

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

In re:

JORDAN HEALTH PRODUCTS I, INC., *et al.*,¹

Debtors.

Chapter 11

Case No. 24-12271 (TMH)

(Jointly Administered)

**DEBTORS' MOTION FOR ENTRY OF ORDER PURSUANT TO SECTION 363 OF
THE BANKRUPTCY CODE (I) AUTHORIZING THE PRIVATE SALE OF CERTAIN
OF DEBTORS' ASSETS FREE AND CLEAR OF LIENS, CLAIMS, ENCUMBRANCES,
AND INTERESTS, AND (II) GRANTING RELATED RELIEF**

Jordan Health Products I, Inc. and its debtor affiliates (collectively, the “**Debtors**”) in the above-captioned Chapter 11 cases (the “**Chapter 11 Cases**”) hereby file this motion (this “**Motion**”) for entry of an order, substantially in the form attached hereto as **Exhibit B** (the “**Proposed Order**”), granting the relief requested below. In support of the Motion, the Debtors rely upon the *Declaration of Adam Green in Support of Debtors' Motion for Entry of Order Pursuant to Section 363 of the Bankruptcy Code (I) Authorizing the Private Sale of Certain of the Debtors' Assets Free and Clear of Liens, Claim, Encumbrances, and Interests, and (II) Granting Related Relief* (the “**Green Declaration**”), filed contemporaneously herewith, and in further support, the Debtors respectfully represent as follows:

JURISDICTION AND VENUE

1. The Court has jurisdiction over this Motion pursuant to 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference* from the United States District Court for the District

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number are: Jordan Health Products I, Inc. (9981); Global Medical Imaging, LLC (8828); D.R.E. Medical Group, Inc. (2356); Oncology Services International, Inc. (2514); Technical Options of Georgia, Inc. (5488); Jordan Health Products III, Inc. (9350); Transtate Equipment Company, Inc. (4201); Equipment Maintenance Solutions, Inc. (7216); Ultra Solutions Holdings, Inc. (2305); Ultra Solutions, LLC (3425); Pacific Medical Group, Inc. (4339); and Pacific Medical Holdings, Inc. (2135). The Debtors' service address is 8700 W Bryn Mawr Ave., Suite 720S, Chicago, IL 60631. Debtor Jordan Health Products I, Inc. is doing business as Avante Health Solutions.

of Delaware, dated February 29, 2012. This is a core proceeding within the meaning of 28 U.S.C. § 157(b)(2), and pursuant to Rule 9013-1(f) Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware (the “**Local Rules**”), the Debtors consent to the entry of a final order by the Court in connection with this Motion to the extent that it is later determined that the Court, absent consent of the parties, cannot enter a final order or judgment consistent with Article III of the United States Constitution.

2. Venue of these Chapter 11 Cases and the Motion are proper in this District pursuant to 28 U.S.C. §§ 1408 and 1409.

RELIEF REQUESTED

3. By this Motion, the Debtors seek entry of the Proposed Order, pursuant to Sections 105 and 363 of Title 11 of the Bankruptcy Code, Bankruptcy Rule 6004 and Local Rule 6004-1, (i) authorizing the Debtors to (a) enter into a definitive Purchase Agreement containing the material terms set forth in the Term Sheet (each as defined below) and (b) sell and convey the Purchased Assets (as defined below) to the Purchaser (as defined below) free and clear of all liens, claims, encumbrances, and interests through a private sale; and (ii) granting related relief.

BACKGROUND

II. General background

4. On October 8, 2024 (the “**Petition Date**”), each Debtor filed a voluntary petition in this Court commencing the Chapter 11 Cases. The Debtors are operating their businesses and managing their properties as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. The Debtors’ Chapter 11 Cases are being jointly administered pursuant to Bankruptcy Rule 1015(b) and Local Rule 1015-1. No request for the appointment of a trustee or examiner has been made in these Chapter 11 Cases.

5. On October 17, 2024, the Office of the United States Trustee appointed the Official Committee of Unsecured Creditors (the “**Creditors’ Committee**”) in connection with the Chapter 11 Cases. *See* Docket No. 80.

6. Additional information regarding the Debtors’ business and affairs, capital structure and prepetition indebtedness, and the events leading to the commencement of these Chapter 11 Cases are set forth in detail in the *Declaration of Rob Hubbard in Support of Debtors’ Chapter 11 Petitions and First Day Relief* [Docket No. 10] (the “**First Day Declaration**”).²

III. The Medical Surgical Division

6. As set forth in the First Day Declaration, Avante is a leading provider of quality medical equipment solutions, selling new and refurbished equipment, parts, service, support, and training to healthcare facilities worldwide. The Company’s operations are broadly housed in four separate and distinct divisions: ultrasound, medical surgical, patient monitoring, and diagnostic imaging.³ This Motion only affects the medical surgical division (the “**MedSurge Division**”).

7. The MedSurge Division is located in Louisville, Kentucky. It provides a combination of new/private label and professionally refurbished equipment to medical and veterinary professionals worldwide. It also maintains a rental fleet of select equipment for short and long-term rentals. Medical surgical equipment includes anesthesia machines, surgical lighting and tables, ventilators, electrosurgical units, procedure chairs and instrument supplies.

8. Substantially all of the assets utilized by the MedSurge Division (the “**MedSurge Assets**”) are owned by Debtor D.R.E. Medical, Inc. (“**D.R.E.**”). D.R.E. is party to a lease for real

² Capitalized terms used and not otherwise defined herein shall have the meanings ascribed to them in the First Day Declaration or the Purchase Agreement as applicable.

³ In December 2022, Avante sold its oncology division.

property located in Louisville, Kentucky, through which the MedSurge Division currently operates, but does not have any other significant executory contracts or unexpired leases.⁴

9. As a result of inventory and supply chain issues, the MedSurge Division has seen declining performance over the last several months. As of the date of this Motion, there are approximately fifty (50) employees remaining at the MedSurge Division. The Debtors' management team and advisors have been diligently working to stabilize and improve performance at the MedSurge Division, but have had limited success. The MedSurge Division is generally non-core within the Debtors' broader business portfolio and requires a significant investment of effort and working capital to realize improved performance. After reviewing the Debtors' options, the Debtors, in consultation with their advisors, made the difficult decision to liquidate the MedSurge Assets, wind down D.R.E., and shutter the MedSurge Division entirely.

10. However, immediately after the Debtors began preparing to take the steps necessary to shut down the MedSurge Division, Livingstone was approached by several parties who expressed an interest in a potential acquisition of the MedSurge Assets. These parties were generally smaller, regional players in similar lines of business to the MedSurge Division. Livingstone (as defined below) engaged in phone conversations and facilitated the flow of diligence information to these parties, and one (1) party completed a site visit to the Louisville Facility. Within a very short time, these discussions yielded one (1) bona fide offer, submitted by DRE Resume, LLC, an Ohio limited liability company ("**Resume**"), which proposed to purchase substantially all of the MedSurge Assets. The offer from Resume contained two important features: (1) an intention to maintain approximately 40 jobs at the MedSurge Division and (2) the

⁴ For the avoidance of doubt, the Debtors are not planning on assuming and assigning any executory contracts and unexpired leases in connection with the sale, including the real property lease.

ability to close a transaction in an extremely expedited timeframe with minimal additional diligence, which was critical given the limited liquidity runway and impending wind down of the MedSurge Division. Livingstone immediately engaged with Resume, and the Debtors ultimately negotiated the Term Sheet described herein for the sale of the MedSurge Assets to the Resume. The Debtors and Resume intend to finalize a Purchase Agreement incorporating the material terms of the Term Sheet prior to the hearing on the Motion.

11. In sum, the Debtors have determined, in the exercise of their business judgment, that this “white knight” offer represents the highest and best offer for the MedSurge Assets, and will not only maximize value for the Debtors’ estates, but also preserve jobs and the business of the MedSurge Division.

IV. The Debtors’ Ongoing Sale Process

12. At the outset of these Chapter 11 Cases, the Debtors filed a motion [Docket No. 14] to approve (i) the sale of substantially all of their assets to AHS Acquisition Holdings, LLC, the Debtors’ Prepetition Lender and DIP Lender, pursuant to a Stalking Horse Agreement, and (ii) related bidding and auction procedures. As set forth in the First Day Declaration and the Green Declaration, the Debtors selected the Stalking Horse Bidder following a robust pre-petition marketing process conducted by the Debtors’ investment banker, Livingstone Partners (“**Livingstone**”), that began in May of 2024 and continued after the commencement of these Chapter 11 Cases.

13. On October 29, 2024, the Court approved the Debtors’ bidding procedures [Docket No. 126], and set a bid deadline of November 15, 2024 at 5:00 p.m. with a related auction date (if necessary) of November 19, 2024 at 10:00 a.m. for substantially all of the Debtors’ assets.

14. In the weeks leading up to the bid deadline, Livingstone continued to reach out to parties that may be potentially interested in some or all of the Debtors’ assets in an effort to

maximize the value ultimately achieved for those assets and, as noted above, were approached by several parties with a specific interest in the MedSurge Assets. The Debtors subsequently negotiated a term sheet with Resume, described below, and anticipate finalizing an asset purchase agreement (the “**Purchase Agreement**”) with Resume prior to the hearing at which the Court will consider this Motion. Importantly, the Prepetition Lender, DIP Lender, and Stalking Horse Bidder all support the transaction contemplated through the Term Sheet and Purchase Agreement.

THE TERM SHEET AND PURCHASE AGREEMENT

15. As set forth below, the Debtors seek authority to (i) enter into a definitive Purchase Agreement (to be filed before the hearing on this Motion) which will contain the material terms set forth in that certain Term Sheet by and between the Debtors, as sellers, and Resume, as purchaser (the “**Purchaser**”), attached hereto as **Exhibit A**; and (ii) sell and convey substantially all of the assets of Debtor D.R.E. Medical Group, Inc. (the “**Purchased Assets**”) to the Purchaser free and clear of all liens, claims, encumbrances and interests, pursuant to Sections 105 and 363 of Title 11 of the United States Code (the “**Bankruptcy Code**”), Rule 6004 of the Federal Rules of Bankruptcy Procedure (the “**Bankruptcy Rules**”), and Local Rule 6004-1.

16. The Debtors, on the one hand, and the Purchaser, on the other hand, have entered into the Term Sheet, the principal terms of which are as follows:

- (i) **Purchase Price**: In consideration for the Purchased Assets, the Purchaser agrees to pay to AHS Acquisition Holdings, LLC, a Delaware limited liability company, in its capacity as Prepetition Agent and Prepetition Lender to the Debtors on the date of the closing of the Transaction (the “Closing Date”): (i) the sum of \$3,300,000 plus (ii) the amount of cure costs associated with any executory contracts and unexpired leases designated by Purchaser for assumption by Seller and assignment to Purchaser (such contracts and leases, collectively, the “Assumed Contracts”), minus (iii) cash received by Seller for sales of Seller’s inventory occurring after the Effective Date if such sales are not approved by Purchaser (but for the avoidance of doubt, excluding sales resulting in accounts receivable that have not yet converted to cash), minus (iv) the amount of deposits paid by customers for goods that Purchaser must deliver to such customers after the

Closing Date in excess of the amount of deposits spent towards the purchase of inventory to support those orders, in an amount not to exceed \$125,000, and minus (v) \$25,000 as a credit toward the December rent payment for the Louisville Facility lease (the “Rent Credit”). For the avoidance of doubt, while the Rent Credit serves as a purchase price reduction in connection with the Louisville Facility, it shall not serve to reduce the December rent payment, which shall be paid to the Seller in full, as set forth in the Term Sheet.

(ii) **Purchased Assets:** The Purchaser shall purchase certain assets of the Seller, free and clear of all interests, claims, liens and encumbrances (other than certain permitted encumbrances) pursuant to section 363(f) of the Bankruptcy Code (collectively, the “Purchased Assets”). The Purchased Assets shall include, without limitation:

- All furniture, fixtures, equipment, inventory held by the Seller at the Closing Date, and all other personal property utilized in the operation of the Seller’s business at its Louisville, Kentucky facility (“Louisville Facility”).
- Accounts receivable of the Seller’s business. For the avoidance of doubt, purchased accounts receivable shall include only accounts receivable to the extent that those accounts receivable are owed to the Seller and related to sales of the Seller’s inventory.
- Certain customer lists, open customer orders, and designated Assumed Contracts related to the operation of Seller’s business. For purposes of clarity, to the extent that there are any designated executory contracts, Purchaser will be responsible for cure costs associated with those contracts and such amount shall increase the purchase price. To the extent that the sale of any customer list occurs, nothing herein or in the APA shall be construed to restrict or otherwise preclude Seller or AHS Acquisition Holdings, LLC, a Delaware limited liability company, as stalking horse purchaser of substantially all of the Debtors assets in their chapter 11 cases (the “Stalking Horse Purchaser”), from doing business with the Seller’s customers, nor shall the APA include any non-compete, non-solicit, or other similar terms that restrict in any way the Seller’s, Debtors’ and/or the Stalking Horse Purchaser’s operations.
- The content of all emails to or from any current or former employee of the Seller that the Seller or Debtors have archived, stored, or maintained that mentions or references the Seller or

any supplier or customer of the Seller. This shall be limited solely to employees of the Seller and shall expressly exclude the Debtors' senior management team, including the CEO, CFO, and COO of the Debtors.

- The following websites owned by MedSurge: DRE Veterinary.com.
- All internet domains and domain names for DRE Veterinary, DRE Veterinary.com, MedSurge, and MedSurge.com.
- All Avoidance Actions⁵ against any party that the Seller currently or in the past one (1) year has done business with. The Seller agrees that it shall 'bury' and otherwise not prosecute the purchased Avoidance Actions.

- (iii) **Employee Matters:** The Purchaser shall, effective as of the Closing Date, hire certain employees of the Seller. The APA will describe how employment status and employee related matters will be addressed as part of the Transaction. The Debtors and the Purchaser will reasonably cooperate with one another to initiate the hiring process prior to the Closing Date. The Debtors shall have no obligation to retain any employees at any time prior to the Closing Date.
- (iv) **Closing Date:** As soon as is practicable after the sale is approved, but in no case later than two (2) business days following entry of the Proposed Order.

17. In addition to the above-described salient features of the Purchase Agreement, in accordance with Local Rule 6004-1(b)(iv), the Debtors note the following with respect to the Purchase Agreement:

- (i) **No Sale to an Insider:** The Purchaser is not an insider of the Debtors within the meaning set forth in Section 101(31) of the Bankruptcy Code. *See* Del. Bankr. L.R. 6004-1(b)(iv)(A).
- (ii) **Agreements With Management:** None. *See* Del. Bankr. L.R. 6004-1(b)(iv)(B).
- (iii) **Releases:** Paragraph 21 of the Sale Order provides, in full—

⁵ "Avoidance Actions" means any and all claims and remedies of Seller under Sections 510 and 542 through 553 of the Bankruptcy Code or under similar state laws, including, without limitation, fraudulent conveyance claims, and all other causes of action of a trustee and debtor-in-possession under the Bankruptcy Code related to the Purchased Assets.

Subject to and upon the Closing Date, the Debtors, on behalf of themselves and each of their Affiliates, hereby waive any and all actions related to, and hereby release, Purchaser and its Affiliates and the property of Purchaser (including, without limitation, the Purchased Assets) from any and all Interests, whether known or unknown, now existing or hereafter arising, asserted or unasserted, mature or inchoate, contingent or non-contingent, liquidated or unliquidated, material or non-material, disputed or undisputed, and whether imposed by agreement, understanding, law, equity, or otherwise to the extent such Interests arise under or are related to the Purchase Agreement or any agreement entered into with respect thereto or any of the transactions contemplated thereby; *provided, however*, that the foregoing shall not release any obligations assumed or established by Purchaser under the Purchase Agreement or this Sale Order, including, without limitation, Purchaser's performance obligations under the Purchase Agreement or this Sale Order and any and all of Purchaser's obligations thereunder that are to be performed following the Closing.

See Del. Bankr. L.R. 6004-1(b)(iv)(C).

- (iv) **Private Sale/No Competitive Bidding:** For the reasons discussed herein, the Debtors have not conducted an auction for the sale of the Purchased Assets, which, as described in the Green Declaration, have already been subject to a marketing process. See Del. Bankr. L.R. 6004-1(b)(iv)(D).
- (v) **Closing and Other Deadlines (Closing and Closing Date):** See ¶16(iv), *supra*. See Del. Bankr. L.R. 6004-1(b)(iv)(E).
- (vi) **Good Faith Deposit:** None. See Del. Bankr. L.R. 6004-1(b)(iv)(F).
- (vii) **Interim Arrangements With the Purchaser:** The Purchaser may occupy and conduct business at and from the Louisville Facility from the Closing Date through December 31, 2024 (the "Sublet Period"), as set forth herein, and the Sale Motion and Sale Order shall provide for this. The Louisville Facility lease will be rejected by the Debtors as of December 31, 2024. The Purchaser shall have removed all physical Purchased Assets from the Louisville Facility prior to such date. During the Sublet Period, the Seller shall provide reasonable access to the Louisville Facility for purposes of the Purchaser's use thereof and removal of the Purchased Assets. The Purchaser shall pay to the Seller the December rent for the Louisville Facility on or before December 1, 2024. All utility charges, occupancy costs, and ad valorem, real property, personal property and similar taxes with respect to the Louisville Facility and the Purchased Assets therein shall be prorated as of the Closing Date. The prorations shall be made so that the Seller shall be charged with the expense of the operation of the Louisville Facility up to the Closing Date and Buyer shall pay all such expenses (with the exception of the Louisville Facility rent, for which the Purchaser shall only be responsible for the month of December, as addressed above) on and following the Closing Date. See Del. Bankr. L.R. 6004-1(b)(iv)(G).

- (viii) **Use of Proceeds:** Paragraph 7 of the Proposed Order provides that, upon the closing of the Transaction, all sale proceeds shall be distributed to AHS Acquisition Holdings, LLC in its capacity as Prepetition Agent and Prepetition Lender. *See* Del. Bankr. L.R. 6004-1(b)(iv)(H).
- (ix) **Tax Exemption:** None. *See* Del. Bankr. L.R. 6004-1(b)(iv)(I).
- (x) **Record Retention:** None. *See* Del. Bankr. L.R. 6004-1(b)(iv)(J).
- (xi) **Sale of Avoidance Actions:** The Term Sheet provides for the sale of Avoidance Actions against any party that the Seller currently or in the past one (1) year has done business with. *See* Del. Bankr. L.R. 6004-1(b)(iv)(K).
- (xii) **Requested Findings as to Successor Liability:** The Purchase Agreement will contain successor liability provisions customary for transactions of this type. Additionally, Paragraphs 14-16 of the Proposed Order contains a customary successor liability provision. *See* Del. Bankr. L.R. 6004-1(b)(iv)(L).
- (xiii) **Sale Free and Clear of Unexpired Leases:** None. *See* Del. Bankr. L.R. 6004-1(b)(iv)(M).
- (xiv) **Credit Bid:** None. *See* Del. Bankr. L.R. 6004-1(b)(iv)(N).
- (xv) **Relief From Bankruptcy Rules 6004(h) and 6006(d):** The Debtors are requesting relief from the 14-day stay imposed by Bankruptcy Rules 6004(h). *See* Del. Bankr. L.R. 6004-1(b)(iv)(O).

BASIS FOR RELIEF

I. The Debtors Have Demonstrated a Sound Business Justification for the Private Sale.

18. Bankruptcy Code section 363(b)(1) provides a debtor, “after notice and a hearing, may use, sell or lease, other than in the ordinary course of business, property of the estate.” 11 U.S.C. § 363(b)(1). A sale of the debtor’s assets should be authorized pursuant to Bankruptcy Code section 363 if a sound business purpose exists for the proposed transaction. *See, e.g., Meyers v. Martin (In re Martin)*, 91 F.3d 389, 395 (3d Cir. 1996) (“Under Section 363, the debtor-in-possession can sell property of the estate . . . if he has an ‘articulated business justification’”); *In re Montgomery Ward Holding Corp.*, 242 B.R. 147, 153 (Bankr. D. Del. 1999); *In re Del. & Hudson Ry. Co.*, 124 B.R. 169, 174 (Bankr. D. Del. 1991).

19. Courts typically consider the following factors in determining whether a proposed sale satisfies this standard: (i) whether a sound business justification exists for the sale, (ii) whether adequate and reasonable notice of the sale was given to interested parties, (iii) whether the sale will produce a fair and reasonable price for the property, and (iv) whether the parties have acted in good faith. *See Del. & Hudson*, 124 B.R. at 176; *In re Phoenix Steel Corp.*, 82 B.R. 334, 335-36 (Bankr. D. Del. 1987).

20. A sound business purpose for the sale of a debtor's assets outside the ordinary course of business may be found where such a sale is necessary to preserve the value of assets for the estates, creditors, or interest holders. *See, e.g., In re Abbotts Dairies of Pa, Inc.*, 788 F.2d 143 (3d Cir. 1986); *In re Lionel Corp.*, 722 F.2d 1063 (2d Cir. 1983).

21. "Where the debtor articulates a reasonable basis for its business decisions (as distinct from a decision made arbitrarily or capriciously), courts will generally not entertain objections to the debtor's conduct." *Comm. of Asbestos-Related Litigants and/or Creditors v. Johns-Manville Corp. (In re Johns-Manville Corp.)*, 60 B.R. 612, 616 (Bankr. S.D.N.Y. 1986). There is a presumption that "in making a business decision the directors of a corporation acted on an informed basis, in good faith and in the honest belief that the action was in the best interests of the company." *In re Integrated Res.*, 147 B.R. at 656 (quoting *Smith v. Van Gorkom*, 488 A.2d 858, 872 (Del. 1985)); *see also In re S.N.A. Nut Co.*, 186 B.R. 98, 102 (Bankr. N.D. Ill. 1995) ("The business judgment rule 'is a presumption that in making the business decision the directors of a corporation acted on an informed basis, in good faith, and in the honest belief that the action was in the best interests of the company.'" (citations omitted); *In re Filene's Basement, LLC*, No. 11-13511 (KJC), 2014 WL 1713416, at *12 (Bankr. D. Del. Apr. 29, 2014) ("If a valid business justification exists, then a strong presumption follows that the agreement at issue was negotiated

in good faith and is in the best interests of the estate.”) (citations omitted). Thus, if a debtor’s actions satisfy the business judgment rule, then the transaction in question should be approved under Bankruptcy Code section 363(b)(1). Indeed, when applying the business judgment standard, courts show great deference to a debtor’s business decisions. *See Pitt v. First Wellington Canyon Assocs. (In re First Wellington Canyon Assocs.)*, 1989 WL 106838, at *3 (N.D. Ill. 1989) (“Under this test, the debtor’s business judgment . . . must be accorded deference unless shown that the bankrupt’s decision was taken in bad faith or in gross abuse of the bankrupt’s retained discretion.”).

22. The Debtors believe that a strong business justification exists for the private sale of the Purchased Assets. As set forth in the Green Declaration, the Debtors began marketing substantially all of their assets in May 2024. In that time, only the Stalking Horse Bidder materialized as a potential purchaser of the Debtors’ assets, and the Stalking Horse Bid consists entirely of a credit bid of the Stalking Horse Bidder’s Prepetition Liens. By contrast, the proposed private sale of the MedSurge Division will provide the Debtors with an immediate infusion of \$3,300,000 while simultaneously reducing the Debtors’ expenses.

II. Selling the Assets by Private Sale is Appropriate

23. Bankruptcy Rule 6004(f)(1) provides for sales of property by private sale or public auction. *See* Bankruptcy Rule 6004(f)(1) (“All sales not in the ordinary course of business may be by private sale or by public auction.”). Moreover, Section 363 of the Bankruptcy Code “clearly indicates that the manner of sale is within the discretion of the trustee[.]” *Berg v. Scanlon (In re Alisa P’ship)*, 15 B.R. 802, 802 (Bankr. D. Del. 1981). *See also In re Bakalis*, 220 B.R. 525, 531 (Bankr. E.D.N.Y. 1998) (noting that a trustee has “‘ample discretion to administer the estate, including authority to conduct public or private sales of estate property.’”) (internal citations omitted); *Penn Mut. Life Ins. Co. v. Woodscape Ltd. P’ship. (In re Woodscape Ltd. P’ship)*, 134

B.R. 165, 174 (Bankr. D. Md. 1991) (“There is no prohibition against a private sale...and this is no requirement that the sale be by public auction.”).

24. The Debtors’ decision to sell the Purchased Assets without an auction is supported by the facts of these Chapter 11 Cases. As noted in the Green Declaration, the Debtors were facing extremely hard decisions regarding the future of the MedSurge Division, and had already begun the process of winding that division down. Given the state of the business, there is simply no time to conduct a public auction or parallel track this sale with the Debtors’ existing auction process. Additionally, the Debtors have been marketing the Purchased Assets since May 2024 and no other purchaser has come forward with a higher and better offer than what is currently proposed for the MedSurge Division. Accordingly, the Debtors believe that an expedient private sale will maximize the value for the Purchased Assets, preserve jobs, and allow the medical surgical division to continue as a going concern. Continuing along the public auction track will only increase the Debtors’ carrying costs of the MedSurge Division and generate additional expenses associated with a sale process, with no corresponding increase in value realized. Thus, the Debtors respectfully submit that the proposed private sale will maximize the value of their estates for the benefit of all creditors and should be approved.

III. The Assets Should be Sold Free and Clear of Claims, Liens, Encumbrances, and Other Interests

25. The Debtors further submit it is appropriate to sell the Purchased Assets free and clear of all liens, claims, encumbrances, and other interests (collectively, “**Interests**”) other than Permitted Liens and Assumed Liabilities (as such terms will be defined or as otherwise provided in the Purchase Agreement) pursuant to section Bankruptcy Code 363(f), with any such Interests attaching to the applicable net sale proceeds of the Purchased Assets.

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

27. Section 363(f) is drafted in the disjunctive. Thus, satisfaction of any of the requirements enumerated therein will suffice to permit the Debtors' sale of the Purchased Assets free and clear of all interests (i.e., all liens, claims, rights, interests, charges, or encumbrances), except with respect to any interests that may be assumed liabilities under the applicable purchase agreement. *See In re Kellstrom Indus., Inc.*, 282 B.R. 787, 793 (Bankr. D. Del. 2002) (“[I]f any of five conditions are met, the debtor has the authority to conduct the sale free and clear of all liens.”); *see also In re Dundee Equity Corp.*, 1992 Bankr. LEXIS 436, at *12 (Bankr. S.D.N.Y. March 6, 1992) (“[s]ection 363(f) is in the disjunctive, such that the sale free of the interest concerned may occur if any one of the conditions of § 363(f) have been met.”); *Citicorp Homeowners Servs., Inc. v. Eliot (In re Eliot)*, 94 B.R. 343, 345 (E.D. Pa. 1988) (same); *Michigan Employment Sec. Comm’n v. Wolverine Radio Co. (In re Wolverine Radio Co.)*, 930 F.2d 1132, 1147 n.24 (6th Cir. 1991) (stating section 363(f) of the Bankruptcy Code is written in the disjunctive; holding the court may approve the sale “free and clear” provided at least one of the subsections of Bankruptcy Code section 363(f) has been satisfied).

28. The Debtors submit that the Purchased Assets may be sold free and clear of liens, claims, encumbrances, and other interests, all in accordance with at least one of the five conditions of Bankruptcy Code section 363(f). Consistent with Bankruptcy Code section 363(f)(2), each of

the parties holding liens on the Purchased Assets, if any, will consent to, or absent any objection to this Motion, will be deemed to have consented to, the Sale and transfers of the Purchased Assets. Furthermore, any party holding a valid lien against the Purchased Assets will be adequately protected by having its liens, if any, attach to the sale proceeds received by the Debtors from the Sale of the Purchased Assets to the Purchaser, in the same order of priority, with the same validity, force, and effect such creditor had prior to such sale, subject to any claims and defenses the Debtors and their estates may possess with respect thereto. Accordingly, Bankruptcy Code section 363(f) authorizes the sale and transfer of the Purchased Assets free and clear of any such Interests.

IV. The Purchased Assets Should be Sold Free and Clear of Successor Liability

29. The Proposed Order provides the Purchaser shall not have any successor liability related to sale of the Purchased Assets. *See* Proposed Order, ¶¶ 14-16. Extensive case law establishes that claims against a purchaser may be directed to the proceeds of a free and clear sale of property, and may not subsequently be asserted against that buyer.

30. Although Bankruptcy Code section 363(f) provides for the sale of assets “free and clear of any interests,” the term “any interest” is not defined anywhere in the Bankruptcy Code. *Folger Adam Security v. DeMatteis/MacGregor JV*, 209 F.3d 252, 257 (3d Cir. 2000). In the case of *In re Trans World Airlines, Inc.*, 322 F.3d 283, 288-89 (3d Cir. 2003), the Third Circuit specifically addressed the scope of the term “any interest.” The Third Circuit observed that while some courts have “narrowly interpreted that phrase to mean only in rem interests in property,” the trend in modern cases is towards “a more expansive reading of ‘interests in property’ which ‘encompasses other obligations that may flow from ownership of the property.’” *Id.* at 289 (citing 3 Collier on Bankruptcy 363.06[1]). As determined by the Fourth Circuit in *In re Leckie Smokeless Coal Co.*, 99 F.3d 573, 581-82 (4th Cir. 1996), a case cited approvingly and extensively by the Third Circuit in *Folger*, the scope of section 363(f) is not limited to *in rem* interests. Thus, the

Third Circuit in *Folger* cited *Leckie* for the proposition that the debtors “could sell their assets under § 363(f) free and clear of successor liability that otherwise would have arisen under federal statute.” *Folger*, 209 F.3d at 258.

31. Courts have consistently held a buyer of a debtor’s assets pursuant to a section 363 sale takes free from successor liability resulting from pre-existing claims. See *The Ninth Avenue Remedial Group v. Allis-Chalmers Corp.*, 195 B.R. 716, 732 (Bankr. N.D. Ind. 1996) (stating a bankruptcy court has the power to sell assets free and clear of any interest that could be brought against the bankruptcy estate during the bankruptcy); *MacArthur Co. v. Johns-Manville Corp. (In re Johns-Manville Corp.)*, 837 F.2d 89, 93-94 (2d Cir. 1988) (channeling of claims to proceeds consistent with intent of sale free and clear under Bankruptcy Code section 363(f)); *In re New England Fish Co.*, 19 B.R. 323, 329 (Bankr. W.D. Wash. 1982) (transfer of property in free and clear sale was free and clear of Title VII employment discrimination and civil rights claims of debtor’s employees); *In re Hoffman*, 53 B.R. 874, 876 (Bankr. D.R.I. 1985) (transfer of liquor license free and clear of any interest permissible even though the estate had unpaid taxes); *American Living Systems v. Bonapfel (In re All Am. of Ashburn, Inc.)*, 56 B.R. 186, 190 (Bankr. N.D. Ga. 1986) (product liability claims precluded from being asserted against his successor in a sale of assets free and clear); *WBQ P’ship v. Virginia Dept. of Medical Assistance Services (In re WBQ P’ship)*, 189 B.R. 97, 104-05 (Bankr E D. Va. 1995) (Commonwealth of Virginia’s right to recapture depreciation is an “interest” as used in section 363(f)).

32. The purpose and value of an order authorizing the transfer of the Purchased Assets would be frustrated if claimants thereafter could use the transfer as a basis to assert claims against the Purchaser. Under Bankruptcy Code section 363(f), the Purchaser is entitled to know the Purchased Assets are not tainted by latent claims that could be asserted against the Purchaser after

the proposed transactions are completed. Absent that ruling, the value of the Purchased Assets could be severely compromised.

33. Accordingly, consistent with the above-cited case law, the order approving the sale of the Purchased Assets should state the Purchaser is not liable as a successor under any theory of successor liability, for Interests that encumber or relate to the Purchased Assets.

V. The Private Sale is Proposed in Good Faith

34. The Debtors request the Court find the Purchaser is entitled to the benefits and protections provided by Bankruptcy Code section 363(m) in connection with the Sale. Bankruptcy Code section 363(m) provides, in pertinent part:

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

11 U.S.C. § 363(m).

35. Bankruptcy Code section 363(m) thus protects the purchaser of assets sold pursuant to Bankruptcy Code section 363 from the risk it will lose its interest in the purchased assets if the order allowing the sale is reversed on appeal, as long as such purchaser purchased or leased the assets in “good faith.” While the Bankruptcy Code does not define “good faith,” courts have held a purchaser shows its good faith through the integrity of its conduct during the course of the sale proceedings, finding that, where there is a lack of such integrity, a good-faith finding may not be made. *See, e.g., In re Abbotts Dairies of Pa., Inc.*, 788 F.2d 143, 147 (3d Cir. 1986) (“Typically, the misconduct that would destroy a [buyer’s] good faith status at a judicial sale involves fraud, collusion between the [proposed buyer] and other bidders or the trustee, or an attempt to take

grossly unfair advantage of other bidders.”); *In re Andy Frain Servs., Inc.*, 798 F.2d 1113 (7th Cir. 1986) (same); *In re Sasson Jeans, Inc.*, 90 B.R. 608, 610 (S.D.N.Y. 1988) (same).

36. The Debtors submit that the Purchaser is a “good faith purchaser” within the meaning of Bankruptcy Code section 363(m) entitled to the protections of Bankruptcy Code section 363(m). First, as set forth in the Green declaration, the Purchased Assets were subject to a robust market process by virtue of Debtors’ pre- and post-petition marketing efforts. Second, the Purchase Agreement entered into by the Debtors and the Purchaser will be the result of extensive arm’s-length negotiations, during which all parties will be represented by competent counsel. Thus, any purchase agreement with the Purchaser will be the culmination of the Debtors’ robust marketing efforts, and all negotiations will be conducted on an arm’s-length, good-faith basis. Third, where, as here, there is no indication of any “fraud or collusion between the purchaser and other bidders or the trustee, or an attempt to take grossly unfair advantage of other bidders” or similar conduct, there is no cause that would permit the sale to be avoided pursuant to Bankruptcy Code section 363(n). Finally, the Purchaser’s offer was evaluated and approved by the Debtors in consultation with their advisors. Accordingly, the Debtors believe that the Purchaser and the resulting Purchase Agreement should be entitled to the full protections of Bankruptcy Code section 363(m).

37. Moreover, because there will be absolutely no fraud or improper insider dealing of any kind, the sale does not constitute an avoidable transaction pursuant to Bankruptcy Code section 363(n), and, as a result, the Purchaser should receive the protections afforded good faith purchasers by Bankruptcy Code section 363(m). Accordingly, the Debtors request the Court make a finding at the Sale Hearing that the definitive Purchase Agreement ultimately reached with the Purchaser

was at arm's length and is entitled to the full protections of Bankruptcy Code section 363(m). The Debtors will submit evidence at the Sale Hearing to support these conclusions.

REQUEST FOR WAIVER OF BANKRUPTCY RULE 6004(H)

38. Bankruptcy Rule 6004(h) provides that “[a]n order authorizing the use, sale, or lease of property other than cash collateral is stayed until the expiration of 14 days after entry of the order, unless the court orders otherwise.” Fed. R. Bankr. P. 6004(h).

39. The Debtors believe that the private sale of the Purchased Assets should be consummated as soon as practicable to preserve and maximize value. Accordingly, the Debtors believe that it is appropriate that the Proposed Order be effective without any delay by providing that the fourteen-day stay under Bankruptcy Rule 6004(h) be waived.

NOTICE

40. Notice of this Motion will be given to: (a) the U.S. Trustee; (b) counsel to the Committee; (c) counsel to the Prepetition Lender, DIP Lender, and Stalking Horse Bidder; (d) the United States Attorney's Office for the District of Delaware; (e) the Internal Revenue Service; (f) all state and local taxing authorities with an interest in the Assets; (g) the Attorney General for the State of Delaware; (h) the Securities and Exchange Commission; (i) all other governmental agencies with an interest in the Sale and transactions proposed thereunder; (j) all parties known or reasonably believed to have asserted an Interest in the Purchased Assets; (k) the Debtors' insurance carriers; (l) the landlord for the Louisville Facility; (m) all parties entitled to notice pursuant to Local Rule 9013-1(m); and (n) any party that has requested notice pursuant to Bankruptcy Rule 2002. The Debtors submit that, under the circumstances, no other or further notice is required. In light of the nature of the relief requested herein, the Debtors submit no other or further notice is required. A copy of the Motion is also available on the website of the Debtors' notice and claims agent, available at <https://omniagentsolutions.com/Avante>.

NO PRIOR REQUEST

41. The Debtors have not previously sought the relief requested herein from the Court or any other court.

WHEREFORE, the Debtors respectfully request that the Court enter the Proposed Order granting the relief requested in the Motion and such other and further relief as may be just and proper.

Dated: November 6, 2024
Wilmington, Delaware

Respectfully submitted,

POLSINELLI PC

/s/ Christopher A. Ward

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*Counsel to the Debtors and
Debtors in Possession*

Exhibit A
Term Sheet

Ganim/Avante**Asset Acquisition Term Sheet**

This summary of terms (this “Term Sheet”), is being entered into as of November 6, 2024 (“Effective Date”), by and between D.R.E. Medical Group, Inc. (the “Seller”) and DRE Resume, LLC, an Ohio limited liability company (the “Purchaser” and together with the Seller, the “Parties”). This Term Sheet contains a description of certain principal terms of an asset purchase agreement (the “APA”) to be entered into by the Parties for the Section 363 sale by the Seller, and purchase by the Purchaser, of certain of the assets of the Seller free and clear of all interests, claims, liens and encumbrances pursuant to section 363(f) of the Bankruptcy Code (as defined below) (collectively, the “Transaction”).

Acquisition:

The Seller shall sell, transfer and assign to Purchaser all of its right, title and interest in, to and under the Purchased Assets (as defined below) free and clear of any and all liens, encumbrances (other than certain permitted encumbrances as set forth in the APA), claims, and other interests, subject to certain agreed upon title exceptions and as set forth in the Sale Order (as defined below). The Transaction shall be effectuated under section 363 of title 11 of the United States Code (the “Bankruptcy Code”) and shall be subject to approval by the United States Bankruptcy Court for the District of Delaware (the “Bankruptcy Court”) in connection with the chapter 11 cases of Jordan Health Products I, Inc., a Delaware corporation and its debtor affiliates (collectively, the “Debtors”).

Purchase Price:

In consideration for the Purchased Assets, the Purchaser agrees to pay to AHS Acquisition Holdings, LLC, a Delaware limited liability company, in its capacity as Prepetition Agent and Prepetition Lender to the Debtors on the date of the closing of the Transaction (the “Closing Date”): (i) the sum of \$3,300,000 *plus* (ii) the amount of cure costs associated with any executory contracts and unexpired leases designated by Purchaser for assumption by Seller and assignment to Purchaser (such contracts and leases, collectively, the “Assumed Contracts”), *minus* (iii) cash received by Seller for sales

of Seller's inventory occurring after the Effective Date if such sales are not approved by Purchaser (but for the avoidance of doubt, excluding sales resulting in accounts receivable that have not yet converted to cash), minus (iv) the amount of deposits paid by customers for goods that Purchaser must deliver to such customers after the Closing Date in excess of the amount of deposits spent towards the purchase of inventory to support those orders, in an amount not to exceed \$125,000, and minus (v) \$25,000 as a credit toward the December rent payment for the Louisville Facility lease (the "Rent Credit"). For the avoidance of doubt, while the Rent Credit serves as a purchase price reduction in connection with the Louisville Facility, it shall not serve to reduce the December rent payment, which shall be paid to the Seller in full, as set forth below.

Purchased Assets

The Purchaser shall purchase certain assets of the Seller, free and clear of all interests, claims, liens and encumbrances (other than certain permitted encumbrances) pursuant to section 363(f) of the Bankruptcy Code (collectively, the "Purchased Assets"). The Purchased Assets shall include, without limitation:

- All furniture, fixtures, equipment, inventory held by the Seller at the Closing Date, and all other personal property utilized in the operation of the Seller's business at its Louisville, Kentucky facility ("Louisville Facility").
- Accounts receivable of the Seller's business. For the avoidance of doubt, purchased accounts receivable shall include only accounts receivable to the extent that those accounts receivable are owed to the Seller and related to sales of the Seller's inventory.
- Certain customer lists, open customer orders, and designated Assumed Contracts related to the

operation of Seller's business. For purposes of clarity, to the extent that there are any designated executory contracts, Purchaser will be responsible for cure costs associated with those contracts and such amount shall increase the purchase price. To the extent that the sale of any customer list occurs, nothing herein or in the APA shall be construed to restrict or otherwise preclude Seller or AHS Acquisition Holdings, LLC, a Delaware limited liability company, as stalking horse purchaser of substantially all of the Debtors assets in their chapter 11 cases (the "Stalking Horse Purchaser"), from doing business with the Seller's customers, nor shall the APA include any non-compete, non-solicit, or other similar terms that restrict in any way the Seller's, Debtors' and/or the Stalking Horse Purchaser's operations.

- The content of all emails to or from any current or former employee of the Seller that the Seller or Debtors have archived, stored, or maintained that mentions or references the Seller or any supplier or customer of the Seller. This shall be limited solely to employees of the Seller and shall expressly exclude the Debtors' senior management team, including the CEO, CFO, and COO of the Debtors.
- The following websites owned by MedSurge: DRE Veterinary.com.
- All internet domains and domain names for DRE Veterinary, DRE Veterinary.com, MedSurge, and MedSurge.com.
- All Avoidance Actions (defined below) against any party that the Seller currently or in the past one (1) year has done business with. The Seller

agrees that it shall ‘bury’ and otherwise not prosecute the purchased Avoidance Actions.

“Avoidance Actions” means any and all claims and remedies of Seller under Sections 510 and 542 through 553 of the Bankruptcy Code or under similar state laws, including, without limitation, fraudulent conveyance claims, and all other causes of action of a trustee and debtor-in-possession under the Bankruptcy Code related to the Purchased Assets.

The Purchased Assets shall be defined with specificity in the APA

Excluded Assets

The Transaction shall exclude, without limitation, the following assets, rights, business, claims and properties from the Purchased Assets (the “Excluded Assets”): (i) any and all cash, cash equivalents, non-customer deposit accounts and escrows, restricted cash, refunds, tax returns and income tax receivables, (ii) all claims, causes of action, rights of recovery, setoff rights, and rights of recoupment of Debtors and their affiliates with respect to periods prior to the Closing Date, and any proceeds resulting therefrom; (iii) other than Avoidance Actions that are Purchased Assets, all avoidance, recovery, subordination, or other claims, actions or remedies that may be brought by or on behalf of the Seller, Debtors, their bankruptcy estates, or other authorized parties-in-interest under the Bankruptcy Code or applicable non-bankruptcy law; (iv) all of Debtors’ assets owned, used or held for use by Debtors in connection with the operation of any business other than that directly related to the Seller and the operation of the Louisville Facility; (v) the Seller’s ‘rental’ business; (vi) certain URLs, trade names, websites and other assets of the Seller that utilize ‘Avante,’ ‘Avante Health Solutions,’ or any ‘Avante’ permutation; (vii) the lease deposit for the Louisville Facility, and (viii) such other assets, properties, and rights set forth in the APA.

Assumed Liabilities

The Purchaser shall, effective as of the Closing Date, only assume those liabilities and obligations arising from (i) events occurring on or after the Closing Date with respect to the Purchased Assets, including under any Assumed Contracts; and (ii) claims against the Seller under section 503(b)(9) of the Bankruptcy Code that are properly allowed by the Bankruptcy Court, in an aggregate amount not to exceed \$50,000.

Excluded Liabilities

The Purchaser shall not assume or be deemed to have assumed any liabilities of the Debtors other than the Assumed Liabilities, including, without limitation, any liabilities associated with the Excluded Assets and specifically including, without limitation, any other existing indebtedness or encumbrances, and any federal, state, or local tax liabilities, in each case to be assumed, if at all, only in the Purchaser's sole discretion by a signed writing and court order.

Bankruptcy Matters

The APA shall contain covenants as required by the Purchaser, including, without limitation, the following:

1. The Debtors will file a motion in form and substance acceptable to the Purchaser, the Debtors and the DIP Secured Parties (the "Sale Motion") seeking an expedited hearing and the entry of orders in form and substance acceptable to the Purchaser and the Debtors and the DIP Secured Parties approving the sale of the Purchased Assets as a private sale, and assumption and assignment of the Assumed Contracts (the "Sale Order").
2. The Debtors agree to provide the Purchaser and its counsel with copies of all material motions, applications, supporting papers and notices prepared by any Debtor (including, without limitation, forms of orders and notices to interested parties) that relate primarily to the APA or the Purchaser as soon as reasonably practical under the circumstances, prior to the filing of same.

3. Prior to the Seller and the Purchaser entering into the APA, the Debtors may contact, through whatever means are reasonable, other potential purchasers for the Purchased Assets and engage in discussions with such potential purchasers.

Release

The APA or the Sale Order will contain a mutual release by the Parties except with respect to obligations specifically set forth in the APA or the Sale Order. The APA or the Sale Order to also include a mutual release for the Stalking Horse Purchaser.

Employee Matters

The Purchaser shall, effective as of the Closing Date, hire certain employees of the Seller. The APA will describe how employment status and employee related matters will be addressed as part of the Transaction. The Debtors and the Purchaser will reasonably cooperate with one another to initiate the hiring process prior to the Closing Date. The Debtors shall have no obligation to retain any employees at any time prior to the Closing Date.

Use of Premises

The Purchaser may occupy and conduct business at and from the Louisville Facility from the Closing Date through December 31, 2024 (the “Sublet Period”), as set forth herein, and the Sale Motion and Sale Order shall provide for this. The Louisville Facility lease will be rejected by the Debtors as of December 31, 2024. The Purchaser shall have removed all physical Purchased Assets from the Louisville Facility prior to such date. During the Sublet Period, the Seller shall provide reasonable access to the Louisville Facility for purposes of the Purchaser’s use thereof and removal of the Purchased Assets. The Purchaser shall pay to the Seller the December rent for the Louisville Facility on or before December 1, 2024. All utility charges, occupancy costs, and ad valorem, real property, personal property and similar taxes with respect to the Louisville Facility and the Purchased Assets therein shall be prorated as of the Closing Date. The prorations shall be made so that the Seller shall be charged with

the expense of the operation of the Louisville Facility up to the Closing Date and Buyer shall pay all such expenses (with the exception of the Louisville Facility rent, for which the Purchaser shall only be responsible for the month of December, as addressed above) on and following the Closing Date.

***Transition
Services***

Immediately after consummating the Closing, the Seller shall migrate all of the Seller's data and financial information to the Purchaser within (15) fifteen days. Any additional transition services required by the Purchaser shall be set forth in the APA, provided that the cost and expense of such transition services is covered by the Purchaser.

The Seller agrees that it shall re-direct all digital references known as computer hyperlink or links that directs access to any website or URL of or for Avantevet.com or DRE Veterinary.com to a website or URL of the Purchaser's choosing for ninety (90) days.

***Representations,
Warranties and
Covenants***

The APA will contain usual and customary representations, warranties, and covenants for similar bankruptcy section 363(f) sale transactions, including, without limitation, (i) the representations and warranties by the Purchaser that it has the requisite authority and has obtained the necessary consents to consummate the Transaction, and (ii) the acknowledgment by the Purchaser that it is consummating the Transaction and accepting the Purchased Assets on an "as is" "where is" basis.

***Regulatory
Approvals***

If, as, and to the extent requested by the Purchaser, the Purchaser and the Seller will use commercially reasonable efforts to obtain all regulatory approvals for the Transaction, including but not limited to, any required approvals by any federal, state, local or other agency or entity whose regulatory approval is required in order to consummate the Transaction and will cooperate fully with the other parties in promptly seeking to obtain all such authorizations, consents, orders, and approvals, giving such notices, and making such filings.

***Conditions to
Closing***

The APA will contain usual and customary conditions to closing of the Transaction, including a requirement that the Closing occur no later than two (2) business days following entry of the Sale Order.

Non-Binding

This Term Sheet shall be non-binding on the Parties hereto.

***Section 363
Provisions***

The Purchased Assets shall be transferred free and clear of all interests, liens, claims and encumbrances of any kind under Section 363(f), (h), (m) and (n) of the Bankruptcy Code.

Governing Law

The APA and the transactions contemplated thereby shall be governed by the laws of the State of Delaware.

“Fiduciary Out”

Notwithstanding anything to the contrary in this Term Sheet, nothing in this Term Sheet requires the Seller or the Debtors to take any action or to refrain from taking any action if taking or failing to take such action would be inconsistent with applicable law or their fiduciary obligations under applicable law.

Expenses

Each Party shall bear its own expenses in connection with the implementation of this Term Sheet. This Section shall be binding on the Parties and shall survive termination.

***Condition to
Purchaser
Execution of APA***

The Purchaser's willingness to agree to and execute the APA is conditioned upon the Seller providing evidence that the Stalking Horse Purchaser and the current secured lender consent to the sale to Purchaser.

***Execution of APA
and Closing***

The Parties agree to proceed in good faith to finalize and execute the APA. The intention of the Parties is to execute the APA and close the Transaction contemplated thereby on the same date. The Seller shall provide to the Purchaser a blinded list of all open and unfulfilled purchase orders prior to execution of the APA.

***Confidentiality;
Public
Announcements***

That certain Nondisclosure Agreement dated as of October 30, 2024, by and between the Parties, shall remain in full force and effect. The Parties agree that no public announcement related to the Transaction will be made by any Party without the agreement of the other Party. Notwithstanding the foregoing, the Debtors may disclose the terms and conditions of the Transaction (including this Term Sheet and the APA) in any filing required to be made in the Bankruptcy Court in furtherance of obtaining approval of this Transaction. This Section shall be binding on the Parties and shall survive termination.

***Stalking Horse
Purchaser / DIP
Lender Consent
Rights***

Notwithstanding anything herein to the contrary, the Stalking Horse Purchaser shall have consent rights over this Term Sheet and the APA, each of which shall be in form and substance satisfactory to the Stalking Horse Purchaser.

[Signature Pages Follow]

IN WITNESS WHEREOF, this Term Sheet is executed and delivered as of the Effective Date.

SELLER:

D.R.E. Medical Group, Inc.

By: _____

Name:

Title:

PURCHASER:

DRE Resume, LLC

By: _____

Name:

Title:

Exhibit B
Proposed Order

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

In re:

JORDAN HEALTH PRODUCTS I, INC., *et al.*,¹

Debtors.

Chapter 11

Case No. 24-12271 (TMH)

(Jointly Administered)

Re: Docket No. __

**ORDER PURSUANT TO SECTION 363 OF THE BANKRUPTCY CODE
(I) AUTHORIZING THE PRIVATE SALE OF CERTAIN OF DEBTORS' ASSETS
FREE AND CLEAR OF LIENS, CLAIMS, ENCUMBRANCES, AND INTERESTS, AND
(II) GRANTING RELATED RELIEF**

Upon the motion [Docket No. __] (the “**Motion**”)² of the above-captioned debtors and debtors in possession (each, a “**Debtor**” and collectively, the “**Debtors**”), for the entry of an order (this “**Sale Order**”), pursuant to section 363 of the Bankruptcy Code, Bankruptcy Rule 6004, and Local Rule 6004-1, (i) authorizing the Debtors to (a) enter into a definitive Purchase Agreement containing the material terms set forth in that certain *Term Sheet* dated as of November __, 2024, entered into by and between the Debtors, on the one hand, and DRE Resume, LLC, an Ohio Limited Liability Company (the “**Purchaser**”) on the other hand (the “**Term Sheet**”), and (b) sell and convey substantially all of the assets of Debtor D.R.E. Medical, Inc. (the “**Purchased Assets**”) to the Purchaser free and clear of all liens, claims, encumbrances, and interests of any other kind (collectively, “**Interests**”) through a private sale; and (ii) granting related relief, all as more fully

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number are: Jordan Health Products I, Inc. (9981); Global Medical Imaging, LLC (8828); D.R.E. Medical Group, Inc. (2356); Oncology Services International, Inc. (2514); Technical Options of Georgia, Inc. (5488); Jordan Health Products III, Inc. (9350); Transtate Equipment Company, Inc. (4201); Equipment Maintenance Solutions, Inc. (7216); Ultra Solutions Holdings, Inc. (2305); Ultra Solutions, LLC (3425); Pacific Medical Group, Inc. (4339); and Pacific Medical Holdings, Inc. (2135). The Debtors’ service address is 8700 W Bryn Mawr Ave., Suite 720S, Chicago, IL 60631. Debtor Jordan Health Products I, Inc. is doing business as Avante Health Solutions.

² Capitalized terms used but not otherwise defined herein shall have the meanings set forth in the Purchase Agreement (as defined below), unless otherwise indicated herein.

described in the Motion; and Purchaser having submitted the highest and best offer for the Purchased Assets; and this Court having jurisdiction to consider the Motion and the relief requested therein pursuant to 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware, dated February 29, 2012; and consideration of the Motion and the requested relief being a core proceeding pursuant to 28 U.S.C. § 157(b); and venue being proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409; and due and proper notice of the Motion having been provided as set forth therein; and such notice having been adequate and appropriate under the circumstances, and it appearing that no other or further notice need be provided; and the Court having reviewed the Motion and the Green Declaration; and the Court having held a hearing, if necessary, to consider the relief requested in the Motion (the “**Sale Hearing**”) at which time all interested parties were offered an opportunity to be heard with respect to the Motion; and upon the record of the Sale Hearing, if any, and having heard statements of counsel and the evidence presented in support of the relief requested in the Motion at the Sale Hearing; and upon all of the proceedings held before the Court; and all objections and responses to the relief requested in the Motion, if any, having been heard and overruled, withdrawn, or resolved on the terms set forth in this Sale Order; timely, proper and sufficient notice of the Motion, the Sale Hearing, the Purchase Agreement (as defined below), the purchase and sale of the Purchased Assets (as defined in the Purchase Agreement) and the Court having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and it appearing that the relief requested in the Motion is in the best interests of the Debtors, their estates, their creditors, and all parties in interest; and upon all of the proceedings had before this Court; and after due deliberation and sufficient cause appearing therefor:

FOUND AND CONCLUDED THAT:³

Findings of Fact, Conclusions of Law, Jurisdiction, Venue, and Final Order

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

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

C. This Court has jurisdiction to consider the Motion under 28 U.S.C. §§ 157 and 1334 and the Amended Standing Order of Reference from the United States District Court for the District of Delaware dated as of February 29, 2012. This is a core proceeding under 28 U.S.C. § 157(b) and the Court may enter a final order consistent with Article III of the United States Constitution. Venue of these cases and the Motion in this district is proper under 28 U.S.C. §§ 1408 and 1409.

D. This Sale Order constitutes a final order within the meaning of 28 U.S.C. § 158(a). Notwithstanding Bankruptcy Rules 6004(h), 6006(d), and 7062, and to the extent necessary under Bankruptcy Rule 9014 and Rule 54(b) of the Federal Rules of Civil Procedure, as made applicable by Bankruptcy Rule 7054, this Court expressly finds that there is no just reason for delay in the implementation of this Sale Order and expressly directs entry of this Sale Order as set forth herein which shall not be subject to any stay.

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

Notice of the Transaction, the Term Sheet, the Purchase Agreement, and the Sale Hearing

E. As evidenced by the affidavits or declarations of service previously filed with this Court, [Docket No. □], proper, timely, adequate, and sufficient notice of the Motion, the Sale Hearing, the Term Sheet, the Purchase Agreement, and the sale of the Purchased Assets (the “**Transaction**”), and the proposed form of this Sale Order have been provided in accordance with sections 102(1), 363 and 365 of the Bankruptcy Code, and Bankruptcy Rules 2002, 6004, 6006, and 9014. The Debtors have complied with all obligations to provide notice of the Motion, the Term Sheet, the Purchase Agreement, the Transaction, and the proposed form of this Sale Order. The aforementioned notices are good, sufficient, and appropriate under the circumstances, and no other or further notice of the Motion, the Sale Hearing, the Term Sheet, the Purchase Agreement, the Transaction, or this Sale Order is required for the entry of this Sale Order.

F. A reasonable opportunity to object or to be heard regarding the relief requested in the Motion was afforded to all interested persons and entities.

Highest or Otherwise Best Offer

G. The Purchased Assets were adequately marketed by the Debtors and their advisors, and the consideration provided by the Purchaser under the Purchase Agreement constitutes the highest and best offer and provides fair, adequate, sufficient, and reasonable consideration to the Debtors for the Purchased Assets that constitutes reasonably equivalent value (as those terms are defined in each of the Uniform Fraudulent Transfer Act, Uniform Fraudulent Conveyance Act, and section 548 of the Bankruptcy Code) and fair consideration (under the Bankruptcy Code and under the laws of the United States, any state, territory, possession, or the District of Columbia) for the Purchased Assets being conveyed to the Purchaser. The Purchase Agreement presents the best opportunity to maximize and realize the value of the Purchased Assets for the benefit of the Debtors, their estates, and their creditors. The Debtors’ determination that the consideration

provided by the Purchaser under the Purchase Agreement constitutes the highest and best offer for the Purchased Assets is a valid and sound exercise of the Debtors' business judgment.

H. Approval of the Motion and the Purchase Agreement, and the consummation of the Transaction contemplated thereby, are in the best interests of the Debtors, their creditors, their estates, and other parties in interest. The Debtors have demonstrated good, sufficient, and sound business reasons and justifications for entering into the Transaction and the performance of their obligations under the Purchase Agreement.

I. Entry of this Sale Order approving the Purchase Agreement, and all of the provisions thereof, in form and substance consistent with and as required by the terms of the Purchase Agreement, is a condition precedent to the Purchaser's consummation of the Transaction.

J. The Purchase Agreement will not be entered into, and neither the Debtors nor the Purchaser will enter into the Purchase Agreement, or proposes to consummate the Transaction, for the purpose of hindering, delaying, or defrauding the Debtors' present or future creditors. Neither the Debtors nor the Purchaser is entering into the Purchase Agreement, or proposing to consummate the Transaction, fraudulently, for the purpose of statutory or common law fraudulent conveyance and fraudulent transfer claims whether under the Bankruptcy Code or under the laws of the United States, any state, territory, possession thereof or the District of Columbia or any other applicable jurisdiction with laws substantially similar to the foregoing.

K. The terms and conditions set forth in the Purchase Agreement, including, without limitation, the form and amount of total consideration to be realized by the Debtors pursuant to the Purchase Agreement: (i) are in the best interests of the Debtors' creditors and estates; and (ii) constitute fair value, full and adequate consideration, reasonably equivalent value, and reasonable market value for the Purchased Assets.

Good Faith of the Debtors and the Purchaser

L. The sale process conducted by the Debtors, including, without limitation, the Purchaser's participation in that process, was at arm's length, non-collusive, and in good faith.

R. The Purchase Agreement and the Transaction contemplated thereunder were proposed, negotiated, and entered into by and among the Debtors and the Purchaser without collusion, in good faith, and at arm's length.

S. The Purchaser is entering into the Transaction in good faith and is a good faith buyer within the meaning of section 363(m) of the Bankruptcy Code, and is therefore entitled to the full protection of that provision and otherwise has proceeded in good faith in all respects in connection with the Chapter 11 Cases and the Transaction. Neither the Debtors, the Purchaser, nor any [Affiliate]⁴ of either have engaged in any action or inaction that would cause or permit the Purchase Agreement or the Transaction to be avoided or impose any costs or damages under section 363(n) of the Bankruptcy Code.

T. The Purchaser is a "good faith purchaser" and is acting in good faith within the meaning of section 363(m) of the Bankruptcy Code and, as such, is entitled to all the protections afforded thereby and would not consummate the Transaction without such protections. The Purchaser has proceeded in good faith in all respects in that, among other things: (i) the Purchaser recognized that the Debtors were free to deal with any other party interested in acquiring the Purchased Assets; and (ii) all payments to be made by the Purchaser and all other material agreements or arrangements entered into by the Purchaser and the Debtors in connection with the Transaction have been disclosed and are appropriate. The sale price in respect of the Purchased Assets was not controlled by any agreement among potential bidders and neither the Debtors nor

⁴ To be defined in the Purchase Agreement or this Sale Order.

the Purchaser has engaged in collusion or any conduct that would cause or permit the Purchase Agreement to be avoided or costs and damages to be imposed under section 363(n) of the Bankruptcy Code.

The Requirements of Section 363 Are Satisfied

M. The Debtors have demonstrated a sufficient basis and compelling circumstances requiring the Debtors to (i) enter into the Purchase Agreement and (ii) sell the Purchased Assets, and such actions are appropriate exercises of the Debtors' business judgment and in the best interests of the Debtors, their estates, and their creditors. Such business reasons include, without limitation, the fact that: (i) the Purchase Agreement constitutes the highest and best offer for the Purchased Assets; (ii) the Purchase Agreement presents the best opportunity to maximize and realize the value of the Purchased Assets for the benefit of the Debtors, their estates, and their creditors; and (iii) unless the sale is concluded expeditiously, the recoveries to the Debtors' estates and constituencies on account of the Purchased Assets.

N. The Purchase Agreement and any related documents are valid and binding contracts between the Debtors and the Purchaser and shall be enforceable pursuant to their terms.

O. The Purchased Assets constitute property of the Debtors' estates within the meaning of section 541(a) of the Bankruptcy Code and title thereto is presently vested in the Debtors' estates.

P. The sale of all Purchased Assets to the Purchaser under the terms of the Purchase Agreement satisfies the applicable provisions of section 363(f) of the Bankruptcy Code, and, except as expressly provided in the Purchase Agreement, the transfer of the Purchased Assets to the Purchaser will be free and clear of any and all Interests of any kind or nature whatsoever, whether arising prior to or subsequent to the commencement of these Chapter 11 Cases, whether known or unknown, and whether imposed by agreement, understanding, law, equity, or otherwise

arising under or out of, in connection with, or in any way related to the Debtors, the Purchased Assets, the operation of the Debtors' businesses on or prior to the consummation of the Transaction pursuant to the Purchase Agreement (the "**Closing**"), or the transfer of the Purchased Assets to the Purchaser, because, in each case, one or more of the standards set forth in section 363(f)(1)-(5) of the Bankruptcy Code have been satisfied (provided, however, that nothing herein shall be deemed or construed as a ruling or determination that the Assumed Liabilities encumber the Purchased Assets) and will not subject the Purchaser, any Affiliates of Purchaser, or any of its or their respective officers, directors, representatives, controlling persons, members, employees, agents, representatives, shareholders, partners, successors and assigns or any of their respective assets (including, without limitation, the Purchased Assets), to any liability for any Interests whatsoever (including, without limitation, under any theory of equitable law, antitrust, setoff (except with respect to setoffs that were effected prior to the Petition Date), or successor or transferee liability.

Q. The Purchaser would not have entered into the Purchase Agreement and would not consummate the Transaction, thus adversely affecting the Debtors, their estates, their creditors, their employees, and other parties in interest, if the sale of the Purchased Assets was not free and clear of any and all Interests (other than Permitted Liens), or if the Purchaser would be, or in the future could be, liable for any Interests or Excluded Liabilities, including, without limitation, and, as applicable, certain liabilities that expressly are not assumed by the Purchaser as set forth in the Purchase Agreement or in this Sale Order. A sale of the Purchased Assets other than one free and clear of all such Interests would adversely impact the Debtors and their estates and creditors, and would yield substantially less value for the Debtors' estates, with less certainty than the Transaction.

R. The transfer of the Purchased Assets to the Purchaser under the Purchase Agreement is a legal, valid, and effective transfer of all of the legal, equitable, and beneficial right,

title, and interest in and to the Purchased Assets free and clear of any and all Interests (other than Permitted Liens and Assumed Liabilities).

S. The Purchaser is not deemed to be a successor to the Debtors or their estates by reason of any theory of law or equity, and the Purchaser shall not assume or in any way be responsible for any liability or obligation of any of the Debtors or their estates by reason thereof. The Purchaser is not deemed to be a continuation or substantial continuation of the Debtors or their estates, and there is no continuity between the Purchaser and the Debtors. The Purchaser does not have a common identity of incorporators, directors, or officers with the Debtors.

T. There is no legal or equitable reason to delay the Transaction. The Transaction must be approved and consummated promptly to preserve and maximize the value of the Debtors' Assets.

U. The Debtors have demonstrated both (i) good, sufficient, and sound business purposes and justifications, and (ii) compelling circumstances for the Transaction pursuant to section 363(b) of the Bankruptcy Code prior to, and outside of, a Chapter 11 plan in that, among other things, absent the immediate consummation of the Transaction, the value of the Purchased Assets will be harmed. To maximize the value of the Purchased Assets, it is essential that the Transaction occur within the timeframe set forth in the Purchase Agreement. Time is of the essence in consummating the Transaction. Accordingly, there is good cause to waive the stay contemplated by Bankruptcy Rules 6004(h) and 6006(d). In addition, the Court finds that there are no unresolved objections that might form the basis for an appealable issue.

V. The sale and assignment of the Purchased Assets outside of a Chapter 11 plan pursuant to the Purchase Agreement neither impermissibly restructures the rights of the Debtors' creditors nor impermissibly dictates the terms of a liquidating plan for the Debtors. Neither the

Purchase Agreement nor the Transaction contemplated thereby constitutes a sub rosa Chapter 11 plan.

IT IS HEREBY ORDERED THAT:

General Provisions

1. The Motion is granted and approved as set forth herein. The Debtors are authorized and directed to (a) enter into the Term Sheet attached to the Motion as **Exhibit A**, (b) enter into the Purchase Agreement attached hereto as **Exhibit A**, (c) sell the Purchased Assets to the Purchaser, and (d) transfer, assign, and convey the Purchased Assets in accordance with the Purchase Agreement.

2. All objections to the Motion or the relief requested therein that have not been withdrawn, waived, or settled as announced to the Court at the Sale Hearing, or by stipulation filed with the Court, or as resolved in this Sale Order, and all reservations of rights included therein, are hereby overruled on the merits with prejudice. All holders of Interests who did not object, or withdrew their objections to the Transaction, are deemed to have consented to the Transaction pursuant to section 363(f)(2) of the Bankruptcy Code, and all holders of Interests are adequately protected – thus satisfying section 363(e) of the Bankruptcy Code.

Approval of the Purchase Agreement

3. The Purchase Agreement, all of the terms and conditions thereof, and the Transaction contemplated therein are approved in all respects. The failure specifically to include any particular provision of the Purchase Agreement in this Sale Order shall not diminish or impair the effectiveness of such provision, it being the intent that the Purchase Agreement be authorized and approved in its entirety. The transfer of the Purchased Assets by the Debtors to the Purchaser shall be a legal, valid, and effective transfer of the Purchased Assets. The consummation of the Transaction is hereby approved and authorized under sections 363(b), (f), and (k) of the

Bankruptcy Code. The automatic stay pursuant to section 362 of the Bankruptcy Code, to the extent applicable, is hereby modified to allow the Purchaser to enforce its rights pursuant to the Purchase Agreement and this Sale Order.

4. The Debtors are authorized to take any and all actions necessary or appropriate to perform, consummate, implement, and close the Transaction, including, without limitation, the sale to the Purchaser of the Purchased Assets, in accordance with the terms and conditions set forth in the Purchase Agreement and this Sale Order, including, without limitation, executing, acknowledging, and delivering such deeds, assignments, conveyances, and other assurance, documents, and instruments of transfer and taking any action for purposes of assigning, transferring, granting, conveying, and confirming to the Purchaser, or reducing to possession, any or all of the Purchased Assets, and entering into any other agreements related to implementing the Transaction.

Sale and Transfer Free and Clear of all Liens and Claims

5. Except as otherwise expressly provided in the Purchase Agreement solely with respect to Permitted Liens, if any, the Purchased Assets shall be sold to the Purchaser free and clear of any and all Interests, liabilities (including, without limitation, Excluded Liabilities), interests, rights, and encumbrances of any kind whatsoever, including, without limitation, any escheat claims or obligations of the Debtors arising prior to the Closing, rights of setoff (except with respect to setoffs that were validly effected prior to the Petition Date), and all other matters of any kind and nature, whether known or unknown, contingent or non-contingent, liquidated or unliquidated, matured or unmatured, whether arising prior to or subsequent to the commencement of the Chapter 11 Cases (but, for the avoidance of doubt, in each case arising from the ownership or the operation of the Purchased Assets prior to the date of the Closing (the “**Closing Date**”)), and any consensual or nonconsensual lien, statutory lien, real or personal property lien, mechanics’

lien, materialmans' lien, warehousemans' lien, tax lien, and any and all "liens" as that term is defined and used in the Bankruptcy Code, including section 101(37) thereof. All Interests from which the Purchased Assets are sold free and clear shall attach to the proceeds of the sale of the Purchased Assets to be received by the Debtors in the same order and priority that such Interests had prior to the Closing.

6. All of the Debtors' right, title, and interest in and to, and possession of, the Purchased Assets shall be immediately vested in the Purchaser as set forth in the Purchase Agreement, pursuant to sections 105(a), 363(b), 363(f), and 365 of the Bankruptcy Code free and clear of any and all Interests except for Assumed Liabilities and Permitted Liens. Such transfer shall constitute a legal, valid, binding, and effective transfer of such Purchased Assets to Purchaser.

7. Upon the closing of the Transaction, all sale proceeds shall be distributed to AHS Acquisition Holdings, LLC in its capacity as Prepetition Agent and Prepetition Lender.

8. This Sale Order: (i) shall be effective as a determination that as of the Closing, (a) no Interests or Excluded Liabilities (other than Assumed Liabilities and Permitted Liens) will be capable of being asserted against the Purchaser, any Affiliates of Purchaser or any their respective officers, directors, representatives, controlling persons, members, employees, agents, representatives, shareholders, partners, successors and assigns or any of their respective assets (including, without limitation, the Purchased Assets), (b) the Purchased Assets shall have been transferred to the Purchaser free and clear of any and all Interests, except for Assumed Liabilities and Permitted Liens, if any, and as provided for in the Purchase Agreement, and (c) the conveyances described herein have been effected; and (ii) is and shall be binding upon and govern the acts of all entities, including, without limitation, all filing agents, filing officers, title agents, title companies, recorders of mortgages, recorders of deeds, registrars of deeds, registrars of patents, trademarks, or other intellectual property, administrative agencies, governmental

departments, secretaries of state, federal and local officials, and all other persons and entities who may be required by operation of law, the duties of their office, or contract, to accept, file, register, or otherwise record or release any documents or instruments, or who may be required to report or insure any title or state of title; and each of the foregoing persons and entities is hereby authorized and directed to accept for filing any and all of the documents and instruments necessary or appropriate to consummate the transactions contemplated by the Purchase Agreement.

9. Except as otherwise expressly provided in the Purchase Agreement and with respect to the Assumed Liabilities and Permitted Liens, if any, all persons and entities (and their respective successors and assigns), including, without limitation, all debt security holders, equity security holders, Affiliates, governmental, tax and regulatory authorities, lenders, customers, vendors, employees, trade creditors, litigation claimants, and other creditors holding Interests arising under or out of, in connection with, or in any way relating to, the Debtors, the Purchased Assets, the ownership, sale, or operation of the Purchased Assets prior to Closing or the transfer of the Purchased Assets to the Purchaser are hereby forever barred and estopped from asserting such Interests and Excluded Liabilities against the Purchaser, any Affiliates of Purchaser or any their respective officers, directors, representatives, controlling persons, members, employees, agents, representatives, shareholders, partners, successors or assigns or any of their respective assets (including, without limitation, the Purchased Assets).

10. If any person or entity that has filed financing statements, mortgages, lis pendens or other documents or agreements evidencing Interests against or in the Purchased Assets shall not have delivered to the Debtors prior to the Closing of the Transaction, in proper form for filing and executed by the appropriate parties, termination statements, instruments of satisfaction, releases of all Interests that the person or entity has with respect to the Purchased Assets or otherwise, then only with regard to the Purchased Assets that are purchased by the Purchaser pursuant to the

Purchase Agreement and this Sale Order: (i) the Debtors are hereby authorized and directed to execute and file such statements, instruments, releases, and other documents on behalf of the person or entity with respect to the Purchased Assets; (ii) the Purchaser is hereby authorized to file, register, or otherwise record a certified copy of this Sale Order, which, once filed, registered, or otherwise recorded, shall constitute conclusive evidence of the release of all Interests against the Purchaser and the Purchased Assets; and (iii) the Purchaser may seek in this Court or any other court to compel appropriate parties to execute termination statements, instruments of satisfaction, and releases of all Interests with respect to the Purchased Assets other than Assumed Liabilities and Permitted Liens, if any. This Sale Order is deemed to be in recordable form sufficient to be placed in the filing or recording system of each and every federal, state, or local government agency, department, or office. Notwithstanding the foregoing, the provisions of this Sale Order authorizing the sale and assignment of the Purchased Assets free and clear of any and all Interests shall be self-executing, and neither the Debtors nor the Purchaser shall be required to execute or file releases, termination statements, assignments, consents, or other instruments to effectuate, consummate, and implement the provisions of this Sale Order.

11. To the maximum extent permitted by applicable law, the Purchaser shall be authorized, as of the Closing Date, to operate under any license, permit, registration, and governmental authorization or approval (collectively, the “**Licenses**”) of the Debtors with respect to the Purchased Assets, and all Licenses are deemed to have been, and hereby are directed to be, transferred to the Purchaser pursuant to the Purchase Agreement. To the extent any Licenses cannot be transferred to the Purchaser in accordance with the previous sentence, such Licenses: (i) shall be in effect while the Purchaser, with assistance from the Debtors, works promptly and diligently to apply for and secure all necessary government approvals for the transfer or issuance

of new Licenses to the Purchaser; and (ii) shall terminate on a license-by-license basis following issuance of a new License to the Purchaser.

12. Nothing in this Sale Order or the Purchase Agreement releases, nullifies, precludes or enjoins the enforcement of any police or regulatory liability to a governmental unit that any entity would be subject to as owner or operator of property sold or transferred pursuant to this Sale Order after the occurrence of the Closing Date (with respect to such property), provided, however, that the foregoing shall not limit, diminish or otherwise alter the Debtors' or the Purchaser's defenses, claims, causes of action, or other rights under applicable non-bankruptcy law with respect to any liability that may exist to a governmental unit at such owned or operated property. Nothing in this Sale Order or the Purchase Agreement authorizes the transfer or assignment of any governmental (i) license, (ii) permit, (ii) registration, (iv) authorization, or (v) approval, or the discontinuation of any obligation thereunder, without compliance with all applicable legal requirements and approvals under police or regulatory law. To the extent provided by section 525 of the Bankruptcy Code, a governmental unit may not deny, revoke, suspend, or refuse to renew any permit, license, or similar grant to a person that is or has been a bankrupt or a debtor under the Bankruptcy Code, or another person with whom such bankrupt or debtor has been associated, solely because such bankrupt or debtor is or has been a bankrupt or debtor under the Bankruptcy Code, has been insolvent before the commencement of the case under the Bankruptcy Code, or during the case but before the debtor is granted or denied a discharge, or has not paid a debt that is dischargeable in the case under the Bankruptcy Code or that was discharged under the Bankruptcy Code. Nothing in this Sale Order divests any tribunal of any jurisdiction it may have under police or regulatory law to interpret this Sale Order or to adjudicate any defense asserted under this Sale Order, subject to the Debtors' and the Purchaser's rights to assert in that forum or

before this Court that any such laws are not in fact police or regulatory law or that the matter should be heard by the Bankruptcy Court.

13. Unless otherwise provided herein or the Purchase Agreement, all persons and entities that are in possession of some or all of the Purchased Assets as of the Closing Date are directed to surrender possession of such Purchased Assets to the Purchaser on the Closing Date. All persons or entities are prohibited from taking any action to adversely affect or interfere with the ability of the Debtors to transfer the Purchased Assets to the Purchase in accordance with the Purchase Agreement.

No Successor or Transferee Liability

14. Neither the Purchaser, nor any Affiliate, successor, or assignee of the Purchaser, shall be deemed, as a result of any action taken in connection with the Purchase Agreement, the consummation of the Transaction contemplated by the Purchase Agreement, or the transfer or operation of the Purchased Assets to: (i) be a legal successor, or otherwise be deemed a successor to the Debtors; (ii) have, de facto or otherwise, merged with or into the Debtors; (iii) be an alter ego or a mere continuation or substantial continuation of the Debtors including, without limitation, within the meaning of any foreign, federal, state, or local revenue law, pension law, the Employee Retirement Income Security Act, the Consolidated Omnibus Budget Reconciliation Act (“**COBRA**”), the WARN Act (29 U.S.C. §§ 2101 et seq.) (“**WARN**”), the Comprehensive Environmental Response Compensation and Liability Act (“**CERCLA**”), the Fair Labor Standard Act, Title VII of the Civil Rights Act of 1964 (as amended), the Age Discrimination and Employment Act of 1967 (as amended), the Federal Rehabilitation Act of 1973 (as amended), the National Labor Relations Act, 29 U.S.C. § 151, et seq. (the “**NLRA**”); or (iv) be liable for any environmental liabilities, debts, claims, or obligations arising from conditions first existing on or prior to Closing (including, without limitation, the presence of hazardous, toxic, polluting, or

contaminating substances or wastes), which may be asserted on any basis, including, without limitation, under CERCLA, any liabilities, debts, or obligations of or required to be paid by the Debtors for any taxes of any kind for any period, labor, employment, or other law, rule or regulation (including, without limitation, filing requirements under any such laws, rules, or regulations), any escheat liabilities arising prior to the Closing, or under any products liability or consumer protection law or doctrine with respect to the Debtors' liability under such law, rule, or regulation or doctrine.

15. Other than as expressly set forth in the Purchase Agreement solely with respect to Assumed Liabilities and Permitted Liens, if any, neither the Purchaser, nor any Affiliate, successor, or assignee of the Purchaser shall have any responsibility for (i) any liability or other obligation of the Debtors or related to the Purchased Assets or (ii) any Interests against the Debtors, any of their predecessors or Affiliates, or the Purchased Assets. Other than as expressly set forth in the Purchase Agreement solely with respect to Assumed Liabilities and Permitted Liens, if any, neither the Purchaser, nor any Affiliate, successor, or assignee of the Purchaser, shall have any liability whatsoever with respect to the Debtors' (or their predecessors' or Affiliates') businesses or operations or any of the Debtors' (or their predecessors' or Affiliates') obligations based, in whole or part, directly or indirectly, on any theory of successor or vicarious liability of any kind or character, or based upon any theory of antitrust, environmental, successor or transferee liability, de facto merger or substantial continuity, labor and employment or products liability, whether known or unknown as of the Closing, now existing or hereafter arising, asserted or unasserted, fixed or contingent, liquidated or unliquidated, including, without limitation, (i) liabilities on account of any taxes arising, accruing or payable under, out of, in connection with, or in any way relating to the ownership or operation of the Purchased Assets prior to the Closing; (ii) liabilities or obligations under WARN; (iii) escheat liabilities arising prior to Closing; or (iv) liabilities or

obligations under CERCLA, or any foreign, federal, state, or local labor, employment, or environmental law whether of similar import or otherwise by virtue of the Purchaser's purchase of the Purchased Assets or assumption of the Assumed Liabilities by the Purchaser or an Affiliate of the Purchaser (all liabilities described in paragraph 13 and paragraph 14 of this Sale Order, **"Successor or Transferee Liability"**).

16. Effective upon the Closing, except with respect to Assumed Liabilities and Permitted Liens, if any, all persons and entities are forever prohibited from commencing or continuing in any matter any action or other proceeding, whether in law or equity, in any judicial, administrative, arbitral, or other proceeding against the Purchaser, any Affiliates of Purchaser or any their respective officers, directors, representatives, controlling persons, members, employees, agents, representatives, shareholders, partners, successors and assigns or any of their respective assets (including, without limitation, the Purchased Assets), with respect to any (i) Lien or Claim or (ii) Successor or Transferee Liability, including, without limitation, the following actions with respect to clauses (i) and (ii): (a) commencing or continuing any action or other proceeding pending or threatened; (b) enforcing, attaching, collecting, or recovering in any manner any judgment, award, decree, or order; (c) creating, perfecting, or enforcing any Lien or Claim; (d) asserting any setoff (except with respect to setoffs that were effected prior to the Petition Date), right of subrogation, or recoupment of any kind; (e) commencing or continuing any action, in any manner or place, that does not comply with, or is inconsistent with, the provisions of this Sale Order or other orders of this Court, or the agreements or actions contemplated or taken in respect hereof; or (f) revoking, terminating, or failing or refusing to renew any license, permit, or authorization to operate any of the Purchased Assets or conduct any of the businesses operated with such Purchased Assets.

17. This Sale Order shall be effective as a determination that, as of Closing, all Interests (other than Permitted Liens and Assumed Liabilities) have been unconditionally released, discharged, and terminated as to the Purchaser and Purchased Assets.

Good Faith of the Purchaser

18. The Purchaser is a good faith purchaser within the meaning of section 363(m) of the Bankruptcy Code and, as such, is entitled to the full protections of section 363(m) of the Bankruptcy Code. The Transaction contemplated by the Purchase Agreement is undertaken by the Purchaser without collusion and in good faith, as that term is defined in section 363(m) of the Bankruptcy Code.

19. Neither the Debtors, the Purchaser nor any Affiliate of either the Debtors or the Purchaser have engaged in any collusion with other bidders or other parties or have taken any other action or inaction that would cause or permit the Transaction to be avoided or costs or damages to be imposed under section 363(n) of the Bankruptcy Code or otherwise. The consideration provided by the Purchaser for the Purchased Assets under the Purchase Agreement is fair and reasonable and is not less than the value of such Purchased Assets, and the Transaction may not be avoided under section 363(n) of the Bankruptcy Code.

20. The Purchase Agreement was not entered into for the purpose of hindering, delaying, or defrauding present or future creditors of the Debtors. None of the Debtors or Purchaser is entering into the Purchase Agreement or proposing to consummate the Transaction fraudulently or for the purpose of statutory and common law fraudulent conveyance and fraudulent transfer claims, whether under the Bankruptcy Code or under the laws of the United States, any state, territory, possession thereof, or the District of Columbia. Further, Purchaser is not an “insider” of the Debtors.

Release

21. Subject to and upon the Closing Date, the Debtors, on behalf of themselves and each of their Affiliates, hereby waive any and all actions related to, and hereby release, Purchaser and its Affiliates and the property of Purchaser (including, without limitation, the Purchased Assets) from any and all Interests, whether known or unknown, now existing or hereafter arising, asserted or unasserted, mature or inchoate, contingent or non-contingent, liquidated or unliquidated, material or non-material, disputed or undisputed, and whether imposed by agreement, understanding, law, equity, or otherwise to the extent such Interests arise under or are related to the Purchase Agreement or any agreement entered into with respect thereto or any of the transactions contemplated thereby; *provided, however*, that the foregoing shall not release any obligations assumed or established by Purchaser under the Purchase Agreement or this Sale Order, including, without limitation, Purchaser's performance obligations under the Purchase Agreement or this Sale Order and any and all of Purchaser's obligations thereunder that are to be performed following the Closing.

Other Provisions

22. The Debtors, including their professionals and advisors, and Purchaser shall cooperate in good faith subsequent to the closing of the transactions contemplated under the Purchase Agreement to (i) effectuate the sale and transfer of the Purchased Assets, (ii) undertake accounting, tax, employee and human resource matters attendant to the sale and the Debtors' winding up their affairs and closing their estates, and (iii) address certain payables associated with the Assumed Liabilities that may need to be paid at or shortly after Closing but where Purchaser is not yet able to make such payments directly to the corresponding counterparties.

23. The terms and provisions of the Purchase Agreement, including any ancillary or related documents, and this Sale Order shall be binding in all respects upon the Debtors, the

Debtors' estates, their creditors, any affected third parties, all holders of equity interests in the Debtors, all holders of any claims, whether known or unknown, against the Debtors, any holders of Interests against or on all or any portion of the Purchased Assets, including, without limitation, all contract counterparties, leaseholders, governmental units, and any trustees, examiners, administrators, responsible officers, estate representatives, or similar entities for the Debtors, if any, subsequently appointed in any of the Debtors' Chapter 11 Cases or upon a conversion of any of the Debtors' Chapter 11 Cases to a case under chapter 7 of the Bankruptcy Code, and each of their respective Affiliates, successors and assigns. The Purchase Agreement and this Sale Order shall inure to the benefit of the Debtors, the Debtors' estates, creditors, the Purchaser, and their respective successors or assigns. The Purchase Agreement, the Transaction, and this Sale Order shall not be subject to rejection or avoidance by the Debtors, the Debtors' estates, creditors, its equity interest holders, or any trustee, examiner, or receiver.

24. The Purchase Agreement and any related agreements, documents, or other instruments may be modified, amended, or supplemented by the parties thereto and in accordance with the terms thereof, without further order of the Court, provided that any such modification, amendment, or supplement does not have a material adverse effect on the Debtors' estates.

25. The Court shall retain exclusive jurisdiction to, among other things, interpret, implement, and enforce the terms and provisions of this Sale Order and the Purchase Agreement, all amendments thereto, and any waivers and consents thereunder and each of the agreements executed in connection therewith to which the Debtors are a party and to adjudicate, if necessary, any and all disputes concerning or relating in any way to the Transaction or this Sale Order. This Court retains jurisdiction to compel delivery of the Purchased Assets, to protect the Purchaser (and its assets, including, without limitation, the Purchased Assets) and its Affiliates, designees, assignees, or successors (or their assets), against any and all Interests and Successor and Transferee

Liability and to enter orders, as appropriate, pursuant to sections 105, 363, or 365 of the Bankruptcy Code (or other applicable provisions) necessary to transfer the Purchased Assets to the Purchaser.

26. The requirements set forth in Bankruptcy Rules 6003(b), 6004, and 6006 have been satisfied or are otherwise hereby waived.

27. The terms and conditions of this Sale Order shall be effective immediately and shall not be subject to the stay provisions contained in Bankruptcy Rules 6004(h) and 6006(d).

28. No bulk sales law, bulk transfer law or similar law of any state or other jurisdiction (including, without limitation, those relating to [Taxes], other than [Transfer Taxes]⁵) shall apply in any way to the transactions contemplated by the Purchase Agreement, the Motion, or this Sale Order. Except as otherwise expressly provided in the Purchase Agreement, all obligations of the Debtors relating to Taxes, whether arising under any law, by the Purchase Agreement, or otherwise, shall be the obligation of and fulfilled and paid by the Debtors. For the avoidance of doubt, and notwithstanding any other provision in this Sale Order, nothing in this Sale Order or the Purchase Agreement shall create a tax exemption under section 1146(a) of the Bankruptcy Code.

29. All time periods set forth in this Sale Order shall be calculated in accordance with Bankruptcy Rule 9006(a). In the event that there is a direct conflict between the terms of this Sale Order, the Purchase Agreement, and any documents executed in connection therewith, the provisions contained in this Sale Order, the Purchase Agreement, and any documents executed in connection therewith shall govern, in that order. Nothing contained in any Chapter 11 plan hereinafter confirmed in any of these Chapter 11 Cases, any order confirming such plan(s), or in

⁵ Terms to be defined in the Purchase Agreement or this Sale Order.

any other order of any type or kind entered in any of these Chapter 11 Cases (including, without limitation, any order entered after any conversion of any of these Chapter 11 Cases to a case under chapter 7 of the Bankruptcy Code) or in any related proceeding shall alter, conflict with or derogate from the provisions of the Purchase Agreement, any documents executed in connection therewith, or the terms of this Sale Order.

Exhibit A to Order

(Purchase Agreement)

[TO BE PROVIDED]