, et seq., as in effect on the Petition Date, and as amended effective as of the Petition Date.

“Bankruptcy Court” is defined in Recital B to this Agreement.

“Bankruptcy Rules” is defined in Section 4.3.

“Bid Procedures Order” means the order of the Bankruptcy Court, entered on August 11, 2021 at docket number 392 in the bankruptcy case of *In re Limetree Bay Services, LLC*, case no. 21-32351, authorizing, among other things, the sale of the Purchased Assets and assumption and assignment of the Business Contracts and Real Property Leases pursuant to the bid procedures and bid protections set forth therein.

“Bill of Sale and Assignment and Assumption Agreement” means that certain bill of sale and assignment and assumption agreement substantially in the form attached hereto as Exhibit A.

“BP Receivables” means any and all funds payable by BP Products North America, Inc., or any affiliate or subsidiary thereof, to Sellers, or any of them, arising out of or related to the IFF Property, the J. Aron Transaction Documents, the Tolling Agreement (as such terms are defined and used in the Stipulation by and among Debtors, Committee, J. Aron & Company LLC, and BP Products North America Inc. (appended to Doc. No. 697 filed in the Bankruptcy Cases) (the “BP Stipulation”)), or any other agreement by and between Sellers, or any of them, and BP Products North America, Inc., or any affiliate or subsidiary thereof, dated on or before the Closing Date, including, without limitation, the Escrow Funds, Trade Contract Amounts, and Sale Reserve (as such terms are defined and used in the BP Stipulation).

“Business” is defined in Recital A of this Agreement.

“Business Contracts” is defined in Section 1.2(a).

“Business Day” means any day other than Saturday, Sunday and any day that is a legal holiday or a day on which banking institutions in Houston, Texas are permitted or required to be closed.

“Business Intellectual Property” means all rights to Intellectual Property that are owned by a Sellers, other than the Excluded Intellectual Property.

“Business IT Assets” means all rights to Information Technology that are owned by Sellers, other than the Excluded IT Assets.

“Business Permits” is defined in Section 1.2(g).

“Business Real Property” means the Purchased Real Property and the real property subject to the Real Property Leases, in each case together with all easements, appurtenances,

rights and leases, and other hereditaments appurtenant to such land and all the estates and rights of Sellers in and to such land.

“Claim” means a claim against any or all of Sellers, whether or not asserted, as defined in Section 101(5) of the Bankruptcy Code.

“Closing” is defined in Section 3.3.

“Closing Date” is defined in Section 3.3.

“Closing Payment” is defined in Section 3.1.

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

“Confidentiality Agreement” means that certain Confidentiality Agreement by and between Purchaser and Sellers, dated [____], 2021.

“Control” means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a Person, whether through ownership of securities, by contract or otherwise.

“Consent” means any authorization, approval, consent, ratification, negative clearance, waiver, notice or filing, or a Final Order of the Bankruptcy Court that deems, or renders unnecessary, the same.

“Contract” means any note, bond, mortgage, indenture, guaranty, license, franchise, permit, agreement, contract, commitment, lease, purchase order, or other instrument or obligation, and any amendments thereto.

“Cure Amounts” means with respect to any Business Contract or Real Property Lease, the amount of cash required to be paid with respect to such Business Contract or Real Property Lease to cure all defaults under such Business Contract or Real Property Lease to the extent required by Section 365 of the Bankruptcy Code and to otherwise satisfy all requirements imposed by Section 365 of the Bankruptcy Code in order to effectuate, pursuant to the Bankruptcy Code, the assumption by a Seller and assignment to Purchaser of such Business Contract or Real Property Lease.

“DIP Agent” shall have the meaning ascribed to such term in the Bid Procedures Order.

“Employee” and “Employees” are defined in Section 8.1.

“Employee Benefit Plans” is defined in Section 4.10.

“Environmental Law” means any law, Order or other requirement of law for the protection of the environment, or for the manufacture, use, transport, treatment, storage, disposal, release or threatened release of Hazardous Materials, petroleum products, asbestos, urea formaldehyde insulation, polychlorinated biphenyls or any substance listed, classified or regulated as “hazardous” or “toxic” or any similar term under such Environmental Law.

“Environmental Liabilities” means all Liabilities (including the costs of any Remedial Action) arising in connection with or in any way relating to the Business (as currently or formerly conducted), the Purchased Assets or any property currently or formerly owned, leased or operated in connection with the Business (as currently or formerly conducted) or the Purchased Assets (including the activities and operations conducted by anyone thereon, offsite disposal therefrom and Hazardous Materials migrating thereto or therefrom), that in each case arise under or relate to any Environmental Law, Environmental Permit or a Hazardous Material, including Liabilities arising from any Third Party claims for personal injury, death, or property damage caused by an actual or alleged release of, or exposure to, a Hazardous Material.

“Environmental Permits” means all environmental, health and safety permits, licenses, registrations, and approvals and authorizations from Governmental Entities.

“EPA” means the United States Environmental Protection Agency.

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

“Escrow Account” means the account created by the Escrow Agent in which the Good Faith Deposit Amount was deposited pursuant to Section 3.2.

“Escrow Agent” means B. Riley Advisory Services or, if B. Riley Advisory Services is unable or unwilling to act as the Escrow Agent, such other Person as is mutually agreed upon by Purchaser and Sellers.

“Escrow Agreement” means that certain Escrow Agreement, dated as of [____], 2021, by and among Purchaser, Sellers and the Escrow Agent, as may thereafter be amended from time to time in accordance with the terms thereof.

“Event” means any action, omission, state of facts, condition, occurrence, result, circumstance, event, effect, development or change.

“Excluded Assets” is defined in Section 1.3.

“Excluded Furniture and Equipment” is defined in Section 1.3(p).

“Excluded Intellectual Property” is defined in Section 1.3(k).

“Excluded IT Assets” is defined in Section 1.3(l).

“Excluded Liabilities” is defined in Section 2.1.

“Excluded Permits” is defined in Section 1.3(r).

“Excluded Real Property” means all real property owned by a Seller, other than the Purchased Real Property.

“Files and Records” means all current and historical information, data, databases, reports, plans, schedules, correspondence, files, documents, books and other records and information,

including (a) customer, vendor, supplier, contractor and service provider lists and records, (b) sales, pricing and performance data and records generated from completed or active transactions (including billing, payment and dispute histories, credit information and similar data), (c) business plans, financial statements, corporate, Tax, human resource, legal, regulatory and financial data and records, (d) operating and production records, quality control records, market research reports, technical documentation (drawings, specifications, process instructions, statistics, functional requirements, operating instructions, manual, etc.) and user documentation (installation guides, manuals, training material working paper, etc.), (e) employment and personnel records, (f) all of the plant diagrams and drawings, equipment diagrams and drawings, equipment manuals, “as built” books, operating manuals, maintenance histories and records, civil engineering drawings, PFDs, PI&Ds and other such technical documents relating to the Sellers Facilities and (g) regulatory filings, documents or other information relating to any Proceeding, in each case with respect to clauses (a) through (g), of Sellers, whether in paper, electronic, digital or other form or medium, and that relate primarily to the Business, or the Purchased Assets; *provided*, that Files and Records shall not include (i) any files, documents, books or other records to the extent relating to any existing or anticipated Tax litigations or disputes (to the extent that such litigation or disputes are, or are related to any, Excluded Liabilities hereunder), (ii) any information which, if transferred to Purchaser or its Affiliates, would reasonably be expected to violate any applicable Law or Order or the terms of any Contract and (iii) any items described in clauses (a) through (g) that relate primarily to any Excluded Assets or any Excluded Liabilities.

“Final Order” means an order or judgment of the Bankruptcy Court (or any other court of competent jurisdiction) entered by the clerk of the Bankruptcy Court (or such other court) on the docket in the Bankruptcy Cases (or the docket of such other court), which is and remains in full force and effect, has not been modified, amended, reversed, vacated or stayed and as to which (i) the time to appeal, petition for certiorari, or move for a new trial, re-argument or rehearing has expired and as to which no appeal, petition for certiorari or motion for new trial, re-argument or rehearing shall then be pending or (ii) if an appeal, writ of certiorari new trial, re-argument or rehearing thereof has been sought, such order or judgment of the Bankruptcy Court (or other court of competent jurisdiction) shall have been affirmed by the highest court to which such order was appealed, or certiorari shall have been denied, or a new trial, re-argument or rehearing shall have been denied or resulted in no modification of such order, and the time to take any further appeal, petition for certiorari or move for a new trial, re-argument or rehearing shall have expired, as a result of which such order shall have become final in accordance with Rule 8002 of the Federal Rules of Bankruptcy Procedure; *provided*, that the possibility that a motion under Rule 60 of the Federal Rules of Civil Procedure, or any analogous rule under the Federal Rules of Bankruptcy Procedure, may be filed relating to such order, shall not cause an order not to be a Final Order.

“Furniture and Equipment” means all furniture, furnishings, equipment, vehicles, machinery, cranes, forklifts, tools, truck racks, fixtures, consumables and other tangible personal property owned by a Seller, including artwork, desks, chairs, tables, miscellaneous office furnishings, copiers, scanners, printers, telephone lines and numbers, telecopy machines and other telecommunication equipment, cubicles and supplies.

“GAAP” means United States generally accepted accounting principles, applied in a manner consistent with the preparation of the Financial Statements.

“Good Faith Deposit Amount” means \$3,000,000.00, which amount is to be deposited with the Escrow Agent in accordance with the terms of this Agreement and held and released pursuant to the terms and subject to the conditions set forth in this Agreement and the Escrow Agreement.

“Governmental Entity” means any multinational, United States or non-United States, federal, state, territory, provincial or local court (including, for the avoidance of doubt, the Bankruptcy Court), arbitral tribunal, administrative agency, legislature or commission or other governmental, quasi-governmental or regulatory agency or authority (including any bureau, division or department thereof) or any securities exchange.

“Hazardous Materials” means all explosive or radioactive substances or wastes, and all hazardous or toxic substances, wastes or other pollutants, including petroleum or petroleum distillates, asbestos or asbestos containing materials, polychlorinated biphenyls, radon gas, infectious or medical wastes and all other substances or wastes of any nature regulated pursuant to any Environmental Law.

“HSR Act” means the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended, and the rules and regulations promulgated thereunder.

“Improvements” means any and all buildings, structures, fixtures or other improvements owned by or leased to a Seller that are attached or affixed to the Business Real Property (including all construction and work-in-progress), including above ground and underground piping and storage tanks, canopies, signage, terminals, fixtures, pumps and appurtenances, equipment, personal property of a permanent nature and other similar facilities; *provided, however*, that the Excluded Furniture and Equipment shall not be considered “Improvements”.

“Indebtedness” of any Person means (a) any obligations or indebtedness (i) for borrowed money or indebtedness issued or incurred in substitution or exchange for indebtedness for borrowed money, (ii) evidenced by any note, bond, debenture, mortgage or other debt instrument or debt security, (iii) for the deferred purchase price of property or service, (iv) for the reimbursement of any obligor on any letter of credit, banker’s acceptance, guarantee or similar credit transaction (but only to the extent drawn upon or if there has been a demand made for reimbursement thereunder) and (v) under any commodity, swap, derivative, currency, interest rate, call, hedge or similar agreement, (b) any obligations of any kind referred to in the foregoing clause (a) above guaranteed or secured, directly or indirectly, in any manner by such Person (including by a Lien on the assets or properties of such Person whether or not such obligations are assumed) ,and (c) any accrued and unpaid principal, interest, premiums, penalties, prepayment penalties, fees, expenses, “make-whole” or similar payments, indemnities and breakage costs owing by such Person with respect to any indebtedness of a type described in clauses (a) or (b); provided, that Indebtedness of any Seller shall not include accounts payable to trade creditors or accrued expenses, in each case, arising in the ordinary course of business of any Seller.

“Information Technology” means all computers, computer systems, servers, workstations, databases, and software programs.

“Intellectual Property” means (a) patents and patent applications, (b) trademarks, service marks, trade dress, and all registrations and applications for the same, (c) Internet domain names, (d) registered and unregistered copyrights and applications for the same, and (e) trade secrets.

“IRS” means the United States Internal Revenue Service.

“Knowledge of Sellers” means the actual knowledge of Sellers, without giving effect to imputed knowledge or giving rise to any duty to investigate.

“Law” means any statute, law, ordinance, ruling, policy, rule or regulation of any Governmental Entity and all judicial or administrative interpretations thereof and any common law doctrine.

“Liabilities” means any and all Indebtedness, Taxes, losses, charges, debts, damages, obligations, payments, costs and expenses, bonds, indemnities, liabilities and obligations of any nature, including any unknown, undisclosed, unmatured, unaccrued, unasserted, contingent, indirect, conditional, implied, vicarious, derivative, joint, several or secondary liability, regardless of whether such claim, debt, obligation, duty or liability would be required to be disclosed on a balance sheet prepared in accordance with GAAP and regardless of whether such claim, debt, obligation, duty or liability is immediately due and payable.

“Liens” means any liens (as defined in Section 101(37) of the Bankruptcy Code), debts (as defined in Section 101(12) of the Bankruptcy Code), security interests, Claims, easements, mortgages, charges, indentures, deeds of trust, rights of way, encroachments, or any other encumbrances and other restrictions or limitations on ownership or use of real or personal property or irregularities in title thereto.

“Loss” or “Losses” means, without duplication, any and all Liabilities, judgments, awards, losses, costs or damages, including reasonable fees and expenses of attorneys, accountants and other professional advisors.

“Material Adverse Effect” means a material adverse effect on the business or financial condition of the Business, taken as a whole, provided that the foregoing shall not include any event, circumstance, change, occurrence, fact or effect resulting from or relating to (A) changes in economic conditions generally or in any region in which Sellers or the Business operate, (B) changes in United States or global financial markets in general, (C) changes, occurrences or developments in or related to the general industry or industries (or portions thereof) in which Sellers or the Business operate or are materially related thereto, (D) changes in law, GAAP or any authoritative interpretations thereof, (E) any action taken or failed to be taken by Sellers or any of their Affiliates or representatives at the request of Purchaser or that is required or contemplated by this Agreement, (F) a failure to meet Sellers’ projections, or any changes in the prices or availability of raw materials used in the Business, (G) the identity of, or any action taken by, Purchaser or any of its Affiliates or representatives, (H) the Bankruptcy Cases, (I) the announcement and performance of this Agreement and the other transactions contemplated by this Agreement, including termination of, reduction in or similar negative impact on relationships,

contractual or otherwise, with any customers, suppliers, distributors, partners, officers or employees of the Business, (J) any actions required under this Agreement to obtain any approval or authorization required under applicable antitrust or competition laws for the consummation of the transactions contemplated by this Agreement, (K) acts of war (whether or not declared), armed hostilities, sabotage or terrorism occurring after the date of this Agreement or the continuation, escalation or worsening of any such acts of war, armed hostilities, sabotage or terrorism threatened or underway as of the date of this Agreement, or (L) earthquakes, hurricanes, floods, or other natural disasters.

“Material Contracts” is defined in Section 4.7(b).

“NRI Consignment Agreement” means that certain Master Consignment Agreement dated as of March 9, 2021 by and between Limetree Bay Refining, LLC and NRI Industrial Sales LLC.

“NRI Receivables” means any and all amounts payable to Sellers under the NRA Consignment Agreement.

“Order” means any judgment, order, injunction, decree, writ, permit or license issued or entered by or with any Governmental Entity or any arbitrator, whether preliminary, interlocutory or final, including any order entered by the Bankruptcy Court in the Bankruptcy Cases (including the Sale Order).

“Parts Inventory” means the inventories of supplies, maintenance and capital spares, joints, valves, parts and tools owned by a Seller as of the Closing that are (x) stored in the warehouses located on the Business Real Property or (y) used primarily in connection with the Business.

“Party” and “Parties” are defined in the Introduction to this Agreement.

“Permits” means all licenses, permits, registrations and approvals from or with a Governmental Entity other than the Environmental Permits.

“Person” means and include an individual, a partnership, a limited partnership, a limited liability partnership, a joint venture, a corporation, a limited liability company, an association, a trust, an unincorporated organization, a group and a Governmental Entity.

“Petition Date” is defined in Recital B of this Agreement.

“Plant Closing Act” shall mean the Virgin Islands Code Title 24, § 471- 478 (1957).

“Post-Closing Litigation Liabilities” means all Liabilities arising from a new event Proceeding first commenced after the Closing by a Third Party against Purchaser, a Seller or any of their respective Affiliates, in respect of the Business, or the Purchased Assets that is based on any Event first existing, arising or occurring following the Closing; *provided*, that the Parties agree and acknowledge that Post-Closing Litigation Liabilities shall not include any Environmental Liabilities, which are separately addressed in this Agreement.

“Post-Closing Period” means all taxable years or other taxable periods that begin after the Closing Date and, with respect to any taxable year or other taxable period beginning on or before and ending after the Closing Date, the portion of such taxable year or period beginning on the day after the Closing Date.

“Pre-Closing Period” means all taxable years or other taxable periods that end on or before the Closing Date and, with respect to any taxable year or other taxable period beginning on or before and ending after the Closing Date, the portion of such taxable year or period ending on the Closing Date.

“Prepetition Secured Parties” shall have the meaning ascribed to such term in the Bid Procedures Order.

“Proceeding” means any claim, demand, action, arbitration, audit, hearing, investigation, litigation, suit or other proceeding (whether civil, criminal, administrative, investigative, or informal) commenced, brought, conducted, or heard by or before, or otherwise involving, any Third Party (including any Governmental Entity).

“Property Taxes” means all real property Taxes, personal property Taxes and other similar ad valorem Taxes, in each case, that are imposed with respect to the Purchased Assets.

“Purchase” is defined in Recital C of this Agreement.

“Purchase Price” means Thirty Million US Dollars (\$30,000,000.00).

“Purchased Assets” is defined in Section 1.1.

“Purchased Real Property” is defined in Section 1.2(b).

“Purchaser” is defined in the Introduction to this Agreement.

“Real Property” means the Purchased Real Property and the Excluded Real Property.

“Real Property Leases” is defined in Section 1.2(d).

“Remedial Action” means any action to investigate, abate, clean up, remove or remediate (or words of similar import), or conduct remedial or corrective actions, including sampling and/or monitoring activities, with respect to Hazardous Materials in the environment.

“Representatives” of any Person means such Person’s directors, managers, officers, employees, agents, attorneys, consultants, advisors, financing sources or other Persons acting on behalf of such Person.

“Returns” means all returns, statements, forms, reports and other similar documentation relating to Taxes, including any schedules, exhibits and other attachments thereto and any amendments thereof.

“Sale Motion” means Debtor’s Emergency Motion for Entry of Order: (I) Establishing Bidding and Sale Procedures, (II) Approving the Sale of Assets, and (III) Granting Related Relief filed by Sellers in the Bankruptcy Court on July 26, 2021 (Docket No. 191).

“Sale Order” means an Order of the Bankruptcy Court approving this Agreement, containing the findings and conclusions set forth in Section 6.11, and authorizing and directing Sellers to consummate the transactions contemplated by this Agreement (including, but not limited to, the assumption and assignment of the Business Contracts and Real Property Leases) under Sections 105, 363 and 365 of the Bankruptcy Code, in form and substance acceptable to Sellers and Purchaser in their respective sole discretion.

“Seller” and “Sellers” are defined in the Introduction to this Agreement.

“Seller Access Indemnitees” is defined in Section 6.1(b).

“Sellers Disclosure Letter” is defined in Article IV.

“Seller Facilities” means the facilities and related equipment owned by a Seller located on the Business Real Property, including all Improvements related thereto; provided, that, for the avoidance of doubt, the Seller Facilities shall not include any Excluded Assets.

“Stalking Horse Bid” shall have the meaning ascribed to such term in the Bid Procedures Order.

“Stalking Horse Bidder” shall have the meaning ascribed to such term in the Bid Procedures Order.

“Taxes” means (a) all taxes, however denominated, and all like charges, levies, duties, imposts, unclaimed property, escheat obligations or other assessments, including any interest, penalties or additions to tax that may become payable in respect thereof, imposed by any Government, which taxes shall include all income taxes, Transaction Taxes, payroll and employee withholding, unemployment insurance, social security (or similar), sales and use, excise, franchise, gross receipts, occupation, real and personal property, stamp, transfer, workmen’s compensation, customs duties, registration, documentary, value added, alternative or add-on minimum, estimated, environmental (including taxes under Section 59A of the Code) and other obligations of the same or a similar nature, whether arising before, on or after the Closing Date and (b) any transferee, successor or other liability in respect of Taxes of another (whether by contract or otherwise) and any liability in respect of any Taxes as a result of any company being a member of any “affiliated group” as defined in Section 1504 of the Code, or any analogous combined, consolidated or unitary group defined under state, local or foreign Tax law.

“Termination Date” is defined in Section 9.1(d).

“Third Party” means any Person other than the Parties and their respective Affiliates (including, for the avoidance of doubt, any Governmental Entity).

“Transaction Documents” means the Escrow Agreement.

“Transfer Taxes” is defined in Section 6.8.

“Update Schedule” is defined in Section 6.6(a).

“WARN Act” means the Worker Adjustment and Retraining Notification Act, 29 U.S.C. Section 2101, et seq.

“Winning Bid” shall have the meaning ascribed to such term in the Bid Procedures Order.

“Winning Bidder” shall have the meaning ascribed to such term in the Bid Procedures Order.

EXHIBIT A
FORM OF BILL OF SALE AND ASSIGNMENT AND ASSUMPTION AGREEMENT

SCHEDULE 1.1(G)¹
BUSINESS PERMITS

¹ SCHEDULES REMOVED PENDING COMPLETION/FINAL AGREEMENT.

SCHEDULE 1.2(A)
BUSINESS CONTRACTS

SCHEDULE 1.2(B)
PURCHASED REAL PROPERTY

SCHEDULE 1.2(D)
REAL PROPERTY LEASES

SCHEDULE 1.2(G)
BUSINESS PERMITS

SCHEDULE 1.3(K)
EXCLUDED INTELLECTUAL PROPERTY

SCHEDULE 1.3(L)
EXCLUDED IT ASSETS

SCHEDULE 1.3(P)
EXCLUDED FURNITURE AND EQUIPMENT

SCHEDULE 1.3(R)
EXCLUDED PERMITS

SCHEDULE 3.4
ASSIGNMENT, TRANSFER AND CONVEYANCE INSTRUMENTS

SCHEDULE 6.2
CONDUCT PRIOR TO THE CLOSING DATE

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v.2
4881-0356-7619.1

SCHEDULE 6.2 - 1

SELLERS' DISCLOSURE LETTER

**EXHIBIT D - ASSET PURCHASE AGREEMENT
(UNSIGNED EXECUTION VERSION)**

BH Draft of December 5, 2021
Confidential

ASSET PURCHASE AGREEMENT

by and among

**LIMETREE BAY SERVICES, LLC,
LIMETREE BAY REFINING HOLDINGS, LLC,
LIMETREE BAY REFINING HOLDINGS II, LLC,
LIMETREE BAY REFINING, LLC,
LIMETREE BAY REFINING OPERATING, LLC, AND
LIMETREE BAY REFINING MARKETING, LLC,
as Sellers**

and

**WEST INDIES PETROLEUM LIMITED, a Jamaican corporation, AND
ST. CROIX REFINING AND TRANSPORTATION, LLLP, a Virgin Islands limited
liability limited partnership,
as Purchaser**

Dated as of December [__], 2021

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BH Draft of December 5, 2021

*Confidential***ASSET PURCHASE AGREEMENT**

THIS ASSET PURCHASE AGREEMENT (“Agreement”) is made as of December [], 2021, by and among Limetree Bay Services, LLC, a Delaware limited liability company (“LBS”), Limetree Bay Refining Holdings, LLC, a United States Virgin Islands limited liability company (“LBRH”), Limetree Bay Refining Holdings II, LLC, a United States Virgin Islands limited liability company (“LBRH II”), Limetree Bay Refining, LLC, a United States Virgin Islands limited liability company (“LBR”), Limetree Bay Refining Operating, LLC, a United States Virgin Islands limited liability company (“LBRO”), Limetree Bay Refining Marketing, LLC, a United States Virgin Islands limited liability company (“LBRM”, along with LBS, LBRH, LBRH II, LBR and LBRO, each a “Seller” and collectively, “Sellers”), and West Indies Petroleum Limited (“WIPL”), a Jamaican corporation, and St. Croix Refining and Transportation, LLLP, a Virgin Islands limited liability limited partnership, formed by West Indies Petroleum Limited pursuant to the laws of the United States Virgin Islands (“SCRT” and, together with WIPL, “Purchaser”; Purchaser and Sellers, each a “Party” and collectively, the “Parties”). Capitalized terms used but not otherwise defined in the text of this Agreement have the meanings set forth in Appendix 1 attached hereto, which is incorporated herein and made a part of this Agreement.

RECITALS

A. Sellers own an oil refinery located on the island of St. Croix in the United States Virgin Islands (collectively, the “Business”).

B. On July 12, 2021 (the “Petition Date”), Sellers filed voluntary petitions for relief under chapter 11 of the Bankruptcy Code in the United States Bankruptcy Court for the Southern District of Texas (the “Bankruptcy Court”), which cases are jointly administered under *In re Limetree Bay Services, LLC*, Case No. 21-32351.

C. On the terms and subject to the conditions set forth in this Agreement, Purchaser desires to purchase from Sellers, and Sellers’ desire to sell to Purchaser, the Purchased Assets (the “Purchase”).

D. It is intended that the acquisition of the Purchased Assets will be accomplished through the sale, transfer and assignment of the Purchased Assets by Sellers to Purchaser in a sale undertaken pursuant to §363 of the Bankruptcy Code and that certain executory contracts and unexpired leases will be assumed by Sellers and assigned to Purchaser pursuant to §365 of the Bankruptcy Code in connection therewith.

AGREEMENTS

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

ARTICLE I
Purchase and Sale of Assets

1.1 Agreement to Purchase and Sell. On the terms and subject to the conditions contained in this Agreement, Purchaser agrees to purchase from Sellers, and Sellers agree to sell, transfer and convey to Purchaser, with Purchaser taking title in the name of SCRT, all of Sellers' assets, properties, rights and interests as of the Closing Date, wherever situated or located, other than the Excluded Assets. All of such assets, properties, rights and interests (other than the Excluded Assets) are collectively referred to in this Agreement as the "Purchased Assets". The Purchased Assets shall be sold, transferred and conveyed to Purchaser as provided herein free and clear of any and all Liens, in each case to the extent resulting from the Sale Order.

1.2 Description of Purchased Assets. Without limitation of Section 1.1, the Purchased Assets shall include the following assets owned by Sellers as of the Closing Date, except to the extent that any of the following are also enumerated in Section 1.3 as being Excluded Assets:

(a) each Contract listed or described on Schedule 1.2(a) (collectively, the "Business Contracts"); provided, however, that notwithstanding the generality of Section 1.1 or anything to the contrary in this Section 1.2, Purchaser shall not acquire any rights or interest under the NRI Consignment Agreement;

(b) the real property described on Schedule 1.2(b), together with all easements, appurtenances, rights and other hereditaments appurtenant to such real property (collectively, the "Purchased Real Property"), including Sellers' easements, use rights, or options to purchase, or such rights with respect to Purchased Real Property as are used or held for use in the Business; provided, that the agreements, if any, establishing such rights are assigned to Purchaser;

(c) all Improvements;

(d) Intentionally deleted;

(e) all Parts Inventory;

(f) the Files and Records, whether in hard copy or electronic format, except that, with respect to Files and Records that any Seller or any of its Affiliates is required by Law or Order to retain, the Purchased Assets shall include copies of such Files and Records to the extent permitted by any applicable Law or Order (and, with respect to any personnel records which a Seller or Affiliate is required to retain, to the extent permitted by any applicable Law or Order, copies of such personnel records for employees or consultants who, as of the Closing, will become employees or consultants of Purchaser); provided, that any Seller shall be permitted to retain a copy of any such Files and Records that such Seller requires, including any electronically stored information;

(g) all Permits (and any pending applications for Permits), other than the Excluded Permits, that are owned, utilized, held or maintained by or licensed to a Seller primarily in connection with such Sellers' ownership or operation of the Business to the

other Purchased Assets, including those Permits described on Schedule 1.2(g) (the “Business Permits”);

(h) the Business Intellectual Property;

(i) the Business IT Assets;

(j) all Furniture and Equipment owned by Sellers that is located at the Sellers’ Facilities or that is otherwise primarily used or held for use in the Business (other than the Excluded Furniture and Equipment);

(k) Intentionally deleted;

(l) all insurance recoveries under each Seller’s or its Affiliates’ insurance policies, in each case solely (i) to the extent Purchaser has paid all premiums and costs associated with such coverage from and after the Closing Date, (ii) with respect to any of the Purchased Assets set forth in Sections 1.2(a)-(j), and (iii) to the extent first arising with respect to incidents, actions or omissions that occur on or after the Closing Date, and any rights to assert claims with respect to any such insurance recoveries (the “Purchased Insurance Recoveries”); and

(m) all assets specifically identified on Schedule 1.2(m).

1.3 Excluded Assets. The “Excluded Assets” means the following items and assets (whether or not such assets are otherwise described in Section 1.2):

(a) all cash, certificates of deposit or other cash equivalents;

(b) any real property other than Purchased Real Property;

(c) all personal property, equipment and inventory not included in the Purchased Assets, including, without limitation, any such assets or Parts Inventory subject to the NRI Consignment Agreement;

(d) all rights, claims, defenses, causes of action, rights of offset and counterclaims (at any time or in any manner arising or existing, whether choate or inchoate, known or unknown, contingent or non-contingent) of each Seller against any Third Parties, including with respect to any of the Purchased Assets, the Excluded Assets or the Excluded Liabilities, including, without limitation, all Avoidance Actions, and any proceeds of the foregoing;

(e) Intentionally deleted;

(f) Intentionally deleted;

(g) general books of account and books of original entry that comprise a Sellers’ permanent Tax records, corporate minute books, stock books and related organizational documents and the books and records that any Seller is required to retain

pursuant to any Law or Order and the books and records solely related to the Excluded Assets or Excluded Liabilities;

(h) personnel records that any Seller is required by Law or Order to retain (provided that the copies of any such personnel records shall be Purchased Assets to the extent permitted by any applicable Law or Order pursuant to Section 1.2(f)) and personnel records of employees, former employees or consultants of each Seller who do not, as of the Closing, become employees of Purchaser;

(i) all insurance recoveries under each Seller's or its Affiliates' insurance policies with respect to the Purchased Assets or the Business and any rights to assert claims with respect to any such insurance recoveries, *provided, however*, that the Purchased Insurance Recoveries shall not constitute Excluded Assets;

(j) all claims for refund or credit of (i) income Taxes of each Seller and its Affiliates for any taxable period and (ii) non-income Taxes of each Seller and its Affiliates with respect to a Pre-Closing Period;

(k) Intentionally deleted;

(l) Intentionally deleted;

(m) each Seller's or any of its Affiliates' rights under this Agreement or any Transaction Document or relating to the Excluded Assets or the Excluded Liabilities;

(n) all deposits (including security deposits, rent, electricity, telephone or otherwise and retainers held by attorneys, accountants, financial advisors and other professional advisors retained by any Seller or by any creditors' committee in the Bankruptcy Case) and other prepaid charges of each Seller, in each case other than with respect to any Purchased Assets;

(o) any assets of each Seller in a directors and officers liability insurance policy, executive or incentive compensation, bonus, deferred compensation, pension, retiree medical, stock option or other stock purchase plan or other Employee Benefit Plan;

(p) Intentionally deleted;

(q) all accounts receivable and pre-paid assets of each Seller, including, without limitation, any BP Receivables and NRI Receivables;

(r) Intentionally deleted;

(s) all attorney client privilege and attorney work product protection of each Seller or associated with the Business (as currently or formerly conducted) as a result of legal counsel representing a Seller or the Business (as currently or formerly conducted), and all Files and Records related thereto subject to such attorney client privilege or work product protection; provided that any privilege or work product that exclusively relates to the Purchased Assets or that is necessary to operate the Business (other than such

privileges, protections and related Files and Records related to or in connection with the transactions contemplated by this Agreement or any Transaction Document) shall not be deemed to be an Excluded Asset whether or not in connection with the transactions contemplated by this agreement or any Transaction Document; and

(t) all shares of capital stock or other equity interests in any Seller or any Affiliate thereof or any securities convertible into, exchangeable or exercisable for shares of capital stock or other equity interests in any Seller or any Affiliate thereof.

For clarification purposes and without implication that the contrary would otherwise be true, it is understood and agreed that all rights and remedies with respect to the Excluded Assets or the Excluded Liabilities and which rights or remedies first arise after the Closing shall be retained by Sellers and shall not be transferred to Purchaser hereunder.

1.4 Assignment of Assigned Contracts. To the maximum extent permitted by the Bankruptcy Code, but subject to applicable Law and the other provisions of this Section 1.4, Sellers shall assume and transfer, sell and assign all Business Contracts and Business Permits to Purchaser pursuant to Sections 363 and 365 of the Bankruptcy Code as of the Closing Date or such other date as specified in the Sale Order or this Agreement, as applicable. Notwithstanding any other provision of this Agreement to the contrary, this Agreement shall not constitute an agreement to assign any Business Contract or Business Permit (or any right thereunder) if an attempted assignment without the consent of a third party, which consent has not been obtained prior to the Closing (and is not provided for or satisfied by the Sale Order, the Bankruptcy Code or applicable Law), would constitute a breach or in any way adversely affect the rights of Purchaser or Sellers thereunder and the Parties acknowledge and agree that the Closing shall proceed with respect to the remaining Business Contracts and Business Permits without any reduction in the Purchase Price; provided that the Sellers' acknowledge and agree that the Sellers shall employ its best efforts to secure any requisite consents to assume any Business Permits, or, if unable to secure such consent, shall use reasonable best efforts, at the cost of the Purchaser, to secure a new business permit in favor of the Purchaser from the issuing party prior to the Closing.

ARTICLE II Assumption of Liabilities

2.1 Agreement to Assume. Purchaser shall not assume or agree to pay, perform and discharge when due, any liabilities or obligations of Sellers. As such, all liabilities and obligations of Sellers are collectively referred to herein as "Excluded Liabilities". Purchaser shall not assume, be deemed to have assumed, or otherwise be responsible for, the Excluded Liabilities.

2.2 Assumed Liabilities. Purchaser shall not assume or agree to pay, perform and discharge when due, any liabilities or obligations of Sellers; provided, however, that Purchaser shall be obligated to pay Cure Amounts and provide any adequate assurance of performance in connection with the assumption and/or assignment of any Contracts, including, without limitation, any Business Contracts and Business Permit, pursuant to Section 1.4 of this Agreement or Section 365 of the Bankruptcy Code, which amounts shall be in addition to the

Purchase Price and shall be paid directly to the subject counterparty by Purchaser pursuant to the terms of the Sale Order.

2.3 Excluded Liabilities. Except as provided in Section 2.2, all liabilities and obligations of Sellers shall constitute Excluded Liabilities.

ARTICLE III

Purchase Price, Manner of Payment; Closing; Deposit

3.1 Purchase Price; Delivery of Funds. At the Closing, Purchaser shall in full consideration for the sale and transfer by Sellers of the Purchased Assets (a) pay to Sellers an amount (such amount, the “Closing Payment”) equal to (i) the Purchase Price, less (ii) the Good Faith Deposit Amount, by wire transfer of immediately available funds to an account or accounts designated by Sellers in writing to Purchaser at least three Business Days prior to the Closing; and (b) together with Sellers, execute and deliver a joint written instruction to the Escrow Agent instructing it to release from the Escrow Account to Sellers by wire transfer of immediately available funds to an account or accounts designated by Sellers, an amount equal to the Good Faith Deposit Amount.

3.2 Good Faith Escrow Deposit.

(a) Purchaser has paid to the Escrow Agent the Good Faith Deposit Amount, which funds shall be held in the Escrow Account by the Escrow Agent and invested as provided for in the Escrow Agreement and released by the Escrow Agent only in accordance with the terms of this Agreement and the Escrow Agreement.

(b) If the Closing occurs, then the Good Faith Deposit Amount, shall be paid to Sellers and the applicable Parties shall submit joint written instructions to the Escrow Agent (in accordance with Section 3.1) to give effect to the same.

(c) If the Closing does not occur as a result of the termination of this Agreement pursuant to Section 9.1(e), then within five Business Days of such termination, the Good Faith Deposit Amount shall be disbursed to Sellers by the Escrow Agent as liquidated damages and the applicable Parties shall submit joint written instructions to the Escrow Agent to give effect to the same.

(d) If the Closing does not occur as a result of the termination of this Agreement for any reason other than as set forth in Section 3.2(c), then the Good Faith Deposit Amount shall be returned to Purchaser by the Escrow Agent within five Business Days of such termination, and the applicable Parties shall submit joint written instructions to the Escrow Agent to give effect to the same.

(e) The Parties acknowledge that the agreements contained in this Section 3.2 are an integral part of the transactions contemplated by this Agreement and that without these agreements neither Sellers nor Purchaser would enter into this Agreement.

3.3 Time and Place of Closing. Subject to the satisfaction or waiver of all of the conditions set forth in Article VII, the closing of the Purchase (the “Closing”) shall take place at a time and location acceptable to both parties, as soon as practicable, but in any event within ten calendar days, after the last of the conditions set forth in Article VII is satisfied or waived (other than those conditions that by their nature are to be satisfied at the Closing, but subject to the fulfillment or waiver of those conditions), or at such other time, date or place as the Parties shall agree in writing; provided, however, that the Closing Date (defined hereinafter) shall occur no later than December 22, 2021, at 5:00 p.m. (prevailing Central Time), unless extended by Sellers, with the consent of the DIP Agent and Prepetition Secured Parties. Such date of Closing is herein referred to as the “Closing Date”.

3.4 Closing Deliverables.

(a) At the Closing, Sellers shall deliver or cause to be delivered to Purchaser:

(i) a certificate in a form reasonably satisfactory to Purchaser signed by an authorized officer of each Seller, dated as of the Closing Date, confirming the matters set forth in Sections 7.2(a) and (b) with respect to each Seller;

(ii) counterparts to the assignment, transfer and conveyance instruments listed on Schedule 3.4, in each case, duly executed by each Seller (as applicable);

(iii) a counterpart to the Bill of Sale and Assignment and Assumption Agreement, duly executed by each Seller;

(iv) a properly executed deed in recordable and customary form for conveyances of commercial real property in the United States Virgin Islands conveying the Purchased Real Property, which has the real property legal description approved by the Office of the Public Surveyor of the Government of the Virgin Islands, together with real property tax clearance letters from the Government of the Virgin Islands covering all the tax bills for all of the parcels of real property being conveyed by the deed, as well as a properly executed assignment in recordable and customary form in the United States Virgin Islands assigning any Sellers’ easements, use rights or options to purchase or that such rights are used or held for use in the Business; provided, however, that if any such easements, use rights or options to purchase, or rights used or held for use in the Business, are premised upon any Business Contract, such Business Contract is assigned to Purchaser; and

(v) written instructions from the Sellers and the Purchaser to the Escrow Agent to release the Good Faith Deposit Amount pursuant to Section 3.1.

(b) At the Closing, Purchaser shall deliver or cause to be delivered to Sellers, and Sellers shall have received:

(i) the Closing Payment by wire transfer of immediately available funds to an account or accounts designated by Sellers in writing to Purchaser at least three Business Days prior to the Closing;

(ii) a certificate in a form reasonably satisfactory to Sellers signed by an authorized officer of Purchaser, dated as of the Closing Date, confirming the matters set forth in Sections 7.1(a) and (b);

(iii) counterparts to the assignment, transfer and conveyance instruments listed on Schedule 3.4, in each case, duly executed by Purchaser (as applicable);

(iv) a counterpart to the Bill of Sale and Assignment and Assumption Agreement, duly executed by Purchaser; and

(v) written instructions from the Sellers and the Purchaser to the Escrow Agent to release the Good Faith Deposit Amount pursuant to Section 3.1.

3.5 Intentionally deleted.

ARTICLE IV
Representations and Warranties of Sellers

Except as set forth in the disclosure letter delivered by Sellers to Purchaser (the “Sellers Disclosure Letter”) concurrently with the execution of this Agreement (it being agreed that any matter disclosed pursuant to any section of the Sellers Disclosure Letter shall be deemed disclosed for purposes of any other section of the Sellers Disclosure Letter to the extent the applicability of the disclosure to such other section is reasonably apparent on the face of such disclosure), Sellers hereby represent and warrant to Purchaser as follows as of the date hereof and as of the Closing Date (or as of such other date as may be specified herein):

4.1 Due Organization, Good Standing and Limited Liability Company Power. Each Seller is duly organized, validly existing and in good standing under the laws of its jurisdiction of organization. Each Seller has all requisite limited liability company power and authority to own, lease and operate its assets and properties and conduct its business as now being conducted. Each Seller is in good standing under the laws of each jurisdiction where the character of its assets or properties or the conduct of its business requires such qualification.

4.2 Authorization; Noncontravention.

(a) Subject to obtaining Bankruptcy Court approval pursuant to the Sale Order, each Seller has the requisite limited liability company power and authority and has taken all limited liability company action necessary to execute and deliver this Agreement, the Transaction Documents and all other instruments and agreements to be delivered by Sellers as contemplated hereby, to perform its obligations hereunder and thereunder and to consummate the transactions contemplated hereby and thereby. Subject to obtaining Bankruptcy Court approval pursuant to the Sale Order, the execution, delivery and performance by Sellers of this Agreement, the Transaction Documents and all other instruments and agreements to be delivered by Sellers as contemplated hereby, the consummation by Sellers of the transactions contemplated hereby and thereby and the performance of its obligations hereunder and thereunder have been, and in the case of documents required to be delivered at the Closing will be, duly authorized and approved

by all necessary limited liability company, member or other action. This Agreement has been, and the Transaction Documents and all other instruments and agreements to be executed and delivered by Sellers as contemplated hereby will be, duly executed and delivered by Sellers. Subject to obtaining Bankruptcy Court approval pursuant to the Sale Order, assuming that this Agreement, the Transaction Documents and all such other instruments and agreements constitute valid and binding obligations of Purchaser and each other Person (other than any Sellers or any Affiliate thereof) party hereto and thereto, this Agreement, the Transaction Documents and all such other instruments and agreements constitute valid and binding obligations of Sellers, enforceable against each applicable Seller in accordance with the terms thereof, except to the extent that such enforcement may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or other similar Laws affecting the enforcement of creditors' rights generally and by general equitable principles (whether considered in a proceeding in equity or at law).

(b) Except as a result of the Bankruptcy Cases and, subject to obtaining Bankruptcy Court approval pursuant to the Sale Order, the execution and delivery by Sellers of this Agreement, the Transaction Documents and all other instruments and agreements to be delivered by Sellers as contemplated hereby do not, and the consummation of the transactions contemplated hereby and thereby will not:

(i) conflict with any of the provisions of any Seller's certificate of formation or other formational documents;

(ii) except as provided in Section 4.2(b)(ii) of the Sellers Disclosure Letter and subject to receipt of the Consents set forth in Section 4.3 of the Sellers Disclosure Letter, conflict with or result in a breach of, or constitute a default under or give rise to any right of termination, cancellation, modification or acceleration (including any right of first refusal or similar right) or the loss of a benefit under, or require the Consent of or giving of notice to any Person under any Business Contract, Real Property Lease or Business Permit (in each case, with or without notice or lapse or time or both); except, in the case of this clause (ii) for such conflicts or breaches or Consents or notices that (if not received) would not reasonably be expected to materially and adversely affect the Business, the Purchased Assets, taken as a whole, or prevent or materially delay beyond the Termination Date Sellers' ability to consummate the transactions contemplated by this Agreement or the Transaction Documents;

(iii) subject to the receipt of the Consents referred to in Section 4.3 of the Sellers Disclosure Letter, contravene any Law or any Order applicable to Sellers or by which any of their properties or assets are bound except such contraventions that would not reasonably be expected to materially and adversely affect the Business, and the Purchased Assets, taken as a whole, or prevent or materially delay beyond the Termination Date Sellers' ability to consummate the transactions contemplated by this Agreement or the Transaction Documents; or

(iv) result in the creation or imposition of any Lien on any of the Purchased Assets.

4.3 Governmental Consents and Approvals. Except as a result of the Bankruptcy Cases and, subject to obtaining Bankruptcy Court approval pursuant to the entry of the Sale Order and the expiration, or waiver by the Bankruptcy Court, of the 14-day period set forth in rules 6004(h) and 3020(e) of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), as applicable, except as set forth in Section 4.3 of the Sellers Disclosure Letter, no Consent of or filing with any Governmental Entity must be obtained or made by Sellers in connection with the execution and delivery of this Agreement or any Transaction Document by Sellers or the consummation by Sellers of the transactions contemplated by this Agreement or any Transaction Document, except for any Consents that, if not obtained or made, would not reasonably be expected to materially and adversely affect the Business, and the Purchased Assets, taken as a whole, or prevent or materially delay beyond the Termination Date Sellers’ ability to consummate the transactions contemplated by this Agreement or the Transaction Documents.

4.4 Property.

(a) Other than the Real Property, no Seller owns any other real property. One or more Sellers has good and valid title to the Purchased Real Property (other than any Excluded Asset). There are no outstanding options, rights of first offer or rights of first refusal to purchase any Purchased Real Property or any portion thereof or interest therein. No Seller has leased or otherwise granted to any Person the right to use or occupy the Purchased Real Property or any material portion thereof, except as set forth in Section 4.4(a) of the Sellers Disclosure Letter.

(b) Section 4.4(b) of the Sellers Disclosure Letter contains an accurate and complete list as of the date hereof of all Real Property Leases and all other real property leases and subleases to which a Seller is a party. With respect to each Real Property Lease pursuant to which a Seller is a lessee or sublessee, such Seller has valid leasehold interests in all leased real property described in such Real Property Lease, free and clear of any and all Liens. Each Real Property Lease is a valid and binding obligation of the Sellers party thereto and, to the Knowledge of Sellers, is enforceable against the other parties thereto in accordance with the terms thereof, in each case, except to the extent that such enforcement may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or other similar Laws affecting the enforcement of creditors’ rights generally and by general equitable principles (whether considered in a proceeding in equity or at law). Except as set forth in Section 4.4(b) of the Sellers Disclosure Letter, there exists no material default or event of default (with or without notice or lapse of time or both) with respect to any Real Property Lease by a Seller or, to the Knowledge of Sellers, by any other party thereto, and no Seller has received or delivered any notice with respect to any alleged material default that has not been rescinded, completely cured, or will be cured on or before the Closing Date pursuant to §365 of the Bankruptcy Code or otherwise.

(c) To the Knowledge of Sellers, there is no, and no Seller has received written notice of any, existing or threatened change in the zoning classification of any Business Real Property (or any portion thereof) from that in effect on the date of this Agreement, in each instance, which would reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect. All water, sewer, gas, electric, telephone and drainage facilities and all other utilities and public or quasi-public improvements

related thereto required by Law with respect to, or required for the operation of, the Business at the Business Real Property, are installed and available to serve the Business Real Property. No condemnation proceeding, lawsuit or administrative action or other matter affecting and adversely impairing the current use or occupancy of the Business Real Property is pending or, to the Knowledge of Sellers, threatened in writing with respect to any Business Real Property which has had or would reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect. To the Knowledge of Sellers, there has been no material casualty damage at any of the Business Real Property that has had or would reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

4.5 Title to Purchased Assets. Except as set forth in Section 4.5 of the Sellers Disclosure Letter, and excluding Purchased Real Property (which is governed by Section 4.4(a)), one or more Sellers own and has good and valid title to, or a valid leasehold interest in, all personal property included in the Purchased Assets, free and clear of all Liens.

4.6 Affiliate Transactions. Except as disclosed in Section 4.6 of the Sellers Disclosure Letter and except for employment and consultant relationships and compensation, benefits, travel advances and employee or consultant loans to any officer, director, employee or consultant of Sellers, in each case, in the ordinary course of business, there is no Contract or Liability relating primarily to the Business, or the Purchased Assets between (a) a Seller, on the one hand, and (b) any Affiliate, equity holder, option holder, officer, member, partner or director of a Seller (in each case that is not also a Seller), on the other hand, that remains in force and provides for obligations of any party from and after the Closing.

4.7 Material Contracts.

(a) Section 4.7(a) of the Sellers Disclosure Letter sets forth an accurate, correct and complete list of the following Contracts which a Seller is a party and which are currently in effect as of the date hereof:

(i) each Contract whereby a Seller has created a Lien in respect of any of the Purchased Assets;

(ii) each Business Contract containing any covenant limiting the freedom of a Seller or any of its Affiliates (A) to compete with any Person, engage in any line of business or exploit the Purchased Assets, in each case, in any geographic territory, (B) which grants to any Person any exclusivity with respect to any geographic territory, any customer or any product or service, or (C) to solicit for employment, hire or employ any Person;

(iii) each Business Contract that requires capital expenditures or other outstanding payments to be made by a Seller in excess of \$100,000, in each case, following the date hereof;

(iv) each Business Contract involving the sharing of profits, losses, costs or liabilities with any other Person relating to the Business, or the Purchased Assets;

(v) each Business Contract that requires (or may require in certain circumstances) in accordance with its terms the provision of credit support, collateral, a guarantee or similar financial assurance in respect of the Business, or the Purchased Assets;

(vi) each Business Contract that (A) provides services for a fixed price or maximum fee, or pursuant to any cap or similar provisions; (B) grants “most favored nation” status (or similar status) to a Person (whether in respect of pricing or otherwise); or (C) provides any performance guarantee, material rebates, discounts, incentive or volume credits; and

(vii) each Contract with any Governmental Entity relating to the Business, or the Purchased Assets.

(b) The Contracts required to be listed in Section 4.7(a), together with the Business Contracts and the Real Property Leases are referred to as “Material Contracts”. True, correct and complete copies of each Material Contract have been made available to Purchaser prior to the date hereof. Each Business Contract is a valid and binding obligation of a Seller (except for any breach or default that results from the insolvency of a Seller or the commencement of the Bankruptcy Cases and any breach or default to be cured through the payment of the Cure Amounts) and to the Knowledge of Sellers, enforceable against the other parties thereto in accordance with the terms thereof, except to the extent that such enforcement may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or other similar Laws affecting the enforcement of creditors’ rights generally and by general equitable principles (whether considered in a proceeding in equity or at law). Except as set forth in Section 4.7(b) of the Sellers Disclosure Letter and any breach or default that results from the insolvency of a Seller or the commencement of the Bankruptcy Cases and any breach or default to be cured through the payment of the Cure Amounts, there exists no material default or event of default (with or without notice or lapse of time or both) with respect to any Business Contract by a Seller or, to the Knowledge of Sellers, by any other party thereto and no Seller has received or delivered any notice with respect to any alleged material default that has not been rescinded or cured.

4.8 Intellectual Property Rights and Claims.

(a) Except as set forth in Section 4.8(a) of the Sellers Disclosure Letter, one or more Sellers owns all right, title, and interest to or is licensed to use the Business Intellectual Property, free and clear of any Liens.

(b) No Seller has, within the last 12 months made any written claim of an infringement or misappropriation by any Third Party of its rights to any Business Intellectual Property, which claim is still pending. To the Knowledge of Sellers, no Third Party is infringing or misappropriating any Business Intellectual Property.

(c) Except for claims that have since been satisfactorily resolved or for which the statute of limitations has lapsed, no Seller has received any written notice from any Third Party challenging the right of such Seller to use any of the Business Intellectual

Property that would reasonably be expected to materially and adversely affect the Business, and the Purchased Assets, taken as a whole.

(d) There are no pending actions, suits or arbitrations by, or before any Governmental Entity for an infringement or misappropriation by any Seller of any Intellectual Property owned by any Third Party which would reasonably be expected to materially and adversely affect the Business, and the Purchased Assets, taken as a whole.

4.9 Tax Matters. Except as disclosed in Section 4.9 of the Sellers Disclosure Letter:

(a) Sellers have timely filed or caused to be timely filed, taking into account any applicable extensions, with the appropriate taxing authorities all income Tax Returns and all material non-income Tax Returns with respect to the Business or the Purchased Assets. All such Returns are correct and complete in all material respects. No Seller is currently the beneficiary of any extension of time within which to file any material tax Return with respect to the Business or the Purchased Assets. Since January 1, 2017, no written claim has been made by a Governmental Entity in a jurisdiction in which a Seller does not file Returns that such Seller is or may be subject to taxation by that jurisdiction with respect to Taxes that would be the subject of such Returns.

(b) All income Tax Liabilities and all material non-income Tax Liabilities of each Seller due and payable with respect to the Business or the Purchased Assets, in each instance for all Pre-Closing Periods, have been timely paid, taking into account any applicable extensions, to the extent the non-payment of such Taxes could reasonably be expected to result in a Lien on the Purchased Assets. There are no pending or, to the Knowledge of Sellers threatened in writing, audits, investigations, disputes, notices of deficiency, claims or other similar actions relating to Property Taxes or any other Taxes that are imposed on a periodic basis (which are not based on income) of a Seller with respect to the Business or the Purchased Assets. No Seller has waived any statute of limitations in respect of non-income Taxes or agreed to any extension of time with respect to a non-income Tax assessment or deficiency.

(c) The representations and warranties contained in Section 4.9(a) and Section 4.9(b) shall only apply if and to the extent Purchaser would be held liable for the Taxes to which such representations and warranties relate or if the Purchased Assets would become subject to a Lien in respect of such Taxes and, for the avoidance of doubt, such representations and warranties shall not be considered inaccurate or breached to the extent the applicable representation or warranty does not apply as a result of this Section 4.9(c).

4.10 Employee Benefits. Set forth in Section 4.10 of the Sellers Disclosure Letter is, as of [_____,] 2021, a true and complete list of each material employee benefit plan, within the meaning of Section 3(3) of ERISA, and each material fringe benefit, deferred compensation, severance, stock option, stock appreciation rights, incentive and bonus plan maintained or contributed to, or required to be contributed to, by a Seller or its Affiliates, in each case for the benefit of any Sellers' employees as of such date, but excepting any such plan sponsored in

whole or in part by any government, Governmental Entity or union or employee organization or any other Person (collectively, the “Employee Benefit Plans”).

4.11 Compliance with Laws. Except as set forth in Section 4.11 of the Sellers Disclosure Letter, to the Knowledge of Seller, (a) no Seller is, and no Seller has been in the past three years, in material violation of any Law or Order applicable to the Business, or the Purchased Assets, and (b) no Seller has received any written notice alleging or, to the Knowledge of Seller, been subject to any investigation by any Governmental Entity concerning, any such material violation of a Law or Order.

4.12 Environmental Matters. Except as disclosed in Section 4.12 of the Sellers Disclosure Letter, with respect to the Business:

(a) to the Knowledge of Sellers, each Seller is in material compliance with all applicable Environmental Laws;

(b) there are no Proceedings pending, or to the Knowledge of Sellers threatened in writing, against any Seller that alleges any material violation of Environmental Law and no Seller has received from any Governmental Entity any written notice of material violation or alleged material violation of Environmental Law;

(c) Sellers possess and are in material compliance with all Permits required under Environmental Laws to operate the Business as currently operated and as the Business is expected to be operated following the Closing as contemplated by the Transaction Documents (“Environmental Permits”), and there are no Proceedings pending, or to the Knowledge of Sellers threatened in writing, to modify, suspend, revoke or rescind any such Environmental Permits; and

(d) from and after December 1, 2015, to the Knowledge of Sellers, there have been no material releases of any Hazardous Materials (i) at, in, under, on, or from any Seller Facilities or (ii) at, in, under, on, or, from any third-party location for which a Seller has any material Liability under Environmental Law.

The representations and warranties in this Section 4.12 are the sole and exclusive representations and warranties of Sellers concerning any Environmental Law, Environmental Permits, Hazardous Material or other environmental matters.

4.13 Permits. Except for matters that are the subject of the representations and warranties in Section 4.12 (Environmental Matters), which matters are covered solely by Section 4.12, Sellers possess all material Permits that are necessary for the lawful operation of the Business as currently conducted by Sellers in the ordinary course. All such Permits are valid and have not lapsed, been cancelled, terminated or withdrawn. To the Knowledge of Sellers, Sellers are in compliance in all material respects with all such Permits.

4.14 Litigation. Except as set forth in Section 4.14 of the Sellers Disclosure Letter: (a) there is no Proceeding pending, or to the Knowledge of Sellers, threatened, against any Seller or its Affiliates in respect of the Business or the Purchased Assets that would, if determined adversely, materially and adversely affect the Business, and the Purchased Assets, taken as a

whole, or prevent or materially delay beyond the Termination Date Sellers' ability to consummate the transactions contemplated by this Agreement or any Transaction Document and (b) there are no material Orders outstanding applicable to the Business, or the Purchased Assets that have not been fully satisfied.

4.15 Finders; Brokers. Except for Jefferies LLC and GlassRatner Advisory & Capital LLC, doing business as B. Riley Advisory Services, (whose fees are payable by Sellers), no agent, broker, Person or firm acting on behalf of Sellers is, or shall be, entitled to any broker's fees, finder's fees or commissions from Purchaser in connection with this Agreement or any Transaction Document or any of the transactions contemplated hereby or thereby.

4.16 Exclusivity of Representations; Projections, Etc. The representations and warranties expressly made by Sellers in this Article IV are the exclusive representations and warranties made by Sellers with respect to the Business, and the Purchased Assets. Except for any representations and warranties expressly set forth in this Article IV (as modified by the Sellers Disclosure Letter), (a) the Purchased Assets are sold "AS IS, WHERE IS," and Sellers expressly disclaim (on each of their own behalf and on behalf of each of their respective Affiliates) any other representations or warranties of any kind or nature, express or implied, as to Liabilities, operations of their businesses (as currently or formerly conducted), the title, condition, value or quality of assets of Sellers, or the prospects (financial and otherwise), risks and other incidents of Sellers and their businesses (as currently or formerly conducted), the Purchased Assets, (b) SELLERS SPECIFICALLY DISCLAIM (ON EACH OF THEIR OWN BEHALF AND ON BEHALF OF EACH OF THEIR RESPECTIVE AFFILIATES), AND PURCHASER HEREBY WAIVES, ANY REPRESENTATION OR WARRANTY OF QUALITY, VALUE, DESIGN, OPERATION, MERCHANTABILITY, NON-INFRINGEMENT, FITNESS FOR A PARTICULAR PURPOSE, ELIGIBILITY FOR A PARTICULAR TRADE, CONFORMITY TO SAMPLES, OR CONDITION OF THE ASSETS OF SELLERS (INCLUDING THE PURCHASED ASSETS) OR ANY PART THEREOF, WHETHER LATENT OR PATENT, (c) no material or information provided by or communications made by any Seller or any of its Affiliates, or by any advisor thereof, whether by use of a "data room," or in any information memorandum, or otherwise, or by any broker or investment banker, will cause or create any warranty, express or implied, as to or in respect of any Seller, any Affiliate of any Seller or the title, condition, value or quality of their businesses (as currently or formerly conducted), or the Purchased Assets, and no other Person shall be deemed to have made, or shall be deemed to make, any other express or implied representation or warranty, either written or oral, on behalf of any Seller or any Affiliate thereof with respect to the subject matter contained herein, and (d) no Seller makes any representation or warranty whatsoever with respect to any estimates, projections and other forecasts and plans (including the reasonableness of the assumptions underlying such estimates, projections and forecasts).

ARTICLE V

Representations and Warranties of Purchaser

Purchaser hereby represents and warrants to Sellers as follows as of the date hereof and as of the Closing Date (or as of such other date as may be specified herein):

5.1 Due Organization, Good Standing and Power. Purchaser is duly organized, validly existing and in good standing under the laws of its jurisdiction of Jamaica. Purchaser has all requisite corporate power and authority to own, lease and operate its assets and properties and conduct its business as now being conducted. Purchaser is in good standing under the laws of each jurisdiction where the character of its assets or properties or the conduct of its business requires such qualification, except where the failure to be in good standing would not reasonably be expected to prevent, materially delay or impair Purchaser's ability to consummate the transactions contemplated by this Agreement or any Transaction Document.

5.2 Authorization; Noncontravention.

(a) Purchaser has the requisite corporate power and authority and has taken all corporate or other action necessary to execute and deliver this Agreement, the Transaction Documents and all other instruments and agreements to be delivered by Purchaser as contemplated hereby, to perform its obligations hereunder and thereunder and to consummate the transactions contemplated hereby and thereby. The execution, delivery and performance by Purchaser of this Agreement, the Transaction Documents and all other instruments and agreements to be delivered by Purchaser as contemplated hereby, the consummation by it of the transactions contemplated hereby and thereby and the performance of its obligations hereunder and thereunder have been, and in the case of documents required to be delivered at the Closing will be, duly authorized and approved by the stockholders of Purchaser. This Agreement has been, and the Transaction Documents and all other instruments and agreements to be executed and delivered by Purchaser as contemplated hereby will be, duly executed and delivered by Purchaser. Assuming that this Agreement, the Transaction Documents and all such other instruments and agreements constitute valid and binding obligations of Sellers and each other Person (other than Purchaser) party hereto and thereto, this Agreement and all such other instruments and agreements constitute valid and binding obligations of Purchaser, enforceable against Purchaser in accordance with the terms thereof, except to the extent that such enforcement may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or other similar Laws affecting the enforcement of creditors' rights generally and by general equitable principles (whether considered in a proceeding in equity or at law).

(b) Except as a result of the Bankruptcy Cases, the execution and delivery by Purchaser of this Agreement, the Transaction Documents and all other instruments and agreements to be delivered by Purchaser as contemplated hereby do not, and the consummation of the transactions contemplated hereby and thereby will not, (i) conflict with any of the provisions of the certificate of incorporation or by-laws or similar governance documents of Purchaser, in each case, as amended to the date of this Agreement, (ii) conflict with or result in a breach of, or constitute a default under, any Contract or other instrument to which Purchaser is a party or by which Purchaser or any of its properties or assets are bound, or (iii) contravene any Law or any Order applicable to Purchaser or by which any of its properties or assets are bound, except in the case of clauses (ii) and (iii) above, for such conflicts, breaches, defaults, consents, approvals, authorizations, declarations, filings or notices which do not and would not reasonably be

expected to, individually or in the aggregate, prevent, materially delay or impair Purchaser's ability to consummate the transactions contemplated by this Agreement.

5.3 Governmental Consents and Approvals. Except as a result of the Bankruptcy Cases, no additional Consent of or filing with any Governmental Entity must be obtained or made by Purchaser in connection with the execution and delivery of this Agreement or any Transaction Document by Purchaser or the consummation by Purchaser of the transactions contemplated by this Agreement or any Transaction Document, except for any Consents which have been obtained or made or, if not made or obtained, do not and would not reasonably be expected to, individually or in the aggregate, prevent, materially delay or impair Purchaser's ability to consummate the transactions contemplated by this Agreement or any Transaction Document.

5.4 Financing. Purchaser has sufficient funds to consummate the transactions contemplated hereby, to perform its obligations hereunder (including all payments to be made by it in connection herewith) and to pay its expenses related to this Agreement and the transactions contemplated hereby. The obligations of Purchaser under this Agreement are not contingent on the availability of any equity or debt financing.

5.5 Solvency of Purchaser. As of Closing, after giving effect to the transactions contemplated by this Agreement, Purchaser will not: (a) be insolvent (either because its financial condition is such that the sum of its debts is greater than the fair market value of its assets or because the fair saleable value of its assets is less than the amount required to pay its probable liabilities on its existing debts as they mature); (b) have unreasonably small capital with which to engage in its business; or (c) have incurred debts beyond its ability to pay as they become due.

5.6 Adequate Assurances. Purchaser is and will be capable of satisfying the conditions contained in Section 365(b)(1)(C) and 365(f) of the Bankruptcy Code with respect to the Business Contracts and Real Property Leases.

5.7 Litigation. There is no Proceeding pending against or affecting Purchaser, or any of its properties or rights, except as have not and would not reasonably be expected to, individually or in the aggregate, prevent, materially delay or impair Purchaser's ability to consummate the transactions contemplated by this Agreement or any Transaction Document. Purchaser is not subject to any Order which seeks to or would reasonably be expected to, individually or in the aggregate, prevent, materially delay or impair Purchaser's ability to consummate the transactions contemplated by this Agreement or any Transaction Document.

5.8 Finders; Brokers. No agent, broker, Person or firm acting on behalf of Purchaser or any of its Affiliates is or shall be entitled to any broker's fees, finder's fees or commissions from Sellers or any of their respective Affiliates in connection with this Agreement or any Transaction Document or any of the transactions contemplated hereby or thereby.

5.9 Investigation by Purchaser. Purchaser has conducted its own independent investigation, verification, review and analysis of the Business (as currently or formerly conducted) and results of operations, financial condition, technology and prospects, the Purchased Assets and the Assumed Liabilities, which investigation, review and analysis was

conducted by Purchaser and its Affiliates and, to the extent Purchaser deemed appropriate, by Purchaser's Representatives, sufficient to proceed with the transaction(s) memorialized herein or otherwise contemplated this Agreement. In entering into this Agreement, Purchaser acknowledges that it has not relied on any factual representations or opinions of Sellers or any of their respective Affiliates (except the representations and warranties of Sellers set forth in Article IV), and Purchaser acknowledges and agrees, to the fullest extent permitted by Law, that:

(a) none of Sellers or any of their respective Affiliates, Representatives or any other Person makes or has made any oral or written representation or warranty, either express or implied, as to the accuracy or completeness of any information made available or delivered to Purchaser, or its Affiliates and Representatives, including any information, whether oral or written (including cost estimates, financial information and projections and other projections and forward-looking statements) (i) included in management presentations, "break-out" discussions, responses to questions submitted by or on behalf of Purchaser or its Affiliates and Representatives, or any "data room" or (ii) delivered or made available pursuant to this Agreement or otherwise;

(b) none of Sellers or any of their respective equity holders, Affiliates, Representatives or any other Person shall have any Liability or responsibility whatsoever to Purchaser or its equity holders, Affiliates or Representatives on any basis (including in contract, tort or equity, under any securities Laws or otherwise) based upon any information described in Section 5.9(a);

(c) without limiting the generality of the foregoing, none of Sellers or any of their respective equity holders, Affiliates, Representatives or any other Person makes any representation or warranty regarding (and Purchaser disclaims) any Third Party beneficiary rights or other rights which Purchaser might claim under any studies, reports, tests or analyses prepared by any Third Parties for any of Sellers or any of their respective Affiliates, even if the same were made available for review by Purchaser or its equity holders, Affiliates or Representatives; and

(d) without limiting the generality of the foregoing, Purchaser expressly acknowledges and agrees that (i) none of the documents, information or other materials provided to it at any time or in any format by Sellers or any of their respective equity holders, Affiliates or Representatives constitutes legal advice, and Purchaser waives all rights to assert that it received any legal advice from any of Sellers or any of their respective equity holders, Affiliates, or any of their respective Representatives, or that it had any sort of attorney-client relationship with any of such Persons, (ii) any estimates, forecasts, or projections furnished or made available to it concerning Sellers or the Business or their properties, business or assets have not been prepared in accordance with GAAP or standards applicable under any securities laws, and such estimates, forecasts and projections, including any reflected in financial statements, reflect numerous assumptions, and are subject to material risks and uncertainties, and (iii) actual results may vary, perhaps materially, and Purchaser is not relying on any such estimates, forecasts or projections.

ARTICLE VI
Covenants

6.1 Intentionally deleted.

6.2 Conduct Prior to the Closing Date.

(a) Except (i) as set forth on Schedule 6.2(a), (ii) as may be expressly required by this Agreement, (iii) as required by Law or Order or by a Governmental Entity, (iv) as required by the Bankruptcy Court, or (v) as a consequence of the commencement and continuation of the Bankruptcy Cases, during the period commencing on the date hereof and ending on the earlier of the Closing Date and the termination of this Agreement pursuant to Article IX, Sellers shall use commercially reasonable efforts (x) to comply in all material respects with all Laws, Orders, Contracts, Permits and Environmental Permits applicable thereto and (y) to preserve, maintain and protect in all material respects the Purchased Assets, the current goodwill of the Business and Sellers' present relationships with Governmental Entities and other Persons having significant relationships with Sellers in connection with the Business (as currently conducted).

(b) Except (i) as set forth Schedule 6.2(b), (ii) as may be expressly required by this Agreement, (iii) as required by Law or Order or by a Governmental Entity, (iv) as required or approved by the Bankruptcy Court, or (v) as a consequence of the commencement and continuation of the Bankruptcy Cases, during the period commencing on the date hereof and ending on the earlier of the Closing Date and the termination of this Agreement pursuant to Article IX, Sellers shall not effect any of the following (as each pertains to or is related to the Business, or the Purchased Assets) without the prior written consent of Purchaser (such consent not to be unreasonably withheld, conditioned or delayed):

(i) sell, transfer, lease, license or otherwise dispose of any of its assets or properties that would be Purchased Assets if not sold;

(ii) except as required by GAAP, make any change in any method of accounting or auditing practice with respect to the Business;

(iii) Intentionally deleted;

(iv) create, permit, subject or allow to exist any Lien on any of the Purchased Assets and other than any Lien that will be extinguished at or prior to Closing;

(v) extend, materially amend or terminate or grant any material waiver under any Business Contract or Real Property Lease or enter into any Contract that would be categorized as a Material Contract if in effect on the date hereof;

(vi) abandon any rights under, request the rejection under Section 365 of the Bankruptcy Code of, or amend, modify or supplement the terms of, any of the Business Contracts or Real Property Leases;

(vii) fail to take any reasonable action that would prevent the expiration, lapse, termination or abandonment of any Permit or Environmental Permit, in each case that is material to the Business;

(viii) settle or compromise any Proceeding, or enter into any consent decree or settlement agreement with any Third Party, against or affecting the Business that, in each case, would constitute an Assumed Liability;

(ix) waive any material claims or rights of material value that are included in the Purchased Assets;

(x) incur, assume, or guarantee any Indebtedness or make any material capital expenditures that, in each case, would constitute an Assumed Liability; or

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

6.3 Efforts to Close.

(a) Except as otherwise provided in this Section 6.3, the Sellers shall, and shall cause their respective controlled Affiliates and Representatives to, and shall use commercially reasonable efforts to direct their respective equity holders to, cooperate and use their respective commercially reasonable efforts to take, or cause to be taken, all appropriate actions, and to make, or cause to be made, all filings necessary, proper or advisable under applicable Laws and to consummate and make effective the transactions contemplated by this Agreement, including their respective commercially reasonable efforts to obtain, prior to the Closing Date, all Permits, Consents and Orders of Governmental Entities as are necessary for consummation of the transactions contemplated by this Agreement and to fulfill the conditions to consummation of the transactions set forth in Article VII; *provided*, that, except as set forth in Section 6.3(e), (w) no Party or its Affiliates shall be required to make any concessions that would adversely affect its business or be materially more burdensome to such Party (including to amend any Contract to increase the amount payable thereunder, commence any litigation, settle or compromise any matter, offer or grant any accommodation (financial or otherwise) to any Third Party or Governmental Entity, pay any amount or bear any other incremental economic burden to obtain any such Permit, Consent or Order), (x) no Party or its Affiliates shall incur any expense that would be payable or otherwise borne by the other Party or such other Party's Affiliates without the consent of such other Party, (y) Sellers shall not make any concessions that would purport to bind the Business from and after the Closing, and (z) Purchaser shall not make any concessions that would purport to bind any Seller or any of its Affiliates.

(b) Notwithstanding anything to the contrary contained in this Agreement, no Seller nor any of its Affiliates or Representatives shall be required to repay any Indebtedness, amend or enter into any Contract or other arrangement, commence any litigation, settle or compromise any matter, offer or grant any accommodation (financial

or otherwise) to any Third Party, pay any amount or bear any other incremental economic burden to procure any amendments, modification or termination of any Contract.

6.4 Public Announcements. Each Party shall (a) consult with each other Party before issuing any press release or otherwise making any public statement with respect to the transactions contemplated by this Agreement or any Transaction Document, (b) provide to the other Parties for review a copy of any such press release or public statement and (c) not issue any such press release or make any such public statement prior to such consultation and review and the receipt of the prior consent of the other Parties, unless required by Laws or regulations applicable to such Party or its Affiliates, regulations of any stock exchange applicable to such Party or its Affiliates, or the Bankruptcy Court with respect to filings to be made with the Bankruptcy Court in connection with this Agreement, in which case, the Party required to issue the press release or make the public statement or filing shall, prior to issuing such press release or making such public statement or filing, use its commercially reasonable efforts to allow the other Parties reasonable time to comment on such release, statement or filing to the extent practicable and permitted by Law. Notwithstanding anything to the contrary contained in this Agreement, each of the Parties and its legal counsel and other Representatives shall be permitted to make filings on the docket of, or statements on the record before, the Bankruptcy Court relating to this Agreement and the transactions contemplated hereby without prior approval or consultation.

6.5 Notification of Certain Matters. Sellers, on the one hand, and Purchaser, on the other hand, shall use their respective commercially reasonable efforts to promptly notify each other of any material Proceedings in connection with the transactions contemplated by this Agreement or the Transaction Documents commenced or, to the knowledge of Purchaser or the Knowledge of Sellers, threatened, against Sellers or Purchaser, as the case may be, or any of their respective Affiliates.

6.6 Supplements to Schedules.

(a) Sellers shall have the right (but not the obligation) to deliver to Purchaser, from time to time but not later than three Business Days prior to the Closing Date, a schedule of changes (each, an “Update Schedule”) to disclose any action taken by any Seller, or Event occurring, with respect to the Business, or the Purchased Assets after the date hereof. Each such Update Schedule shall constitute an amendment to the representation, warranty or statement to which it relates for all purposes of this Agreement and the transactions contemplated hereby, and each Update Schedule shall be deemed to be incorporated into and to supplement and amend the Sellers Disclosure Letter (and all references to the “Sellers Disclosure Letter” in this Agreement shall include each such Update Schedule to the extent applicable). Except as set forth in Section 6.6(b), subject to the terms of this Agreement, Purchaser shall have the right to not consummate the transactions contemplated by this Agreement as a result of the failure of the conditions contained in Section 7.1(a) on the basis of the information disclosed in any Update Schedule.

(b) If any fact or circumstance occurring prior to the date hereof and disclosed on any Update Schedule would, but for this Section 6.6, permit Purchaser to terminate

this Agreement in accordance with Section 9.1(d), but Purchaser does not provide a written termination notice pursuant to Section 9.1(d) within ten (10) Business Days after receiving such Update Schedule, Purchaser shall be deemed to have waived, for all purposes of this Agreement and the transactions contemplated hereby, all rights to terminate this Agreement on account of the matters disclosed on such Update Schedule (including their right to not consummate the transactions contemplated hereby due to the failure of any of the conditions set forth in Section 7.1(a)).

6.7 Post-Closing Access to Records and Personnel; Litigation Support.

(a) Until the later of (i) three (3) years after the Closing Date and (ii) one (1) year after the closing or dismissal of the Bankruptcy Cases and all proceedings related to or arising out of the Bankruptcy Cases, or any of them, Purchaser shall preserve and retain all corporate, accounting, Tax, legal, auditing, human resources and other books and records, as well as all documents and communications, including, without limitation, any electronically-stored information, servers, electronic communications (e.g., e-mail, instant messages, voicemails, etc.), and other digital information or data, relating to the Purchased Assets or the Business, or any other assets of the Sellers, including any Excluded Assets or Excluded Liabilities, with respect to periods prior to the Closing Date (including (i) any documents relating to any Proceeding or other dispute and (ii) all Returns, schedules, work papers and other material records or other documents relating to Taxes relating to the Purchased Assets). At the end of such period, Purchaser may dispose of any such books and records only after they are first offered to and not accepted by Sellers.

(b) Following the Closing, Purchaser shall allow Sellers, and their Affiliates successors, including, without limitation, any post-confirmation trustee appointed in the Bankruptcy Cases, and their respective Representatives reasonable access to (i) all books and records related to the Purchased Assets and the Business, including, without limitation, any electronically-stored information, servers, electronic communications (e.g., e-mail, instant messages, voicemails, etc.), and other digital information or data, and (ii) such personnel having knowledge of the location or contents of such books and records, in each case of the foregoing clauses (i) and (ii), for legitimate business reasons, including, without limitation, any matters arising out of or relating to the Bankruptcy Cases or any related proceedings; *provided*, that no such access shall unreasonably interfere with Purchaser's operation of the Business.

(c) Following the Closing, Sellers shall allow Purchaser and its Affiliates and their respective Representatives reasonable access to (i) all books and records related to the Purchased Assets and the Business and (ii) such personnel having knowledge of the location or contents of such books and records, in each case of the foregoing clauses (i) and (ii), for legitimate business reasons.

(d) Following the Closing, Purchaser shall allow Sellers, and their Affiliates and successors, including, without limitation, any post-confirmation trustee appointed in the Bankruptcy Cases, and their respective Representatives reasonable access to (i) all books and records related to the Purchased Assets and the Business, including, without

limitation, any electronically-stored information, servers, electronic communications (e.g., e-mail, instant messages, voicemails, etc.), and other digital information or data, and (ii) such personnel having knowledge of the location or contents of such books and records, in each case of the foregoing clauses (i) and (ii), for legitimate business reasons, including, without limitation, any matters arising out of or relating to the Bankruptcy Cases or any related proceedings; *provided*, that no such access shall unreasonably interfere with Purchaser's operation of the Business.

(e) The rights and obligations of a Party under this Section 6.7 shall inure to the benefit of and be binding upon the successors and assigns of such Party. If a Party or any of its successors or assigns (i) consolidates with or merges into any other Person or (ii) with respect to Purchaser, transfers all or substantially all of the Purchased Assets to any Person, in each case proper provision shall be made so that the successors and assigns of such Party honor the obligations set forth in this Section 6.7.

6.8 Tax Matters.

(a) All stamp, transfer, documentary, sales and use, value added, registration and other such taxes and fees (including any penalties, interest and recording and filing fees) incurred in connection with the Purchase or otherwise in connection with this Agreement and not exempted under a Sale Order, whether or not customarily paid by Sellers or purchasers (collectively, the "Transfer Taxes"), shall be borne equally by Sellers and Purchaser. Purchaser shall properly file on a timely basis all necessary Returns and other documentation with respect to any Transfer Tax and provide to Sellers' evidence of payment of all Transfer Taxes.

(b) Purchaser and Sellers agree to furnish or cause to be furnished to each other, as promptly as reasonably practicable, such information and assistance relating to the Purchased Assets as is reasonably necessary for the preparation and filing of any Return, for the preparation for and proof of facts during any Tax audit, for the preparation for any Tax protest, for the prosecution or defense of any suit or other proceeding relating to Tax matters and for the answer of any governmental or regulatory inquiry relating to Tax matters.

(c) For purposes of this Agreement, all Property Taxes and any other Taxes that are imposed on a periodic basis (which are not based on income) with respect to the Purchased Assets with respect to any taxable period that begins on or before and ends after the Closing Date shall be apportioned between the portion of such period that falls within the Pre-Closing Period and the portion of such period that falls within the Post-Closing Period proportionally in accordance with the number of days in each such portion of the period.

6.9 Bulk Sales Act. Sellers shall comply in all respects with respect to any applicable bulk sale, bulk transfer, successor liability and similar Laws, or with any Laws triggered by a bulk sale or transfer of property, of any jurisdiction in connection with the transactions contemplated by this Agreement or similar Laws of any jurisdiction in connection with the Purchase.

6.10 Bankruptcy Action.

(a) The Parties shall comply in all material respects with the Bid Procedures Order and the Sale Order (after the entry of such Orders by the Bankruptcy Court).

(b) Sellers shall use commercially reasonable efforts to comply (or obtain an Order from the Bankruptcy Court waiving compliance) with all requirements under the Bankruptcy Code and the Bankruptcy Rules in connection with obtaining approval of the transactions contemplated by this Agreement. Sellers shall serve (i) all Persons who are known to possess or assert a Claim against or Interest in any of the Purchased Assets, (ii) the IRS, (iii) all applicable Governmental Entities, (iv) all applicable state and local Governmental Entities with taxing authority, (v) all other Persons required by any Order of the Bankruptcy Court, (vi) all parties to Business Contracts and Real Property Leases, and (vii) all Persons that request or are entitled to notice under Bankruptcy Rule 2002.

(c) The Parties shall use their respective commercially reasonable efforts to have the Bankruptcy Court enter the Sale Order as promptly as possible.

(d) Sellers and Purchaser shall consult with one another regarding pleadings which any of them intends to file with the Bankruptcy Court in connection with, or which might reasonably affect the Bankruptcy Court's approval of the Sale Order and shall provide each other with a reasonable opportunity to review and comment on such pleadings, related motions, applications, petitions schedules and supporting papers. Sellers shall promptly provide Purchaser and its counsel with copies of all notices, filings and orders of the Bankruptcy Court that Sellers have in their possession (or receive) pertaining to the Sale Motion, the Bid Procedures Order, the Sale Order, or any other order related to any of the transactions contemplated by this Agreement, but only to the extent such papers are not publicly available on the docket of the Bankruptcy Court or otherwise made available to Purchaser and its counsel.

(e) If the Bid Procedures Order, the Sale Order, or any other orders of the Bankruptcy Court relating to this Agreement or the transactions contemplated hereby shall be appealed by any Person (or if any petition for certiorari or motion for reconsideration, amendment, clarification, modification, vacation, stay, rehearing or reargument shall be filed with respect to the Bid Procedures Order, the Sale Order, or other such order), subject to rights otherwise arising from this Agreement, Sellers and Purchaser shall use their commercially reasonable efforts to prosecute such appeal, petition or motion and obtain an expedited resolution of any such appeal, petition or motion.

6.11 Sale Order.

(a) Sellers acknowledge that this Agreement and the sale of the Purchased Assets are subject to Bankruptcy Court approval. Sellers acknowledge that to obtain such approval, Sellers must demonstrate that they have taken steps to obtain the highest and otherwise best offer possible for the Purchased Assets including giving notice of the

transactions contemplated by this Agreement to creditors and certain other interested parties as ordered by the Bankruptcy Court and, if necessary, conducting the Auction.

(b) The Sale Order shall, among other things:

(i) approve, pursuant to Sections 105, 363 and 365 of the Bankruptcy Code, (A) the execution, delivery and performance by Sellers of this Agreement, (B) the transfer of the Purchased Assets to Purchaser free and clear of all Liens, Claims, and Liabilities of any kind whatsoever, and (C) the timely performance by Sellers of their obligations under this Agreement;

(ii) authorize and empower Sellers to assume and assign the Business Contracts and Real Property Leases to Purchaser;

(iii) find that Purchaser is a “good faith” buyer within the meaning of Section 363(m) of the Bankruptcy Code and grant Purchaser the full benefits and protections of Section 363(m) of the Bankruptcy Code;

(iv) find that this Agreement was negotiated, proposed and entered into by Sellers and Purchaser without collusion, in good faith and from arm’s length bargaining positions;

(v) find that due and adequate notice and an opportunity to be heard in accordance with all applicable Laws were given to the necessary parties in the Bankruptcy Cases;

(vi) contain findings of fact and conclusions of law that Purchaser (A) is not a successor to, or subject to successor liability for, any Seller, (B) has not, de facto or otherwise, merged with or into any Seller, (C) is not an alter ego or a continuation of any Seller, and (D) does not have any responsibility for any obligations of any Seller based on any theory of successor or similar theories of liability;

(vii) find that the Purchase Price is fair and reasonable;

(viii) find that the Bankruptcy Court retains jurisdiction to resolve any claim or dispute arising out of or related to this Agreement; and

(ix) contain such other terms and conditions as are acceptable to Sellers and Purchaser in their respective sole discretion.

(c) Purchaser agrees that it will promptly take such actions as are reasonably requested by Sellers to assist in obtaining entry by the Bankruptcy Court of the Sale Order, including furnishing affidavits or other documents or information for filing with the Bankruptcy Court for purposes, among others, of (i) demonstrating that Purchaser is a “good faith” purchaser and (ii) establishing “adequate assurance of future performance” within the meaning of Section 365 of the Bankruptcy Code.

6.12 Intentionally deleted.

6.13 Transfer of Permits. Except for those Business Permits that are not transferable to Purchaser by Law, the Parties shall use commercially reasonable efforts to cause the issuance or transfer of all of the Business Permits described on Schedule 1.1(g) and shall give and make all notices and reports that such Party is required to make to the appropriate Governmental Entities and other Persons with respect to such Business Permits. All costs and expenses associated with the issuance or transfer of the Business Permits shall be borne by Purchaser.

6.14 Expenses. Except to the extent otherwise specifically provided herein, whether or not the transactions contemplated hereby are consummated, all fees, costs and expenses incurred in connection with this Agreement and the transactions contemplated hereby shall be borne by the Party incurring such fees, costs and expenses.

6.15 Confidentiality. From and after the date of this Agreement, Purchaser and Sellers shall continue to be bound by and comply with the obligations of the Confidentiality Agreement except as otherwise required under or necessary to comply with any provision of the Bankruptcy Code, Bankruptcy Rules, applicable law, any order of the Bankruptcy Court, including, without limitation, the Bid Procedures Order, or the provisions of this Agreement. Except as specifically provided in the proviso to this sentence, unless otherwise agreed to by the Parties, at the later of (i) the Closing or (ii) the end of the remainder of the term set forth in the Confidentiality Agreement, the Confidentiality Agreement shall be deemed to have been terminated by the parties thereto and shall no longer be binding; *provided*, that notwithstanding anything in this Section 6.16 to the contrary, to the extent that Purchaser is in possession of any Information (as defined in the Confidentiality Agreement) regarding Sellers and their respective Affiliates, or the Excluded Assets or the Excluded Liabilities, Purchaser shall continue to be bound by the Confidentiality Agreement with respect to such Information until the later of (x) the end of the remainder of the term set forth in such Confidentiality Agreement and (y) if the Closing occurs, the date that is two years after the Closing.

ARTICLE VII Conditions to Closing

7.1 Conditions to Sellers' Obligations. The obligation of Sellers to consummate the transaction contemplated hereby is subject to the fulfillment of all of the following conditions on or prior to the Closing Date and as of the Closing Date, upon the non-fulfillment of any of which this Agreement may, at Sellers' option, be terminated to the extent permitted pursuant to and with the effect set forth in Article IX:

(a) The representations and warranties of Purchaser contained in Article V shall be true and correct at and as of the Closing Date as if made at and as of such time, except for such failures as do not prevent Purchaser from consummating the transactions contemplated by this Agreement.

(b) All obligations of Purchaser to be performed hereunder through, and including on, the Closing Date (including, without limitation, all obligations which Purchaser would be required to perform at the Closing if the transaction contemplated

hereby was consummated) shall have been performed in all material respects, unless waived by Sellers.

(c) Purchaser shall have delivered or caused to be delivered to Sellers each of the items set forth in Section 3.4(b).

(d) No Governmental Entity of competent jurisdiction shall have entered a valid Order that is in effect and has the effect of making the Closing illegal or otherwise prohibiting the consummation of the Closing.

(e) The Sale Order shall have been entered by the Bankruptcy Court approving the transactions contemplated under this Agreement.

7.2 Conditions to Purchaser's Obligations. The obligation of Purchaser to consummate the transaction contemplated hereby is subject to the fulfillment of all of the following conditions on or prior to the Closing Date and as of the Closing Date (in each case, so long as Purchaser has complied with its obligations under this Agreement with respect to each of the matters set forth below), upon the non-fulfillment of any of which this Agreement may, at Purchaser's option, be terminated to the extent permitted pursuant to and with the effect set forth in Article IX:

(a) The representations and warranties of Sellers in Article IV shall be true and correct in all respects as of the time of the Closing as though such representations and warranties were made at and as of such time (or, if made as of a specific date in the text of such representations and warranties, at and as of such date) except where the failure to be so true and correct would not have a Material Adverse Effect.

(b) All obligations of Sellers to be performed hereunder through, and including on, the Closing Date (including, without limitation, all obligations which Sellers would be required to perform at the Closing if the transaction contemplated hereby was consummated) shall have been performed in all material respects, unless waived by Purchaser.

(c) Sellers shall have delivered or caused to be delivered to Purchaser each of the items set forth in Section 3.4(a).

(d) No Governmental Entity of competent jurisdiction shall have entered a valid Order that is in effect and has the effect of making the Closing illegal or otherwise prohibiting the consummation of the Closing.

(e) The Sale Order shall have each been entered by the Bankruptcy Court approving the transactions contemplated under this Agreement.

7.3 Frustration of Closing Conditions. No Party may rely on the failure of any condition set forth in this Article VII to be satisfied if such failure was caused by such Party's failure to act in good faith or such Party's failure to comply with Section 6.3.

ARTICLE VIII

Compliance with WARN, Plant Closing Act and Similar Statutes

8.1 Compliance with WARN, Plant Closing Act and Similar Statutes. Sellers shall be responsible for compliance with any notice or severance obligations under WARN, the Plant Closing Act (and any comparable Law requiring notice or severance to employees) and any Contract (including, for the avoidance of doubt, any Liability for accrued but unused paid time-off and severance), in each case, arising prior to the Closing Date with respect to the termination of any employees or consultants that (a) provide services to any Seller as of the date hereof or at any other time from the date hereof through the Closing Date with respect to the termination of any employees or consultants that provide services to any Seller as of the date hereof or at any time from the date hereof through the Closing Date. Without limiting the foregoing, pursuant to Section 473(a)(3) of the Plant Closing Act, Sellers assume responsibility and liability as successor employer under the Plant Closing Act for all the prior years of service, along with any years accumulated moving forward. Sellers shall be responsible for compliance with any notice or severance obligations relating to the Business (as currently or formerly conducted), or the Purchased Assets under WARN and the Plant Closing Act (and any comparable Law requiring notice or severance to employees) arising prior to the Closing Date. Sellers shall notify Purchaser prior to the Closing of any “employment loss”, in the 90-day period immediately prior to the Closing with respect to any such employees or consultants.

ARTICLE IX

Termination

9.1 Termination Events. This Agreement and the transaction contemplated hereby may only be terminated as follows, at any time prior to the Closing:

- (a) by the mutual written consent of Purchaser and Sellers;
- (b) by either Purchaser or Sellers upon (i) the issuance of a final and non-appealable Order by a Governmental Entity to restrain, enjoin or otherwise prohibit the purchase and sale transaction contemplated hereby, (ii) the appointment of an examiner with expanded powers or a Chapter 11 trustee in the Bankruptcy Cases, or (iii) the Bankruptcy Cases being converted into a case under Chapter 7 of the Bankruptcy Code or dismissed;
- (c) by either Purchaser or Sellers if the Bankruptcy Court has not entered the Sale Order by December 22, 2021, provided that such date may be extended as otherwise agreed to in writing by Purchaser and Sellers; *provided, however*, that Purchaser’s right to terminate this Agreement under this Section 9.1(c) shall not be available to Purchaser if Purchaser’s failure to fulfill any of its obligations under this Agreement has been the cause of, or resulted in, the failure of the Sale Order to have been entered on or prior to the aforesaid date;
- (d) by Purchaser if any condition set forth in Sections 7.2(a) through (c), inclusive, becomes incapable of being satisfied prior to the Termination Date (other than

through the failure of Purchaser to comply with its obligations under this Agreement) and Purchaser has not waived such condition or (ii) if the Closing shall not have occurred at or before 5:00 p.m. (prevailing Central Time) on December 22, 2021, or such later date as extended in accordance with the Bid Procedures Order (such date, as may be extended, the “Termination Date”); *provided, however*, that Purchaser’s right to terminate this Agreement under this clause (ii) of this Section 9.1(d) shall not be available to Purchaser if Purchaser’s failure to fulfill any of its obligations under this Agreement has been the cause of, or resulted in, the failure of the Closing to occur on or prior to the Termination Date;

(e) by Sellers, (i) if any condition set forth in Section 7.1(a) through (c), inclusive, becomes incapable of being satisfied prior to the Termination Date (other than through the failure of Sellers to comply with their obligations under this Agreement) and Sellers have not waived such condition, or (ii) if the Closing shall not have occurred at or before 5:00 p.m. (prevailing Central Time) on the Termination Date through the failure of Purchaser to comply with its obligations under this Agreement;

(f) by Sellers if any condition set forth in Sections 7.2(a) through (c), inclusive, becomes incapable of being satisfied prior to the Termination Date (other than through the failure of Sellers to comply with their obligations under this Agreement) and Purchaser has not waived such condition; and

(g) automatically upon consummation of an Alternative Transaction.

9.2 Effect of Termination. In the event of the termination of this Agreement pursuant to Section 9.1 by Purchaser, on the one hand, or Sellers, on the other hand, written notice thereof shall forthwith be given to the other specifying the provision hereof pursuant to which such termination is made, and this Agreement shall be terminated and become void and have no effect and there shall be no Liability hereunder on the part of any Party, except that Section 3.2 (Good Faith Escrow Deposit), Section 6.14 (Expense), this Section 9.2 and Article XI (Miscellaneous) and the defined terms and rules of construction used therein and set forth on Appendix I shall survive any termination of this Agreement; *provided, however*, that (a) subject to the terms and conditions of Section 3.2(c), no Party shall be relieved of or released from any Liability arising from any material breach by such Party of any provision of this Agreement, and (b) the Confidentiality Agreement shall remain in full force and effect.

ARTICLE X Survival and Release

10.1 Survival; Certain Post-Closing Matters. Purchaser and Sellers acknowledge and agree that: (a) Sellers’ representations and warranties set forth in this Agreement and in the documents and instruments delivered or entered into by Sellers in connection with this Agreement shall not survive the Closing and shall expire immediately upon the Closing; and (b) the covenants and agreements of Sellers set forth in this Agreement and in any documents and instruments delivered or entered into by Sellers in connection with this Agreement, in each case that do not by their terms extend beyond the Closing, shall not survive the Closing and shall

expire immediately upon the Closing. Accordingly, for clarification purposes, it is acknowledged, understood and agreed by the Parties that Sellers shall not have any liability or other obligation following the Closing with respect to any breach by Sellers or claimed breach by Sellers of (x) any representations or warranties contained in this Agreement or any of the documents or instruments delivered or entered into by Sellers in connection with this Agreement or (y) any of Sellers' covenants and agreements contained in this Agreement or any of the documents or instruments delivered or entered into by Sellers in connection with this Agreement that do not by their terms extend beyond the Closing. Notwithstanding anything expressed or implied herein to the contrary, the Parties acknowledge and agree that (1) Purchaser shall be solely responsible for the ownership of the Purchased Assets from and after the Closing Date, the operation of the Business from and after the Closing Date, and acts or omissions of Purchaser with respect thereto, and (2) Sellers shall have no responsibility or obligation with respect to, or arising out of, any of the foregoing.

10.2 Intentionally deleted.

ARTICLE XI Miscellaneous

11.1 Notices. All notices, requests, demands and other communications under this Agreement shall be in writing and shall be deemed to have been duly given: (a) on the day of service if served personally on the party to whom notice is to be given; (b) on the day of transmission if delivered by electronic mail during regular business hours on a Business Day and, if not, then on the following Business Day; or (c) on the day of delivery (if a Business Day, and if not a Business Day, on the next Business Day) if sent by Federal Express or similar overnight courier or United States mail:

If to Sellers:

Addressed to:

Limetree Bay Services, LLC et al.
c/o B. Riley Advisory Services
3500 Maple Avenue, Suite 420
Dallas, Texas 75219
Attn: Mark Shapiro
Email: mshapiro@brileyfin.com

with a copy to:

Baker & Hostetler LLP
200 South Orange Avenue, Suite 2300
Orlando, Florida 32801
Attn: Elizabeth A. Green
Email: egreen@bakerlaw.com

Baker & Hostetler LLP
45 Rockefeller Plaza
New York, New York 10011
Attn: Jorian L. Rose
Email: jrose@bakerlaw.com

If to Purchaser or Parent:

Addressed to:

St. Croix Refining and Transportation, LLLP
2555 Ponce de Leon Boulevard, Suite 600
Coral Gables, Florida 33134
Attn: Thomas V. Eagan
Email: teagan@rascoklock.com

with a copy to:

Rasco Klock
2555 Ponce de Leon Boulevard, Suite 600
Coral Gables, Florida 33134
Attn: Thomas V. Eagan
Email: teagan@rascoklock.com

Any Party may change its address for the purpose of this Section 10.2 by giving the other Party written notice of its new address in the manner set forth above.

11.2 Entire Agreement. This Agreement, the agreements, documents and instruments to be delivered by the Parties pursuant to the provisions hereof, and the Confidentiality Agreement, each as may be amended or supplemented, constitute the entire agreement between the Parties and shall be binding upon and inure to the benefit of the Parties hereto and their respective legal representatives, successors and permitted assigns. Each Appendix, Exhibit, Schedule and the Sellers Disclosure Letter, each as may be amended or supplemented, shall be considered incorporated into this Agreement. The inclusion of any item in the Sellers Disclosure Letter is not evidence of the materiality of such item for the purposes of this Agreement.

11.3 Severability. Whenever possible, each provision of this Agreement shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Agreement is held to be invalid, illegal or unenforceable in any respect under any applicable law or rule in any jurisdiction, such invalidity, illegality or unenforceability shall not affect any other provision or any other jurisdiction, and, for purposes of such jurisdiction, such provision or portion thereof shall be struck from the remainder of this Agreement, which shall remain in full force and effect. This Agreement shall be reformed, construed and enforced in such jurisdiction so as to best give effect to the intent of the Parties under this Agreement.

11.4 Binding Effect; Benefit. This Agreement shall inure to the benefit of and be binding upon the Parties hereto, and their successors and permitted assigns. Nothing in this Agreement, express or implied, shall confer on any Person other than the Parties hereto, and their respective successors and permitted assigns any rights, remedies, obligations or liabilities under or by reason of this Agreement, including, without limitation, third party beneficiary rights. Nothing in this Agreement is intended to relieve or discharge the obligations or liability of any third Persons to Sellers or Purchaser. No provision of this Agreement shall give any third Persons any right of subrogation or action over or against Sellers or Purchaser.

11.5 Assignability. This Agreement and the various rights and obligations arising hereunder inure to the benefit of and are binding upon Sellers and their respective successors and permitted assigns, and Purchaser and its successors and permitted assigns. Neither this Agreement nor any of the rights, interests or obligations hereunder may be transferred or assigned (including by operation of law in connection with a merger or sale of stock, or sale of substantially all the assets, of a Person) by any of the Parties hereto without the prior written consent of the other Party or Parties (not to be unreasonably withheld, conditioned or delayed); provided, however, the Purchaser may assign its rights hereunder to a wholly-owned entity and take title in such entity at time of Closing. No assignment shall relieve a Party of its liability or obligations hereunder. Notwithstanding anything expressed or implied herein to the contrary, following the Closing, Sellers (or any of them) may assign to any successor in the Bankruptcy Cases all or any portion of their rights hereunder in accordance with an Order of the Bankruptcy Court; provided, however, that any such assignment shall not assign any Purchased Assets.

11.6 Amendments. This Agreement shall not be modified or amended except pursuant to an instrument in writing executed and delivered on behalf of each of the Parties hereto.

11.7 Non-Waiver. Except as otherwise contemplated herein, the failure in any one or more instances of a Party to insist upon performance of any of the terms, covenants or conditions of this Agreement, to exercise any right or privilege in this Agreement conferred, or the waiver by such Party of any breach of any of the terms, covenants or conditions of this Agreement, shall not be construed as a subsequent waiver of any such terms, covenants, conditions, rights or privileges, but the same shall continue and remain in full force and effect as if no such forbearance or waiver had occurred.

11.8 Applicable Law. This Agreement shall be governed and controlled as to validity, enforcement, interpretation, construction, effect and in all other respects by the internal laws of the State of Texas applicable to contracts made in that state and the applicable provisions of the Bankruptcy Code, without giving effect to any choice of law or conflict of law provision or rule that would cause the application of laws of any other jurisdiction.

11.9 Consent to Jurisdiction. Purchaser and Sellers agree that the Bankruptcy Court shall retain sole jurisdiction over any legal action or proceeding with respect to this Agreement. Each of Purchaser and Sellers irrevocably waives any objection, including any objection to the laying of venue or based on the grounds of *forum non conveniens*, which it may now or hereafter have to the bringing of any action or proceeding in such jurisdiction in respect of this Agreement or the transactions contemplated hereby. Purchaser and Sellers consent to the jurisdiction and authority of the Bankruptcy Court, including, without limitation, to the entry of final orders,

decrees and judgments with respect to any matters arising under or relating to this Agreement or the transaction(s) contemplated hereby.

11.10 WAIVER OF TRIAL BY JURY. EACH OF THE PARTIES HERETO WAIVES THE RIGHT TO A JURY TRIAL IN CONNECTION WITH ANY SUIT, ACTION OR PROCEEDING SEEKING ENFORCEMENT OF SUCH PARTY'S RIGHTS UNDER THIS AGREEMENT.

11.11 Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be deemed an original and all of which together shall constitute one instrument. This Agreement may be executed through the exchange of scanned .pdf signature pages, which shall have the same legal effect as original signatures.

11.12 Headings. The headings contained in this Agreement are for convenience of reference only and shall not affect the meaning or interpretation of this Agreement.

11.13 Time of the Essence. Time is of the essence of this Agreement. When calculating the period of time before which, within which or following which, any act is to be done or step taken pursuant to this Agreement, the date that is the reference date in calculating such period shall be excluded. If the last day of such period is a non-Business Day, the period in question shall end on the next succeeding Business Day.

11.14 Rules of Construction. The Parties acknowledge and agree that each has negotiated and reviewed the terms of this Agreement, assisted by such legal and tax counsel as they desired, and has contributed to its revisions, and, as such, each of the Parties shall be deemed drafters of this Agreement and equally responsible for any ambiguities contained herein. The Parties further agree that the rule of construction that any ambiguities are resolved against the drafting party will be subordinated to the principle that the terms and provisions of this Agreement will be construed fairly as to all Parties and not in favor of or against any Party. The word "including" means "including, without limitation." The phrase "ordinary course of business" or words of similar import shall mean the ordinary course of business consistent with past custom and practice, subject, in the case of Sellers or the Business, to changes in the business, operations or custom or practice of Sellers to the extent resulting from matters arising as a result of, or in connection with, Sellers' status as filers under Chapter 11 of the Bankruptcy Code.

[SIGNATURE PAGES FOLLOW]

IN WITNESS WHEREOF, the Parties have executed this Asset Purchase Agreement as of the date first above written.

SELLERS:

Limetree Bay Services, LLC

By: _____
Name: _____
Title: _____

Limetree Bay Refining Holdings, LLC

By: _____
Name: _____
Title: _____

Limetree Bay Refining Holdings II, LLC

By: _____
Name: _____
Title: _____

Limetree Bay Refining, LLC

By: _____
Name: _____
Title: _____

Limetree Bay Refining Operating, LLC

By: _____

Name: _____

Title: _____

Limetree Bay Refining Marketing, LLC

By: _____

Name: _____

Title: _____

PURCHASER:

West Indies Petroleum Limited, a Jamaican corporation

By: _____

Name:

Title:

St. Croix Refining and Transportation LLLP, a Virgin Islands limited liability limited partnership

By: Virgin Islands Refining Company, LLC, a Florida limited liability company

By: _____

Manager

Name:

Title:

APPENDIX 1

DEFINED TERMS

As used in this Agreement, the following terms shall have the following meanings:

“Affiliate” with respect to any Person means any other Person who directly or indirectly Controls, is Controlled by, or is under common Control with such Person including in the case of any Person who is an individual, his or her spouse, any of his or her descendants (lineal or adopted) or ancestors, and any of their spouses.

“Agreement” is defined in the Introduction to this Agreement.

“Alternative Transaction” means one or more sales, assignments, leases, transfers, or other dispositions of all or any material portion of the Purchased Assets to any Person (or group of Persons), whether in one transaction or a series of transactions, whether by merger, asset purchase, equity purchase or other similar transaction, in each case other than to Purchaser or its Affiliates.

“Antitrust Authorities” means the Federal Trade Commission, the Antitrust Division of the United States Department of Justice, the attorneys general of the several states of the United States and any other Governmental Entity having jurisdiction with respect to the transactions contemplated hereby pursuant to applicable Antitrust Laws.

“Antitrust Laws” means the Sherman Act, 15 U.S.C. §§ 1-7, as amended, the Clayton Act, 15 U.S.C. §§ 12-27, 29 U.S.C. §§ 52-53, as amended, the Hart-Scott-Rodino Antitrust Improvements Act of 1976, 15 U.S.C. § 18a et seq., as amended, the Federal Trade Commission Act, 15 U.S.C. § 41-58, as amended, and all other Laws and Orders that are designed or intended to prohibit, restrict or regulate actions having the purpose or effect of monopolization, restraint of trade, or lessening of competition through merger or acquisition.

“Auction” means a sale in which the Purchased Assets shall be offered for sale to a bidder or bidders making the highest or best offer, which will be scheduled by the Bankruptcy Court in the Bankruptcy Cases.

“Avoidance Actions” means any and all claims and causes of action of a Seller arising under the Bankruptcy Code, including, without limitation, Sections 544, 545, 547, 548, 549 and 550 thereof.

“Back-up Bid” shall have the meaning ascribed to such term in the Bid Procedures Order.

“Back-up Bidder” shall have the meaning ascribed to such term in the Bid Procedures Order.

“Bankruptcy Cases” means, individually and collectively, the following chapter 11 bankruptcy cases pending in the Bankruptcy Court: (i) *In re Limetree Bay Services, LLC*, case no. 21-32351; (ii) *In re Limetree Bay Refining Holdings, LLC*, case no. 21-32352; (iii) *In re Limetree Bay Refining Holdings II, LLC*, case no. 21-32353; (iv) *In re Limetree Bay Refining, LLC*, case

no. 21-32354; (v) *In re Limetree Bay Refining Operating, LLC*, case no. 21-32355; and (vi) *In re Limetree Bay Refining Marketing, LLC*, case no. 21-32356.

“Bankruptcy Code” means the Bankruptcy Reform Act of 1978, 11 U.S.C. §§ 101, et seq., as in effect on the Petition Date, and as amended effective as of the Petition Date.

“Bankruptcy Court” is defined in Recital B to this Agreement.

“Bankruptcy Rules” is defined in Section 4.3.

“Bid Procedures Order” means the order of the Bankruptcy Court, entered on August 11, 2021 at docket number 392 in the bankruptcy case of *In re Limetree Bay Services, LLC*, case no. 21-32351, authorizing, among other things, the sale of the Purchased Assets and assumption and assignment of the Business Contracts and Real Property Leases pursuant to the bid procedures and bid protections set forth therein.

“Bill of Sale and Assignment and Assumption Agreement” means that certain bill of sale and assignment and assumption agreement substantially in the form attached hereto as Exhibit A.

“BP Receivables” means any and all funds payable by BP Products North America, Inc., or any affiliate or subsidiary thereof, to Sellers, or any of them, arising out of or related to the IFF Property, the J. Aron Transaction Documents, the Tolling Agreement (as such terms are defined and used in the Stipulation by and among Debtors, Committee, J. Aron & Company LLC, and BP Products North America Inc. (appended to Doc. No. 697 filed in the Bankruptcy Cases) (the “BP Stipulation”)), or any other agreement by and between Sellers, or any of them, and BP Products North America, Inc., or any affiliate or subsidiary thereof, dated on or before the Closing Date, including, without limitation, the Escrow Funds, Trade Contract Amounts, and Sale Reserve (as such terms are defined and used in the BP Stipulation).

“Business” is defined in Recital A of this Agreement.

“Business Contracts” is defined in Section 1.2(a).

“Business Day” means any day other than Saturday, Sunday and any day that is a legal holiday or a day on which banking institutions in Houston, Texas are permitted or required to be closed.

“Business Intellectual Property” means all rights to Intellectual Property that are owned by a Sellers, other than the Excluded Intellectual Property.

“Business IT Assets” means all rights to Information Technology that are owned by Sellers, other than the Excluded IT Assets.

“Business Permits” is defined in Section 1.2(g).

“Business Real Property” means the Purchased Real Property and the real property subject to the Real Property Leases, in each case together with all easements, appurtenances,

rights and leases, and other hereditaments appurtenant to such land and all the estates and rights of Sellers in and to such land.

“Claim” means a claim against any or all of Sellers, whether or not asserted, as defined in Section 101(5) of the Bankruptcy Code.

“Closing” is defined in Section 3.3.

“Closing Date” is defined in Section 3.3.

“Closing Payment” is defined in Section 3.1.

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

“Confidentiality Agreement” means that certain Confidentiality Agreement by and between Purchaser and Sellers, dated [____], 2021.

“Control” means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a Person, whether through ownership of securities, by contract or otherwise.

“Consent” means any authorization, approval, consent, ratification, negative clearance, waiver, notice or filing, or a Final Order of the Bankruptcy Court that deems, or renders unnecessary, the same.

“Contract” means any note, bond, mortgage, indenture, guaranty, license, franchise, permit, agreement, contract, commitment, lease, purchase order, or other instrument or obligation, and any amendments thereto.

“Cure Amounts” means with respect to any Business Contract or Real Property Lease, the amount of cash required to be paid with respect to such Business Contract or Real Property Lease to cure all defaults under such Business Contract or Real Property Lease to the extent required by Section 365 of the Bankruptcy Code and to otherwise satisfy all requirements imposed by Section 365 of the Bankruptcy Code in order to effectuate, pursuant to the Bankruptcy Code, the assumption by a Seller and assignment to Purchaser of such Business Contract or Real Property Lease.

“DIP Agent” shall have the meaning ascribed to such term in the Bid Procedures Order.

“Employee” and “Employees” are defined in Section 8.1.

“Employee Benefit Plans” is defined in Section 4.10.

“Environmental Law” means any law, Order or other requirement of law for the protection of the environment, or for the manufacture, use, transport, treatment, storage, disposal, release or threatened release of Hazardous Materials, petroleum products, asbestos, urea formaldehyde insulation, polychlorinated biphenyls or any substance listed, classified or regulated as “hazardous” or “toxic” or any similar term under such Environmental Law.

“Environmental Liabilities” means all Liabilities (including the costs of any Remedial Action) arising in connection with or in any way relating to the Business (as currently or formerly conducted), the Purchased Assets or any property currently or formerly owned, leased or operated in connection with the Business (as currently or formerly conducted) or the Purchased Assets (including the activities and operations conducted by anyone thereon, offsite disposal therefrom and Hazardous Materials migrating thereto or therefrom), that in each case arise under or relate to any Environmental Law, Environmental Permit or a Hazardous Material, including Liabilities arising from any Third Party claims for personal injury, death, or property damage caused by an actual or alleged release of, or exposure to, a Hazardous Material.

“Environmental Permits” means all environmental, health and safety permits, licenses, registrations, and approvals and authorizations from Governmental Entities.

“EPA” means the United States Environmental Protection Agency.

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

“Escrow Account” means the account created by the Escrow Agent in which the Good Faith Deposit Amount was deposited pursuant to Section 3.2.

“Escrow Agent” means B. Riley Advisory Services or, if B. Riley Advisory Services is unable or unwilling to act as the Escrow Agent, such other Person as is mutually agreed upon by Purchaser and Sellers.

“Escrow Agreement” means that certain Escrow Agreement, dated as of [____], 2021, by and among Purchaser, Sellers and the Escrow Agent, as may thereafter be amended from time to time in accordance with the terms thereof.

“Event” means any action, omission, state of facts, condition, occurrence, result, circumstance, event, effect, development or change.

“Excluded Assets” is defined in Section 1.3.

“Excluded Furniture and Equipment” is defined in Section 1.3(p).

“Excluded Intellectual Property” is defined in Section 1.3(k).

“Excluded IT Assets” is defined in Section 1.3(l).

“Excluded Liabilities” is defined in Section 2.1.

“Excluded Permits” is defined in Section 1.3(r).

“Excluded Real Property” means all real property owned by a Seller, other than the Purchased Real Property.

“Files and Records” means all current and historical information, data, databases, reports, plans, schedules, correspondence, files, documents, books and other records and information,

including (a) customer, vendor, supplier, contractor and service provider lists and records, (b) sales, pricing and performance data and records generated from completed or active transactions (including billing, payment and dispute histories, credit information and similar data), (c) business plans, financial statements, corporate, Tax, human resource, legal, regulatory and financial data and records, (d) operating and production records, quality control records, market research reports, technical documentation (drawings, specifications, process instructions, statistics, functional requirements, operating instructions, manual, etc.) and user documentation (installation guides, manuals, training material working paper, etc.), (e) employment and personnel records, (f) all of the plant diagrams and drawings, equipment diagrams and drawings, equipment manuals, “as built” books, operating manuals, maintenance histories and records, civil engineering drawings, PFDs, PI&Ds and other such technical documents relating to the Sellers Facilities and (g) regulatory filings, documents or other information relating to any Proceeding, in each case with respect to clauses (a) through (g), of Sellers, whether in paper, electronic, digital or other form or medium, and that relate primarily to the Business, or the Purchased Assets; *provided*, that Files and Records shall not include (i) any files, documents, books or other records to the extent relating to any existing or anticipated Tax litigations or disputes (to the extent that such litigation or disputes are, or are related to any, Excluded Liabilities hereunder), (ii) any information which, if transferred to Purchaser or its Affiliates, would reasonably be expected to violate any applicable Law or Order or the terms of any Contract and (iii) any items described in clauses (a) through (g) that relate primarily to any Excluded Assets or any Excluded Liabilities.

“Final Order” means an order or judgment of the Bankruptcy Court (or any other court of competent jurisdiction) entered by the clerk of the Bankruptcy Court (or such other court) on the docket in the Bankruptcy Cases (or the docket of such other court), which is and remains in full force and effect, has not been modified, amended, reversed, vacated or stayed and as to which (i) the time to appeal, petition for certiorari, or move for a new trial, re-argument or rehearing has expired and as to which no appeal, petition for certiorari or motion for new trial, re-argument or rehearing shall then be pending or (ii) if an appeal, writ of certiorari new trial, re-argument or rehearing thereof has been sought, such order or judgment of the Bankruptcy Court (or other court of competent jurisdiction) shall have been affirmed by the highest court to which such order was appealed, or certiorari shall have been denied, or a new trial, re-argument or rehearing shall have been denied or resulted in no modification of such order, and the time to take any further appeal, petition for certiorari or move for a new trial, re-argument or rehearing shall have expired, as a result of which such order shall have become final in accordance with Rule 8002 of the Federal Rules of Bankruptcy Procedure; *provided*, that the possibility that a motion under Rule 60 of the Federal Rules of Civil Procedure, or any analogous rule under the Federal Rules of Bankruptcy Procedure, may be filed relating to such order, shall not cause an order not to be a Final Order.

“Furniture and Equipment” means all furniture, furnishings, equipment, vehicles, machinery, cranes, forklifts, tools, truck racks, fixtures, consumables and other tangible personal property owned by a Seller, including artwork, desks, chairs, tables, miscellaneous office furnishings, copiers, scanners, printers, telephone lines and numbers, telecopy machines and other telecommunication equipment, cubicles and supplies.

“GAAP” means United States generally accepted accounting principles, applied in a manner consistent with the preparation of the Financial Statements.

“Good Faith Deposit Amount” means \$3,000,000.00, which amount is to be deposited with the Escrow Agent in accordance with the terms of this Agreement and held and released pursuant to the terms and subject to the conditions set forth in this Agreement and the Escrow Agreement.

“Governmental Entity” means any multinational, United States or non-United States, federal, state, territory, provincial or local court (including, for the avoidance of doubt, the Bankruptcy Court), arbitral tribunal, administrative agency, legislature or commission or other governmental, quasi-governmental or regulatory agency or authority (including any bureau, division or department thereof) or any securities exchange.

“Hazardous Materials” means all explosive or radioactive substances or wastes, and all hazardous or toxic substances, wastes or other pollutants, including petroleum or petroleum distillates, asbestos or asbestos containing materials, polychlorinated biphenyls, radon gas, infectious or medical wastes and all other substances or wastes of any nature regulated pursuant to any Environmental Law.

“HSR Act” means the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended, and the rules and regulations promulgated thereunder.

“Improvements” means any and all buildings, structures, fixtures or other improvements owned by or leased to a Seller that are attached or affixed to the Business Real Property (including all construction and work-in-progress), including above ground and underground piping and storage tanks, canopies, signage, terminals, fixtures, pumps and appurtenances, equipment, personal property of a permanent nature and other similar facilities; *provided, however*, that the Excluded Furniture and Equipment shall not be considered “Improvements”.

“Indebtedness” of any Person means (a) any obligations or indebtedness (i) for borrowed money or indebtedness issued or incurred in substitution or exchange for indebtedness for borrowed money, (ii) evidenced by any note, bond, debenture, mortgage or other debt instrument or debt security, (iii) for the deferred purchase price of property or service, (iv) for the reimbursement of any obligor on any letter of credit, banker’s acceptance, guarantee or similar credit transaction (but only to the extent drawn upon or if there has been a demand made for reimbursement thereunder) and (v) under any commodity, swap, derivative, currency, interest rate, call, hedge or similar agreement, (b) any obligations of any kind referred to in the foregoing clause (a) above guaranteed or secured, directly or indirectly, in any manner by such Person (including by a Lien on the assets or properties of such Person whether or not such obligations are assumed) ,and (c) any accrued and unpaid principal, interest, premiums, penalties, pre-payment penalties, fees, expenses, “make-whole” or similar payments, indemnities and breakage costs owing by such Person with respect to any indebtedness of a type described in clauses (a) or (b); provided, that Indebtedness of any Seller shall not include accounts payable to trade creditors or accrued expenses, in each case, arising in the ordinary course of business of any Seller.

“Information Technology” means all computers, computer systems, servers, workstations, databases, and software programs.

“Intellectual Property” means (a) patents and patent applications, (b) trademarks, service marks, trade dress, and all registrations and applications for the same, (c) Internet domain names, (d) registered and unregistered copyrights and applications for the same, and (e) trade secrets.

“IRS” means the United States Internal Revenue Service.

“Knowledge of Sellers” means the actual knowledge of Sellers, without giving effect to imputed knowledge or giving rise to any duty to investigate.

“Law” means any statute, law, ordinance, ruling, policy, rule or regulation of any Governmental Entity and all judicial or administrative interpretations thereof and any common law doctrine.

“Liabilities” means any and all Indebtedness, Taxes, losses, charges, debts, damages, obligations, payments, costs and expenses, bonds, indemnities, liabilities and obligations of any nature, including any unknown, undisclosed, unmatured, unaccrued, unasserted, contingent, indirect, conditional, implied, vicarious, derivative, joint, several or secondary liability, regardless of whether such claim, debt, obligation, duty or liability would be required to be disclosed on a balance sheet prepared in accordance with GAAP and regardless of whether such claim, debt, obligation, duty or liability is immediately due and payable.

“Liens” means any liens (as defined in Section 101(37) of the Bankruptcy Code), debts (as defined in Section 101(12) of the Bankruptcy Code), security interests, Claims, easements, mortgages, charges, indentures, deeds of trust, rights of way, encroachments, or any other encumbrances and other restrictions or limitations on ownership or use of real or personal property or irregularities in title thereto.

“Loss” or “Losses” means, without duplication, any and all Liabilities, judgments, awards, losses, costs or damages, including reasonable fees and expenses of attorneys, accountants and other professional advisors.

“Material Adverse Effect” means a material adverse effect on the business or financial condition of the Business, taken as a whole, provided that the foregoing shall not include any event, circumstance, change, occurrence, fact or effect resulting from or relating to (A) changes in economic conditions generally or in any region in which Sellers or the Business operate, (B) changes in United States or global financial markets in general, (C) changes, occurrences or developments in or related to the general industry or industries (or portions thereof) in which Sellers or the Business operate or are materially related thereto, (D) changes in law, GAAP or any authoritative interpretations thereof, (E) any action taken or failed to be taken by Sellers or any of their Affiliates or representatives at the request of Purchaser or that is required or contemplated by this Agreement, (F) a failure to meet Sellers’ projections, or any changes in the prices or availability of raw materials used in the Business, (G) the identity of, or any action taken by, Purchaser or any of its Affiliates or representatives, (H) the Bankruptcy Cases, (I) the announcement and performance of this Agreement and the other transactions contemplated by this Agreement, including termination of, reduction in or similar negative impact on relationships,

contractual or otherwise, with any customers, suppliers, distributors, partners, officers or employees of the Business, (J) any actions required under this Agreement to obtain any approval or authorization required under applicable antitrust or competition laws for the consummation of the transactions contemplated by this Agreement, (K) acts of war (whether or not declared), armed hostilities, sabotage or terrorism occurring after the date of this Agreement or the continuation, escalation or worsening of any such acts of war, armed hostilities, sabotage or terrorism threatened or underway as of the date of this Agreement, or (L) earthquakes, hurricanes, floods, or other natural disasters.

“Material Contracts” is defined in Section 4.7(b).

“NRI Consignment Agreement” means that certain Master Consignment Agreement dated as of March 9, 2021 by and between Limetree Bay Refining, LLC and NRI Industrial Sales LLC.

“NRI Receivables” means any and all amounts payable to Sellers under the NRA Consignment Agreement.

“Order” means any judgment, order, injunction, decree, writ, permit or license issued or entered by or with any Governmental Entity or any arbitrator, whether preliminary, interlocutory or final, including any order entered by the Bankruptcy Court in the Bankruptcy Cases (including the Sale Order).

“Parts Inventory” means the inventories of supplies, maintenance and capital spares, joints, valves, parts and tools owned by a Seller as of the Closing that are (x) stored in the warehouses located on the Business Real Property or (y) used primarily in connection with the Business.

“Party” and “Parties” are defined in the Introduction to this Agreement.

“Permits” means all licenses, permits, registrations and approvals from or with a Governmental Entity other than the Environmental Permits.

“Person” means and include an individual, a partnership, a limited partnership, a limited liability partnership, a joint venture, a corporation, a limited liability company, an association, a trust, an unincorporated organization, a group and a Governmental Entity.

“Petition Date” is defined in Recital B of this Agreement.

“Plant Closing Act” shall mean the Virgin Islands Code Title 24, § 471- 478 (1957).

“Post-Closing Litigation Liabilities” means all Liabilities arising from a new event Proceeding first commenced after the Closing by a Third Party against Purchaser, a Seller or any of their respective Affiliates, in respect of the Business, or the Purchased Assets that is based on any Event first existing, arising or occurring following the Closing; *provided*, that the Parties agree and acknowledge that Post-Closing Litigation Liabilities shall not include any Environmental Liabilities, which are separately addressed in this Agreement.

“Post-Closing Period” means all taxable years or other taxable periods that begin after the Closing Date and, with respect to any taxable year or other taxable period beginning on or before and ending after the Closing Date, the portion of such taxable year or period beginning on the day after the Closing Date.

“Pre-Closing Period” means all taxable years or other taxable periods that end on or before the Closing Date and, with respect to any taxable year or other taxable period beginning on or before and ending after the Closing Date, the portion of such taxable year or period ending on the Closing Date.

“Prepetition Secured Parties” shall have the meaning ascribed to such term in the Bid Procedures Order.

“Proceeding” means any claim, demand, action, arbitration, audit, hearing, investigation, litigation, suit or other proceeding (whether civil, criminal, administrative, investigative, or informal) commenced, brought, conducted, or heard by or before, or otherwise involving, any Third Party (including any Governmental Entity).

“Property Taxes” means all real property Taxes, personal property Taxes and other similar ad valorem Taxes, in each case, that are imposed with respect to the Purchased Assets.

“Purchase” is defined in Recital C of this Agreement.

“Purchase Price” means Thirty Million US Dollars (\$30,000,000.00).

“Purchased Assets” is defined in Section 1.1.

“Purchased Real Property” is defined in Section 1.2(b).

“Purchaser” is defined in the Introduction to this Agreement.

“Real Property” means the Purchased Real Property and the Excluded Real Property.

“Real Property Leases” is defined in Section 1.2(d).

“Remedial Action” means any action to investigate, abate, clean up, remove or remediate (or words of similar import), or conduct remedial or corrective actions, including sampling and/or monitoring activities, with respect to Hazardous Materials in the environment.

“Representatives” of any Person means such Person’s directors, managers, officers, employees, agents, attorneys, consultants, advisors, financing sources or other Persons acting on behalf of such Person.

“Returns” means all returns, statements, forms, reports and other similar documentation relating to Taxes, including any schedules, exhibits and other attachments thereto and any amendments thereof.

“Sale Motion” means Debtor’s Emergency Motion for Entry of Order: (I) Establishing Bidding and Sale Procedures, (II) Approving the Sale of Assets, and (III) Granting Related Relief filed by Sellers in the Bankruptcy Court on July 26, 2021 (Docket No. 191).

“Sale Order” means an Order of the Bankruptcy Court approving this Agreement, containing the findings and conclusions set forth in Section 6.11, and authorizing and directing Sellers to consummate the transactions contemplated by this Agreement (including, but not limited to, the assumption and assignment of the Business Contracts and Real Property Leases) under Sections 105, 363 and 365 of the Bankruptcy Code, in form and substance acceptable to Sellers and Purchaser in their respective sole discretion.

“Seller” and “Sellers” are defined in the Introduction to this Agreement.

“Seller Access Indemnitees” is defined in Section 6.1(b).

“Sellers Disclosure Letter” is defined in Article IV.

“Seller Facilities” means the facilities and related equipment owned by a Seller located on the Business Real Property, including all Improvements related thereto; provided, that, for the avoidance of doubt, the Seller Facilities shall not include any Excluded Assets.

“Stalking Horse Bid” shall have the meaning ascribed to such term in the Bid Procedures Order.

“Stalking Horse Bidder” shall have the meaning ascribed to such term in the Bid Procedures Order.

“Taxes” means (a) all taxes, however denominated, and all like charges, levies, duties, imposts, unclaimed property, escheat obligations or other assessments, including any interest, penalties or additions to tax that may become payable in respect thereof, imposed by any Government, which taxes shall include all income taxes, Transaction Taxes, payroll and employee withholding, unemployment insurance, social security (or similar), sales and use, excise, franchise, gross receipts, occupation, real and personal property, stamp, transfer, workmen’s compensation, customs duties, registration, documentary, value added, alternative or add-on minimum, estimated, environmental (including taxes under Section 59A of the Code) and other obligations of the same or a similar nature, whether arising before, on or after the Closing Date and (b) any transferee, successor or other liability in respect of Taxes of another (whether by contract or otherwise) and any liability in respect of any Taxes as a result of any company being a member of any “affiliated group” as defined in Section 1504 of the Code, or any analogous combined, consolidated or unitary group defined under state, local or foreign Tax law.

“Termination Date” is defined in Section 9.1(d).

“Third Party” means any Person other than the Parties and their respective Affiliates (including, for the avoidance of doubt, any Governmental Entity).

“Transaction Documents” means the Escrow Agreement.

“Transfer Taxes” is defined in Section 6.8.

“Update Schedule” is defined in Section 6.6(a).

“WARN Act” means the Worker Adjustment and Retraining Notification Act, 29 U.S.C. Section 2101, et seq.

“Winning Bid” shall have the meaning ascribed to such term in the Bid Procedures Order.

“Winning Bidder” shall have the meaning ascribed to such term in the Bid Procedures Order.

EXHIBIT A
FORM OF BILL OF SALE AND ASSIGNMENT AND ASSUMPTION AGREEMENT

SCHEDULE 1.1(G)¹
BUSINESS PERMITS

¹ SCHEDULES REMOVED PENDING COMPLETION/FINAL AGREEMENT.

SCHEDULE 1.2(A)
BUSINESS CONTRACTS

SCHEDULE 1.2(B)
PURCHASED REAL PROPERTY

SCHEDULE 1.2(D)
REAL PROPERTY LEASES

SCHEDULE 1.2(G)
BUSINESS PERMITS

SCHEDULE 1.3(K)
EXCLUDED INTELLECTUAL PROPERTY

SCHEDULE 1.3(L)
EXCLUDED IT ASSETS

SCHEDULE 1.3(P)
EXCLUDED FURNITURE AND EQUIPMENT

SCHEDULE 1.3(R)
EXCLUDED PERMITS

SCHEDULE 3.4
ASSIGNMENT, TRANSFER AND CONVEYANCE INSTRUMENTS

SCHEDULE 6.2
CONDUCT PRIOR TO THE CLOSING DATE

SELLERS DISCLOSURE LETTER