

PATENT ASSIGNMENT COVER SHEET

Electronic Version v1.1
Stylesheet Version v1.2

EPAS ID: PAT3201439

SUBMISSION TYPE:	NEW ASSIGNMENT
NATURE OF CONVEYANCE:	ASSIGNMENT
CONVEYING PARTY DATA	
Name	Execution Date
METIER TRIBECA, LLC	03/31/2014
RECEIVING PARTY DATA	
Name:	DIMACO, LLC
Street Address:	18145 LONG LAKE DRIVE
City:	BOCA RATON
State/Country:	FLORIDA
Postal Code:	33496
PROPERTY NUMBERS Total: 1	
Property Type	Number
Application Number:	29446753
CORRESPONDENCE DATA	
Fax Number:	(703)243-6410
<i>Correspondence will be sent to the e-mail address first; if that is unsuccessful, it will be sent using a fax number, if provided; if that is unsuccessful, it will be sent via US Mail.</i>	
Phone:	7032436333
Email:	mail@mwzb.com
Correspondent Name:	MILLEN WHITE ZELANO & BRANIGAN, P.C.
Address Line 1:	2200 CLARENDON BOULEVARD
Address Line 2:	SUITE 1400
Address Line 4:	ARLINGTON, VIRGINIA 22201
ATTORNEY DOCKET NUMBER:	RBLANCH-0013-D
NAME OF SUBMITTER:	LETITIA ALEXANDER
SIGNATURE:	/Letitia Alexander/
DATE SIGNED:	01/28/2015
Total Attachments: 65	
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ASSET PURCHASE AGREEMENT

This Agreement ("Agreement") is made this 31st day of March, 2014 by and between Kenneth P. Silverman, Esq., as chapter 11 operating trustee ("Seller" or the "Trustee") of the bankruptcy estate of Metier Tribeca, LLC d/b/a Le Métier de Beauté (the "Debtor"), a New York limited liability company, with its principal offices located at 24 West 40th Street, 10th Floor, New York, NY 10018, and Dimaco, LLC ("Dimaco"), a Delaware limited liability company, with its principal offices located at 18145 Long Lake Drive, Boca Raton, Florida 33496 (Dimaco or its designee or assignee hereinafter referred to as "Purchaser"). Seller and Purchaser are collectively referred to in this Agreement as the "Parties" and each a "Party". All capitalized terms not otherwise defined shall have the same meaning ascribed to them in Section 1 hereof.

RECITALS

I. On February 14, 2014 (the "Filing Date"), the Debtor filed a voluntary petition for relief under chapter 11 of Title 11, United States Code, as amended (the "Bankruptcy Code") in the United States Bankruptcy Court for the Southern District of New York (the "Bankruptcy Court") commencing Case Number 14-10325 (SMB) (the "Bankruptcy Case").

II. On March 14, 2014 (the "Appointment Date"), the Bankruptcy Court entered an Order appointing the Trustee to operate the Debtor's business during the pendency of the Bankruptcy Case.

III. On the Filing Date, the Debtor was engaged in the business of manufacturing, selling, and distributing luxury beauty products (the "Business").

IV. In accordance with Bankruptcy Code §§105(a), 363, and other applicable provisions of the Bankruptcy Code, and upon the terms and subject to the conditions set forth in this Agreement, the Trustee desires to sell, assign, and deliver to Purchaser, and Purchaser desires to purchase, accept, and take delivery from Seller, all of the Acquired Assets (held and used in connection with the Business, free and clear from all Liens, with such Liens, to attach to the proceeds from the sale contemplated by this Agreement.

V. The transactions contemplated by this Agreement and the Transaction Documents are subject to Bankruptcy Court approval and the Acquired Assets will be sold, subject to higher or better offers at a public sale, and pursuant to a Sale Order, in form and substance satisfactory to the Parties, approving such sale under Bankruptcy Code §363.

NOW, THEREFORE, in consideration of the foregoing recitals and the mutual representations, warranties, covenants, and promises contained herein, the adequacy and sufficiency of which are hereby acknowledged, the Parties agree as follows:

AGREEMENT

1. **DEFINITIONS AND USAGE OF CERTAIN TERMS.** For purposes of this Agreement, the following terms have the meanings specified or referred to in this Section 1:

"Accounts Receivable" mean (i) all trade and other accounts receivable and other rights to payment of any kind that are or may become payable to the Debtor for services rendered or products delivered and the full benefit of all security for such accounts or rights to payment, and (ii) any claim, remedy or other right related to any of the foregoing.

"Acquired Assets" has the meaning set forth in Section 2.1, below.

"Acquired Avoidance Action" means any Avoidance Action on account of or with respect to payments or transfers of property made by the Debtor to any former and current managers, employees, and independent contractors of the Debtor and the Subsidiary prior to the filing of the Bankruptcy Case who are listed on Schedule 1.1 hereto if such person is employed or engaged by Purchaser or any of its Affiliates or assignees.

"Acquired Receivables" mean (i) all Accounts Receivable that have not been sold to Fundamental Funding LLC prior to the Closing, (ii) all Accounts Receivable which have been repurchased from Fundamental Funding, LLC, (iii) all notes and loans receivable including any rights to receive credit card proceeds and rights of Seller with respect to any collection procedures, together with (a) any security held by the Debtor for the payment thereof, as such exist as of the Closing or may arise thereafter, (b) any monies, checks or instruments received by or on behalf of the Debtor before or after the Closing in respect thereof, and (c) all records supporting the provision of products or services to which the receivable relates.

"Acquisition Proposal" means a proposal (other than by Purchaser) relating to (i) any merger, consolidation, restructuring, reorganization, plan of reorganization in the Bankruptcy Case, joint venture, refinancing, funding of a plan of reorganization in the Bankruptcy Case, business combination, sale or other disposition of all or any part of the Debtor, the Business or the Acquired Assets, except with respect to the Excluded Assets, pursuant to one or more transactions, (ii) the sale of any of the outstanding shares of capital stock or equity interests of the Debtor (including by way of a debt for equity swap, tender offer, foreclosure or plan of reorganization or liquidation) or (iii) any similar transaction or business combination involving one or more Persons (other than Purchaser) and Seller with respect to the Debtor, the Business, or the Acquired Assets, except with respect to the Excluded Assets.

"Affiliate" means, with respect to any Person, any other Person who directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with, such Person. The term "control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting securities, by contract or otherwise, and the terms "controlled" and "controlling" have meanings correlative thereto. For the avoidance of doubt, "Affiliate" of a corporation, limited liability company or other entity shall include (i) each officer, director and manager of such corporation, limited liability company or other entity, (ii) each holder of 10% or

more of the outstanding voting securities of such corporation, limited liability company or other entity and (iii) each subsidiary of such corporation, limited liability company or other entity.

"Agreement" has the meaning set forth in the Preamble, above.

"Alternate Transaction" means (i) any merger, consolidation, restructuring, reorganization, plan of reorganization in the Bankruptcy Case, joint venture, refinancing, funding of a plan of reorganization in the Bankruptcy Case, business combination, sale, or other disposition of all or any part of the Debtor, the Business, the Acquired Assets, except with respect to the Excluded Assets, other than the Subsidiary, pursuant to one or more transactions, (ii) the sale of any of the outstanding shares of capital stock or equity interests of the Debtor (including by way of a debt for equity swap, tender offer, foreclosure or plan of reorganization or liquidation) or (iii) any similar transaction or business combination involving, in the case of each of clause (i), (ii), and (iii) one or more Persons (other than Purchaser) and Seller with respect to the Debtor, the Business, or the Acquired Assets, except with respect to the Excluded Assets.

"Appointment Date" has the meaning set forth in Recital II, above.

"Assigned Contracts" mean all Debtor Contracts that are (i) listed on Schedule 2.1(d) of Disclosure Schedules as the date hereof and (ii) listed on Schedule 2.1(d) of the Disclosure Schedules after the date hereof with Purchaser's prior written consent.

"Assumed Liabilities" mean only those obligations of the Debtor under any Assigned Contract that accrue and are required to be performed from and after the Closing Date (except for any obligations and liabilities to the extent based on the actions of the Debtor), excluding cure amounts for the period prior to the Closing Date related to the Assigned Contracts, which shall be satisfied by Seller on behalf of the Debtor's estate.

"Avoidance Actions" mean all Causes of Action of the Debtor (or Seller as representative of the Debtor's estate) under Bankruptcy Code §§544 through and including 553, or other federal or state law.

"Bankruptcy Case" has the meaning set forth in Recital I, above.

"Bankruptcy Code" has the meaning set forth in Recital I, above.

"Bankruptcy Court" has the meaning set forth in Recital I, above.

"Bankruptcy Rules" means the Federal Rules of Bankruptcy Procedure, as amended, or any successor rules.

"Bidding Procedures" mean the procedures for the submission of competing bids for the acquisition of the Acquired Assets as approved by the Bankruptcy Court in the Bidding Procedures Order.

"Bidding Procedures Order" means the order entered by the Bankruptcy Court approving those portions of the Sale Motion that concern the notice of the public sale and bid procedures

hearing, the Bidding Procedures (including all bidding protections, such as, the Breakup Fee and Expense Reimbursement), substantially in the form attached as **Exhibit A** hereto.

"Blanch" has the meaning set forth in Section 8.9, below.

"Books and Records" mean all books and records pertaining to the Acquired Assets or the Business of any and every kind, including customer lists, correspondence, compact disks, compact disk lists, ledgers, disk or tape files, printouts, runs or other computer-prepared information, data, files, reports and operating records of every kind, held or maintained by or on behalf of the Debtor or by any Affiliate or Representative of the Debtor.

"Breakup Fee" has the meaning set forth in Section 5.11, below.

"Business" has the meaning set forth in Recital III, above.

"Business Day" means any day other than (i) Saturday or Sunday or (ii) any other day on which banks in New York, New York are permitted or required to be closed.

"Cash Purchase Price" has the meaning set forth in Section 2.4, below.

"Causes of Action" shall mean all claims, causes of action, choses in action, rights of recovery, repayment obligations, rights of setoff, and rights of recoupment that the Debtor (or Seller as representative of the Debtor's estate) has or may have against any Person.

"Closing" has the meaning set forth in Section 2.5, below.

"Closing Date" has the meaning set forth in Section 2.5, below.

"Confidential Information" has the meaning set forth in Section 11.1, below.

"Confidentiality Agreement" means the Non-Disclosure Agreement dated February 20, 2014, by and between the Debtor and Dimaco.

"Courier Service" has the meaning set forth in Section 12, below.

"DBA IP" has the meaning set forth in Section 10.1, below.

"Debtor" has the meaning set forth in the Preamble to this Agreement.

"Debtor Contracts" mean any agreement, contract, plan, undertaking, instrument, note, bond, mortgage, indenture, deed of trust, loan, credit agreement, franchise concession, permit, license, lease, purchase order, sales order or other similar commitment, obligation, arrangement or understanding, whether written or oral, between Seller and any other Person.

"Dimaco" has the meaning set forth in the Preamble to this Agreement.

"DIP Financing Facility" means any debtor-in-possession financing facility or facilities, if any, entered into after the date hereof by and between Seller, on behalf of the Debtor, and Dimaco.

"Disclosure Schedules" has the meaning set forth in Section 13.3, below.

"Employee Plans" mean all employment, consulting, wage, base compensation, bonus, incentive compensation, deferred compensation, pension, profit sharing, retirement, stock purchase, stock option, stock ownership, stock appreciation or depreciation rights, phantom stock, equity (or equity-based), leave of absence, layoff, vacation, sick time, day or dependent care, legal services, cafeteria, life, health, medical, dental, vision, welfare, accident, disability, workmen's compensation or other insurance, severance, separation, termination, change of control, collective bargaining or other benefit plans, understandings, agreements, practices, obligations, policies or arrangements of any kind, whether written or oral, and whether or not subject to ERISA, including any "employee benefit plan" within the meaning of Section 3(3) of ERISA.

"Employment Agreement Term Sheets" mean the employment agreement term sheets dated March 21, 2014 for each of Blanch and Mastellon setting forth the respective material terms of the employment agreements proposed to be entered into by the Purchaser and Blanch and Mastellon, respectively, copies of which Employment Agreement Term Sheets have been provided to the Trustee prior to the date of this Agreement.

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

"Excluded Assets" has the meaning set forth in Section 2.2, below.

"Excluded Debtor Contracts" mean all Debtor Contracts other than the Assigned Contracts.

"Expense Reimbursement" has the meaning set forth in Section 5.11, below.

"Filing Date" has the meaning set forth in Recital I, above.

"Final Order" means a Sale Order that is enforceable immediately upon entry and is not stayed by Bankruptcy Rules 6004(h) and 6006(d), or a Sale Order (or any revision, modification, or amendment thereto) as to which the time to appeal or seek review or rehearing has expired, and as to which no appeal or petition for review or motion for re-argument has been taken or been made and is pending for argument.

"Governmental Authority" means any (i) federal, state, local, municipal, foreign, international, multinational or other government (or any subdivision, branch, department, commission, board, bureau, agency, authority, official, body or instrumentality thereof), (ii) governmental or quasi-governmental entity of any nature (whether federal, state, local, municipal, foreign, international, multinational or otherwise, including any governmental branch, department, commission, board, bureau, agency, authority, official, body or instrumentality), (iii) any court, tribunal or judicial or arbitral body or tribunal or (iv) body exercising or entitled to exercise any administrative, executive, judicial, legislative, police, regulatory, or taxing authority or power of any nature.

"Intellectual Property Rights" mean all worldwide intellectual property rights belonging to the Debtor, including, without limitation, the Debtor's trade name, Le Métier de Beauté, all derivations thereof otherwise used by Debtor, and all logos and other corresponding intellectual property relating thereto; all U.S. and foreign patents, patent applications, patent rights, trademarks (registered and/or at common law), trademark applications, trade names, service marks, service mark applications, URLs, copyrights, copyright registrations and applications for registration, moral rights, franchises, licenses, inventories, know-how, trade secrets, customer lists, proprietary information, proprietary processes and formulae, databases and data collections, all source and object code, algorithms, architecture, structure, layouts, inventions, development tools, all goodwill and other general intangibles, and all products and proceeds thereof, and all documentation and media constituting, describing or relating to the above, including, manuals, memoranda, and records, including without limitation the intellectual property rights identified by Purchaser on Schedule 2.1(h) of the Disclosure Schedules.

"Inventory" means the Debtor's owned products manufactured or to be distributed by or on the Debtor's behalf, and any and all other owned inventory, and any finished goods returned by any of Debtor's customers, whether returned before or after the Closing, in each case wherever located, including all finished goods, works in process, raw materials, and all other materials and supplies to be used or consumed by or on behalf of Debtor in the production of finished goods or the operation of the Business.

"Knowledge" means, as to a particular matter, the actual knowledge of the Trustee after due inquiry of the Debtor's management.

"Law" shall mean any statute, law (including common law), constitution, treaty, ordinance, code, order, decree, directive, judgment, rule, regulation and any other binding requirement or determination of any Governmental Authority of any jurisdiction.

"Liability" with respect to any Person, means any liability or obligation of such Person of any kind, character or description, whether known or unknown, absolute or contingent, accrued or unaccrued, disputed or undisputed, liquidated or unliquidated, secured or unsecured, joint or several, due or to become due, vested or unvested, executory, determined, determinable or otherwise and whether or not the same is required to be accrued on the financial statements of such Person.

"Lien" means any lien (statutory or otherwise), claim, Liability, encumbrance, pledge, restriction, charge, instrument, license, preference, priority, security agreement, easement, covenant, right of recovery, option, charge, hypothecation, security interest, interest, right of way, encroachment, mortgage, deed of trust, imperfection of title, prior assignments, tax (including federal, state, local, municipal, foreign, international, multinational or other tax), order of any Governmental Authority, right of first refusal or similar interests, or other encumbrance or charge of any kind or nature whatsoever, including voting trusts or agreements, proxies and marital or community property interests.

"Mastellon" has the meaning set forth in Section 8.9, below.

"Material Adverse Effect" means a change in the business, assets, operations, or financial prospects of the Business, which is, or is reasonably likely to be, materially adverse to the business, assets, operations or financial prospects of the Business; provided, however, that any event or occurrence that would otherwise constitute a Material Adverse Effect as a consequence of (i) the Chapter 11 petition and related filings effected by the Debtor, (ii) general economic, legal, regulatory or political conditions in the United States of America (provided that the impact on the Seller and its subsidiaries is not materially disproportionate to the impact of similar entities), (iii) conditions generally affecting the industries in which the Debtor and the Subsidiary operate (provided that the impact on the Debtor and the Subsidiary is not materially disproportionate to the impact of similar entities), (iv) the commencement or escalation of war or armed hostilities or the occurrence of acts of terrorism or sabotage, (v) changes in the securities markets generally, or (vi) changes in law or generally accepted accounting principles, or any interpretation thereof, shall not be a Material Adverse Effect notwithstanding anything set forth herein to the contrary."

"New York Courts" has the meaning set forth in Section 13.8, below.

"Parties" or "Party" shall have the meaning set forth in the Preamble to this Agreement.

"Permits" mean all permits, licenses, franchises, approvals, authorizations, and consents required to be obtained from Governmental Authorities.

"Person" means any individual, corporation, partnership, limited liability company, joint venture, trust, unincorporated organization, any government or any agency or political subdivision thereof.

"Phosphagenics License Agreement" means that certain License Agreement by and between Phosphagenics Ltd. and the Debtor dated as of January 24, 2011.

"Purchase Price" has the meaning set forth in Section 2.4, below.

"Purchaser" has the meaning set forth in the Preamble to this Agreement.

"Purchaser's Deposit" shall mean \$212,500 of the funds loaned by Dimaco pursuant to Bankruptcy Code §364(e) as "So Ordered" by the Bankruptcy Court prior to the date of this Agreement.

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

"Released Employees" has the meaning set forth in Section 8.1(e), below.

"Representatives" means, collectively, with respect to any Person, such Person's directors, officers, managers, trustees, shareholders, members, partners, employees, agents, counsel, accountants, financial advisors, lenders, consultants and other representatives.

"Sale Order" means one or more orders of the Bankruptcy Court, substantially in form attached as Exhibit C hereto, which provides for, and authorizes, among other things, (a) the

sale of the Acquired Assets to Purchaser, and (b) the assignment by Seller, and assumption by Purchaser, of the Assigned Contracts, under Bankruptcy Code §§363 and 365.

“Seller” has the meaning set forth in the Preamble to this Agreement.

“Sale Motion” means the motion filed in the Bankruptcy Court on behalf of Seller, for among other things, approval of the notice of auction and sale hearing, Bidding Procedures and bidding protections, including the Breakup Fee and Expense Reimbursement, the sale of the Acquired Assets to Purchaser and the assignment by Seller, and assumption by Purchaser, of the Assigned Contracts.

“Subsidiary” means the Debtor’s wholly owned subsidiary Hang Tag, LLC.

“Successful Bid” means the final purchase price (a) bid at the public sale pursuant to the Bidding Procedures Order, (b) confirmed by the Trustee as the highest or best offer, and (c) approved by the Bankruptcy Court in the Final Order.

“Transaction Documents” has the meaning set forth in Section 8.1(f), below.

“Trustee” has the meaning set forth in the Preamble to this Agreement.

2. PURCHASE AND SALE.

2.1 Assets to be Sold. Upon the terms and subject to the conditions set forth in this Agreement, on the Closing Date, Seller shall sell, convey, transfer, and assign to Purchaser, and Purchaser shall purchase and accept from Seller, all right, title, and interest of the Debtor in and to all of the property and assets of the Debtor used in, or otherwise relating to the operation of the Business, whether real or personal, tangible or intangible, of every kind and description, and wherever located, “as is” and “where is”, free and clear of all Liens existing as of the Closing, regardless of whether any of such Acquired Assets existed before, on, or after the commencement of the Bankruptcy Case, including, without limitation, the following (the “Acquired Assets”), but excluding the Excluded Assets:

(a) all of the Debtor’s deposits, security deposits, prepayments, and prepaid expenses as of the Closing Date that relate to any Assigned Contract or any other Acquired Asset;

(b) the Acquired Receivables;

(c) all customer accounts;

(d) Assigned Contracts set forth on Schedule 2.1(d) of the Disclosure Schedules, excluding cure amounts related to the Assigned Contracts, which shall be satisfied by Seller on behalf of the Debtor’s estate from the proceeds of the Purchase Price;

(e) all equipment, computers (including all copies of software installed on any such computers, servers, or other electronic equipment, and any documentation and

media constituting, describing, or relating to such copies, including manuals, technical specifications and the like), furniture, supplies, fixtures, and other tangible personal property of the Debtor;

(f) all Inventory;

(g) all investment property, instruments, chattel paper, and real estate;

(h) all Intellectual Property Rights together with all income, royalties, damages, and payments due or payable to the Debtor at the Closing or thereafter relating to the Intellectual Property Rights, the right to register, prosecute, maintain, and defend the rights of the Debtor in the Intellectual Property Rights, the right to sue and recover damages for past or future infringements or misappropriations thereof, and the right to fully and entirely stand in the place of the Debtor in all matters related thereto;

(i) all Permits, to the extent transferable, necessary for Purchaser to perform its obligations under the Assigned Contracts after the Closing;

(j) all Books and Records;

(k) the Debtor's email addresses, website (including the URL, electronic images, text, and source codes therein), facsimile numbers, telephone numbers, and cellphones;

(l) all rights and claims with respect to the Acquired Assets, Assigned Contracts and Assumed Liabilities, including all enforcement rights, Acquired Avoidance Actions, and refunds including with respect to taxes for all periods ended after the Closing Date;

(m) all promotional materials, catalogues, research materials, mailing lists and customer lists, all names and addresses of customers, and sales reports by title and by customer to the extent available relating to the Business;

(n) the amount of, and all rights to any, insurance proceeds received by the Debtor after the date of this Agreement in respect of the loss, destruction, or condemnation of any Acquired Assets occurring prior to, on, or after the Closing or any Assumed Liabilities;

(o) all outstanding orders for the Debtor's products as of the Closing, which shall be transferred to Purchaser at Closing for processing and fulfillment; and

(p) all goodwill relating to the items set forth in this Section 2.1 and the definition of Acquired Assets.

2.2 Excluded Assets. Notwithstanding anything to the contrary contained in Section 2.1 or elsewhere in this Agreement, the following assets of the Debtor (collectively, the "Excluded Assets") are not part of the sale and purchase contemplated hereunder, are excluded from the Acquired Assets, and shall remain the property of the Debtor after the Closing:

(a) all cash and cash equivalents other than cash or cash equivalents that are (i) included in Sections 2.1(a), (f) and (n), above, or (ii) received by the Debtor in respect of any Acquired Receivable;

(b) the corporate charter, qualifications to conduct business as a foreign entity, arrangements with registered agents relating to foreign qualifications, taxpayer and other identification numbers, seals, minute books, stock transfer books and other documents relating to the organization and existence of the Debtor and the Subsidiary as limited liability companies;

(c) any Books and Records that do not relate to the Acquired Assets or the Assumed Liabilities or that Seller is, in its good faith determination, required by Law to retain, including tax returns, financial statements and corporate or other entity filings, provided that Purchaser shall have the right, subject to provisions of Section 11.6, below, to make copies of any such Books and Records to the extent they related to Acquired Assets or Assumed Liabilities;

(d) all of the Debtor's bank accounts and lock-boxes;

(e) all Accounts Receivable, other than Acquired Receivables;

(f) all rights of Seller and the Debtor under this Agreement or any of the Transaction Documents;

(g) all insurance policies, except to the extent constituting an Assigned Contract;

(h) Excluded Debtor Contracts;

(i) all insurance claims, insurance premium refunds, and proceeds to the extent related to any Excluded Assets;

(j) the rights and claims and Causes of Action of the Debtor (or the Seller on behalf of the Debtor's estate) arising from or solely relating to the Excluded Assets and other than Acquired Avoidance Actions, the Debtor's (or the Seller's on behalf of the Debtor's estate) rights and claims and Causes of Action arising pursuant to Bankruptcy Code §§544 through and including 553, and any other avoidance and/or fraudulent conveyance action under any other applicable provisions of the Bankruptcy Code or applicable Law; provided, however, that any Acquired Avoidance Actions are deemed waived;

(k) all rights to tax refunds, credits, or similar benefits for all periods ended on or prior to the Closing;

(l) all membership interests and all other equity interests relating to the Subsidiary; and

(m) all Employee Plans.

2.3 Assumed Liabilities; Purchaser Not Successor to the Debtor. Upon and subject to the terms and conditions of this Agreement, Purchaser shall assume and become responsible for, from and after the Closing, only the Assumed Liabilities. The assumption of the Assumed Liabilities by Purchaser shall not enlarge any rights of third parties under the Debtor Contracts or arrangements with Purchaser, the Debtor or Seller, and nothing herein shall prevent any party from contesting in good faith with any third party any Assumed Liability. Purchaser shall not be the successor to the Debtor and Seller hereby acknowledges and agrees that, pursuant to the terms and provisions of this Agreement, Purchaser shall not assume or become liable or obligated to pay, perform, or discharge any Liability whatsoever of the Debtor, whether or not relating to any of the Acquired Assets or the Business, whether fixed or unfixed, known or unknown, asserted or unasserted, liquidated or unliquidated, secured or unsecured, absolute or contingent, accrued or unaccrued, matured or unmatured other than the Assumed Liabilities.

2.4 Purchase Price. The purchase price to be paid by Purchaser for the Acquired Assets shall be an amount equal to \$4,250,000 (the "Purchase Price"). At the Closing, Purchaser shall pay Seller the Purchase Price less (i) any and all of the obligations outstanding under the DIP Financing Facility, if any is approved by the Bankruptcy Court, (ii) any and all obligations of the Debtor in respect of \$60,000 loaned by Dimaco to the Debtor pursuant to Bankruptcy Code §364(c) as "So Ordered" by the Bankruptcy Court on February 26, 2014, (iii) any and all obligations of the Debtor in respect of \$218,000 loaned by Dimaco to the Debtor pursuant to Bankruptcy Code §364(c) as "So Ordered" by the Bankruptcy Court on February 27, 2014, (iv) any and all obligations of Debtor in respect of up to \$222,000 loaned by Dimaco to Debtor pursuant to Bankruptcy Code §364(c) on an as "So Ordered" by the Bankruptcy Court on March 14, 2014, (v) any and all obligations of the Debtor in respect of future amounts loaned by Dimaco to the Debtor (or Seller on behalf of the Debtor) pursuant to Bankruptcy Code §364(c) on an as "So Ordered" basis by the Bankruptcy Court after the date hereof, (vi) any outstanding obligations under the \$100,000 secured pre-petition loan made by Dimaco to Debtor in February 2014, and (vii) the value of any and all distributable amounts (to the extent determinable by the Trustee in his sole discretion after consultation with Dimaco as of or before the Closing) on account of Dimaco's allowed unsecured claims against Debtor's estate (collectively, after the deductions in Section 2.4(i) through (vii), the "Cash Purchase Price"). Dimaco shall retain all rights to receive any distributable amounts on account of its allowed unsecured claims against the Debtor's estate that are not satisfied in connection with Section 2.4(vii), above. All payments of the Cash Purchase Price under this Section 2.4 shall be made by wire transfer of immediately available funds to an account that Seller, at least 48 hours prior to the Closing, has submitted to Purchaser in writing.

2.5 Closing. The closing of the transactions contemplated by this Agreement (the "Closing") shall take place at the offices of SilvermanAcampora LLP, 100 Jericho Quadrangle, Suite 300, Jericho, New York 11753, commencing at a time mutually agreed upon by the Parties, on the date that is not later than five (5) Business Days following: (a) the entry of the Final Order; and (b) satisfaction or waiver of all conditions to the obligations of the Parties to consummate the transactions contemplated herein (other than conditions with respect to actions the respective Parties will take at the Closing itself) or such other date as Purchaser and Seller may mutually determine (the "Closing Date"). The Parties shall use their commercially reasonable efforts to consummate the transactions contemplated herein within two (2) Business Days after the entry of the Final Order.

2.6 Further Assurances. At any time and from time to time after the Closing, at the request of Purchaser and without further consideration: (i) Seller shall (a) use commercially reasonable best efforts to effectuate an orderly transition of the Business to Purchaser and to minimize any disruption in the Business resulting from the transactions contemplated herein; (b) execute and deliver such other instruments of sale, transfer, conveyance, and assignment; and (c) take such actions as Purchaser may request to more effectively transfer, convey, and assign to Purchaser, and to confirm Purchaser's rights to, title in, and ownership of, the Acquired Assets, and to place Purchaser in actual possession and operating control thereof; and (ii) Purchaser shall provide Seller with access to Books and Records, employees, and suppliers, as same may be reasonably requested.

3. **REPRESENTATIONS AND WARRANTIES OF SELLER.** Seller hereby represents and warrants to Purchaser as follows:

3.1 Authorization of Transaction. Seller has the full power and authority (a) to execute and deliver this Agreement and the Transaction Documents, and (b) subject to the approval of the Bankruptcy Court as the case may be, to perform his obligations hereunder and under the Transaction Documents.

3.2 Title. Except as set forth in Section 3.4, below, which concerns the ownership of certain of the Intellectual Property utilized by the Debtor, to the best of Seller's Knowledge, as of the Appointment Date, the Debtor is the owner of the Acquired Assets, has good, valid, and marketable title thereto, and subject to the entry of and in accordance with the Final Order, Seller will have authority to sell, convey, transfer, and assign to Purchaser, all Acquired Assets free and clear of all Liens, with such Liens to attach to the proceeds of the sale of the Acquired Assets.

3.3 Intellectual Property Rights. To the best of Seller's Knowledge, and based upon discussion with Debtor's management, the Debtor owns all right, title and interest in, or has license to use (sufficient for the conduct of the Business as presently conducted), all Intellectual Property Rights used in the conduct of the Business as presently conducted. To the best of Seller's Knowledge, the Intellectual Property Rights do not infringe upon any intellectual property rights of any other person or entity (including patent, copyright, unfair competition, trademark, libel or invasion of privacy). Seller is not aware of any suit, action, or proceeding against Seller by any third party alleging such infringement.

3.4 Brokers' Fees. No broker, finder, or other Person acting under Seller's authority is entitled to any broker's commission or other fee in connection with the transactions contemplated by this Agreement and the Transaction Documents for which Seller or the Debtor's bankruptcy estate shall be responsible; provided, however, if Seller, in his business judgment and sole discretion, seeks and obtains Bankruptcy Court authorization for the employment of an auctioneer or broker to assist in the public sale of the Acquired Assets, any such fees or commissions shall be payable by Seller in accordance with such Bankruptcy Court authorization.

4. **REPRESENTATIONS AND WARRANTIES OF PURCHASER.** Purchaser hereby represents and warrants to Seller as follows:

4.1 Organization and Good Standing. Purchaser is a limited liability company duly organized, validly existing, and in good standing under the laws of the jurisdiction of its organization.

4.2 Power and Authorization. Purchaser has the requisite power and authority to execute and deliver this Agreement and the Transaction Documents and to perform its obligations hereunder and thereunder. The execution and delivery by Purchaser of this Agreement and the Transaction Documents, and the consummation by Purchaser of the transactions contemplated hereby and thereby, have been duly and validly approved and authorized by all necessary action on the part of Purchaser. This Agreement has been duly and validly executed and delivered by Purchaser, and constitutes a valid and binding obligation of Purchaser, assuming the due authorization, execution and delivery by Seller, enforceable against Purchaser in accordance with its terms. Each of the Transaction Documents, upon their execution and delivery by Purchaser and assuming the due authorization, execution and delivery by Seller, will constitute a valid and binding obligation of Purchaser, enforceable against Purchaser in accordance with its terms.

4.3 Brokers' Fees. No broker, finder, or other Person acting under Purchaser's authority is entitled to any broker's commission or other fee in connection with the transactions contemplated by this Agreement, and the Transaction Documents, for which Seller or the Debtor's bankruptcy estate shall be responsible.

4.4 Taxes. Purchaser shall pay all sales, transfer, documentary stamp and other similar taxes, if any, and all recording, filing and other governmental fees and costs assessable against Purchaser solely due to its purchase of the Acquired Assets and the assignment of the Assigned Contracts. Seller and Purchaser will cooperate to prepare and file with the proper public officials, as and to the extent available and necessary, all appropriate sales tax exemption certificates or similar instruments as may be necessary to avoid the imposition of sales, transfer and similar taxes in the transfer of the Acquired Assets and the assignment of the Assigned Contracts pursuant hereto.

4.5 Noncontravention. Neither the execution and delivery by Purchaser of this Agreement or any of the Transaction Documents nor the consummation by Purchaser of the transactions contemplated hereby or thereby will (a) conflict with or violate any provision of the organizational documents of Purchaser, (b) require on the part of Purchaser any material notice to or filing with, or material permit, authorization, consent or approval of, any Governmental Authority, or (c) violate any material order, writ, injunction, judgment, decree or Law applicable to Purchaser or any of its properties or assets

5. COVENANTS.

5.1 General. Seller's ability to comply, or to cause the Debtor to comply, with any of the covenants contained in this Section 5 shall be subject to, among other things, the provisions of the Bankruptcy Code and Rules, and any order, determination, or ruling of the Bankruptcy

Court. The provisions of this Section 5 shall be subject to the terms of the Bidding Procedures Order and the Sale Order.

5.2 Conduct of Business. Subject to any orders, rulings or determinations of the Bankruptcy Court and the provisions of the Bankruptcy Code and Rules, during the period from the date of this Agreement until the Closing Date, Seller shall use his best efforts to continue to operate the Debtor and the Business in the ordinary course, and in substantially the same manner as has been conducted since the Filing Date.

5.3 Closing Efforts. Each of the Parties shall use their commercially reasonable best efforts to take all actions and to do all things necessary, proper, or advisable to consummate the transactions contemplated by this Agreement, including using their commercially reasonable best efforts to ensure that the deliverables to be provided by it at the Closing are delivered on a timely basis and in accordance with the provisions of this Agreement, including entering into good faith negotiations to reach agreement on the terms of the Transaction Documents to be provided at the Closing, and to obtain all necessary consents and approvals with respect to such agreements; provided that the obligations of the Parties to consummate the transactions contemplated hereby are subject to the issuance by the Bankruptcy Court of the Final Order.

5.4 Governmental and Third-Party Notices and Consents. Each Party shall use its commercially reasonable best efforts to obtain, at its expense, all waivers, permits, consents, approvals or other authorizations from Governmental Authorities, and to effect all registrations, filings and notices with or to Governmental Authorities, as may be required for such Party to consummate the transactions contemplated by this Agreement, to otherwise comply with all applicable Laws in connection with the consummation of the transactions contemplated by this Agreement and to permit Purchaser to own the Acquired Assets following the Closing. Seller shall use his commercially reasonable best efforts to obtain all waivers, consents or approvals from third parties, and to give all such notices to third parties, as may be required for Seller to consummate the transactions contemplated by this Agreement, to otherwise comply with all applicable Laws in connection with the consummation of the transactions contemplated by this Agreement, and to permit Purchaser to own the Acquired Assets following the Closing, including those waivers, consents, approvals, and notices listed in Schedule 5.4 of the Disclosure Schedules, which shall be prepared by Purchaser prior to the entry of the Bidding Procedures Order. It being understood that as for Seller, commercially reasonable best efforts may be satisfied by providing notice and opportunity to be heard to such third parties in connection with obtaining an order of the Bankruptcy Court approving the transactions. If a counterparty to an Assigned Contract indicates orally or in writing that there is a material breach, default or basis for a breach or default under such Assigned Contract, Seller shall cause the Debtor, as soon as it is reasonably practicable, to inform Purchaser of such breach or default, and Seller and Purchaser shall cooperate to cure such breach or default and resolve such basis for a breach or default prior to the Closing to Purchaser's satisfaction. Seller shall cause the Debtor to reasonably cooperate with Purchaser in introducing Purchaser or permitting Purchaser to have access to the counterparties to the Assigned Contracts. Seller shall cause the Debtor to keep Purchaser reasonably informed, including by providing copies of correspondence and other material information, on a timely basis, as to the status of Seller's efforts to cure such breach or default or resolve such basis for a breach or default. To the extent that such a breach or default is monetary, Seller's responsibility to cure such monetary breach or default on behalf of the Debtor

shall be subject to the provisions of the Bankruptcy Code, any entered Bidding Procedures Order, as well as other orders, rulings or determinations of the Bankruptcy Court.

5.5 Contracts. In addition, during the period from the date of this Agreement until the Closing Date, Seller shall not amend, modify, reject, or terminate any Assigned Contract without the express written consent of Purchaser. In event Seller, on behalf of the Debtor, enters into a new Debtor Contract, Seller shall provide a copy of such Debtor Contract to Purchaser and Seller shall agree to revise Schedule 2.1(d) of the Disclosure Schedules upon Purchaser's written request to include such Debtor Contract as an Assigned Contract.

5.6 Access and Information. From the date of this Agreement until the first to occur of the Closing Date or the termination of this Agreement, (a) Seller shall cause the Debtor to permit Purchaser and its Representatives (including any lenders) to make (and Seller shall cause the Debtor to assist Purchaser and its Representatives (including any lenders) in making) all investigations and inspections of the Debtor, the Acquired Assets, the Business, Books and Records, and all other documents and information requested by Purchaser relating to the Debtor, the Acquired Assets, the Business, Books and Records, and the transactions contemplated herein, all of which shall be subject to any confidentially agreement between the Parties.

5.7 Employees. Seller, on behalf of the Debtor, and upon the Closing of the sale, hereby agrees to waive (and to cause the Subsidiary to waive) any condition or restriction that the Debtor or the Subsidiary may have the contractual right to impose on (i) Purchaser's (or any of its Affiliates') making of offers of employment or engagement to or (ii) the hiring and employment by Purchaser (or any of its Affiliates) of any employee of the Debtor. From the date of the this Agreement through the Closing Date, Seller will not, without the prior written consent of Purchaser terminate the employment of any Seller employee other than for cause. Seller shall terminate and as applicable, shall cause Subsidiary to terminate, effective immediately prior to the Closing, the employment or engagement with Seller or Subsidiary of each employee identified by Purchaser to the Seller as an employee Purchaser intends to hire.

5.8 Notice. Seller shall cause the Debtor to promptly notify Purchaser of any litigation, arbitration, or administrative proceeding pending, or to Seller's Knowledge, threatened against the Debtor, which challenges the transactions contemplated by this Agreement, and of any failure of Seller's ability to comply with or satisfy any covenant, conditions, or agreements contained in this Agreement.

5.9 Bankruptcy Covenants.

(a) Upon the full execution of this Agreement, Seller shall promptly file with the Bankruptcy Court a notice of the Sale Motion and the Sale Motion seeking the entry of, among other relief, the Bidding Procedures Order.

(b) If this Agreement and the sale of the Acquired Assets to Purchaser on the terms and conditions hereof are determined to be the "highest or otherwise best offer" in accordance with the Bidding Procedures Order, Purchaser and Seller agree to use commercially reasonable best efforts to cause the Bankruptcy Court to enter the Final Order, which shall include provisions authorizing and approving the transactions contemplated hereby, including:

(i) the sale of the Acquired Assets to Purchaser free and clear of all Liens pursuant to the terms of this Agreement and Bankruptcy Code §§363(b) and (f); (ii) finding Purchaser to be in good faith and providing for the protection afforded under Bankruptcy Code §363(m); (iii) waiving the stays set forth in Bankruptcy Rules 6004(h) and 6006(d); (iv) providing that Purchaser shall not be subject to any successor liability and shall have no liability or suffer any damages for any Liens existing prior to the Closing Date which may be asserted against the Debtor, the Acquired Assets, the Business, or the Debtor's bankruptcy estate, or any claims against Purchaser as successor to the Acquired Assets; (v) approving Purchaser's assumption and assignment of the Assigned Contracts pursuant to Bankruptcy Code §365 on the basis that cure amounts related to the Assigned Contracts shall be satisfied by the Seller on behalf of Debtor's estate from the proceeds of the Purchase Price; (vi) providing for the retention of jurisdiction by the Bankruptcy Court to resolve any and all disputes that may arise under or relate to this Agreement or the Final Order, whether between Seller and Purchaser or involving a Person in interest in the Bankruptcy Case; and (vii) containing findings of fact and conclusions of law that include the following: (A) the transactions under this Agreement were negotiated and entered into in good faith and at arm's-length; (B) the marketing and sale process conducted by Seller pursuant to the Bidding Procedures Order are bona fide and adequate; (C) Seller gave due and proper notice and an opportunity to be heard to all interested parties of this Agreement and the transactions contemplated herein; (D) Purchaser is not holding itself out to the public as a continuation of the Debtor; (E) the consideration to be paid by Purchaser under this Agreement, or as may be bid at the public sale constitutes reasonably equivalent value (as that term is used in Bankruptcy Code §548) and fair consideration for the Acquired Assets; and (F) neither Purchaser nor Seller is entering into the transactions contemplated by this Agreement fraudulently. Seller shall promptly provide Purchaser with copies of any objections to the Final Order.

(c) In the event an appeal is taken or a stay pending appeal is requested (or a petition for certiorari or motion for rehearing or reargument is filed), with respect to the Bidding Procedures Order, the Sale Order, the Final Order, or any other order of the Bankruptcy Court related to this Agreement, Seller shall take all steps as may be reasonable and appropriate to defend against such appeal, petition, or motion, and Purchaser agrees to cooperate in such efforts. Each Party shall use its commercially reasonable best efforts to obtain an expedited resolution for such appeal.

(d) From and after the date of this Agreement, except as may be provided in the Bidding Procedures Order, provisions of the Bankruptcy Code and Rules, or any order, ruling or determination of the Bankruptcy Court, Seller shall ensure that neither the Debtor nor the Subsidiary shall take any action or fail to take any action, which action or failure to act would reasonably be expected to prevent or impede the consummation of the transactions contemplated by this Agreement in accordance with the terms of this Agreement. Seller covenants and agrees that the terms of any plan of reorganization or liquidation, or proposed order of the Bankruptcy Court that may be filed, proposed, submitted or supported by Seller after entry of the Final Order or consummation of the transactions contemplated hereby, shall not conflict with, supersede, abrogate, nullify, modify, or restrict the terms of this Agreement, the Bidding Procedures Order or the Final Order, or the rights of Purchaser hereunder or thereunder.

(e) The Parties shall consult with each other regarding pleadings that any of them intends to file with the Bankruptcy Court in connection with, or which might reasonably

affect the Bankruptcy Court's approval of, as applicable, the Bidding Procedures Order and the Sale Order. Each Party shall promptly provide the other Party and its counsel with copies of all notices, filings, and orders of the Bankruptcy Court that such Party has in its possession (or receives) pertaining to the Sale Motion, or any other order or pleading that relates to any of the transactions contemplated by this Agreement, but only to the extent such papers are not publicly available on the docket of the Bankruptcy Court for the Bankruptcy Case or otherwise made available to the other Party and its counsel.

5.10 Acquisition Proposal or Alternate Transaction. Seller represents that, other than this Agreement, Seller is not a party to or bound by any contract with respect to an Acquisition Proposal or an Alternate Transaction. Other than as provided in, and contemplated by, the Bidding Procedures Order, Seller shall not, directly or indirectly, solicit or participate in negotiations or discussions regarding any Acquisition Proposal from any Person other than Purchaser, or execute or enter into a contract with respect to an Acquisition Proposal or Alternate Transaction. Subject to Bankruptcy Court approval, Seller agrees that in order for any Acquisition Proposal to be accepted by Seller and submitted for approval by the Bankruptcy Court, such Acquisition Proposal must be a Qualified Bid.

5.11 Breakup Fee and Expense Reimbursement. In the event that the Bankruptcy Court enters a Final Order approving an Alternate Transaction, then Purchaser shall be entitled to and Seller shall pay to Purchaser at the consummation of an Alternate Transaction (or in the case of a plan of reorganization or liquidation that is an Alternate Transaction, upon confirmation of such plan of reorganization or liquidation), two (2.0%) percent of the Purchase Price (the "Breakup Fee"). The Breakup Fee provided for by this Section 5.11 is intended to cover opportunity costs incurred by Purchaser in pursuing and negotiating this Agreement and the transactions contemplated hereby, and is considered by the Parties to be reasonable for such purposes. The Breakup Fee shall be paid from the first sale proceeds of an Alternate Transaction. The claims of Purchaser to the Breakup Fee shall constitute an administrative expense against the Debtor's bankruptcy estate under the applicable provisions of the Bankruptcy Code. In addition to any Breakup Fee that may be payable pursuant to this Section 5.11, upon any event in which the Breakup Fee is payable under the terms of this Agreement, Seller shall reimburse up to \$175,000 of the actual and documented out-of-pocket fees and expenses incurred by Purchaser and its Affiliates in the course of negotiating, drafting and approving this Agreement, the Disclosure Schedules and the Transaction Documents prior to the date this Agreement is terminated, whether incurred on or after the Petition Date (the "Expense Reimbursement"). The claims of Purchaser to the Expense Reimbursement shall constitute an administrative expense against Seller's bankruptcy estate under the applicable provisions of the Bankruptcy Code.

6. **CONDITIONS TO CLOSING OF EACH PARTY.** The respective obligations of each Party to consummate the transactions contemplated by this Agreement and the Transaction Documents to be consummated at the Closing are subject to the satisfaction of the condition that the sale of the Acquired Assets by Seller to Purchaser and the assumption and assignment of the Assigned Contracts as contemplated by this Agreement and the Transaction Documents, shall have been approved by the Bankruptcy Court pursuant to the Final Order in form and substance satisfactory to each Party, which as of the Closing Date shall be in full force and effect and shall

not have been violated, vacated, withdrawn, overruled, resolved or stayed, modified, vacated, reversed, amended, or revoked.

7. **CONDITIONS TO CLOSING OF SELLER.** The obligation of Seller to consummate the transactions contemplated by this Agreement and the Transaction Documents to be consummated at the Closing is subject to the satisfaction or waiver (but only a waiver in a writing signed on behalf of Purchaser), to the extent permitted by Law, of the following additional conditions:

7.1 Representations and Warranties. Each of the representations and warranties of Purchaser set forth in Section 4 of this Agreement shall be true and correct in all material respects (or in all respects, to the extent any such representation and warranty is already qualified by materiality) on and as of the date hereof and on and as of the Closing Date with the same effect as though such representations and warranties had been made on and as of the Closing Date, except that to the extent such representations and warranties address matters only as of a particular date, such representations and warranties shall, to such extent, be true and correct on and as of such particular date as if made on and as of such particular date.

7.2 Compliance with Law. There shall be no order by any Governmental Authority or any applicable Law or other fact or circumstance, which would prohibit or render illegal the transactions contemplated by this Agreement.

7.3 Absence of Litigation. Except for the Bankruptcy Case, the Sale Motion, the disclosed litigation in the Debtor's Statement of Financial Affairs [Docket No. 35], and any objections by the U.S. Patent and Trademark Office to any pending patent applications, to Seller's Knowledge no Legal Proceeding shall be pending or threatened, by or against Purchaser, wherein an unfavorable judgment, order, decree, stipulation or injunction would (i) prevent consummation of the transactions contemplated by this Agreement, (ii) cause the transactions contemplated by this Agreement to be rescinded following consummation, or (iii) alter the terms of any of the transactions provided for in this Agreement.

7.4 Deliverables. Purchaser shall execute and deliver to Seller this Agreement and any and all Transaction Documents, including an instrument of assignment and assumption, upon reasonable and customary terms mutually agreed upon by Purchaser and Seller, with respect to all Assigned Contracts and Assumed Liabilities being assumed at the Closing.

7.5 No Default. In the event that a DIP Financing Facility is entered into after the date of this Agreement, there shall exist no default or event of default by Dimaco under the DIP Financing Facility that would adversely affect the transactions contemplated by this Agreement.

7.6 Purchase Price. Purchaser shall satisfy the Cash Purchase Price.

7.7 Final Order. The Bankruptcy Court shall have entered the Final Order.

8. **CONDITIONS TO CLOSING OF PURCHASER.** The obligation of Purchaser to consummate the transactions contemplated by this Agreement and the Transaction Documents to be consummated at the Closing is subject to the satisfaction or waiver (but such waiver only in a

writing signed on behalf of Purchaser), to the extent permitted by Law, by Purchaser of the following additional conditions:

8.1 Deliverables. Seller shall have delivered to Purchaser the following, each to be in form and substance satisfactory to Purchaser and its counsel in their sole discretion:

- (a) An executed copy of this Agreement by Seller;
- (b) A customary bill of sale for all of the Acquired Assets which are tangible personal property, duly executed by Seller;
- (c) A customary assignment executed by Seller of all of the Acquired Assets which are intangible personal property;
- (d) Customary assignments, as prepared by Purchaser and executed by Seller, of all Intellectual Property Rights and customary separate assignments of all registered trademarks, service marks, patents, and copyrights, and all applications therefore;
- (e) Seller, on behalf of the Debtor and the Subsidiary, shall execute and deliver to Purchaser an irrevocable release, prepared by Purchaser, in form and substance satisfactory to Seller, pursuant to which Seller, on behalf of the Debtor and the Subsidiary releases from their respective employment, confidentiality, non-compete, non-solicitation, and similar obligations (but not any payment or repayment obligations which constitute Acquired Assets) of each of the Debtor's directors, managers, or employees hired by Purchaser (collectively, the "Released Employees"). Notwithstanding anything set forth herein to the contrary, the releases described in this Section 8.1(e) shall not include releases of covenants not to disclose confidential information of the Debtor or any of its clients or vendors, to any Person other than Purchaser or any Affiliate of Purchaser; and Blanch and Mastellon shall each deliver to Seller a waiver of any and all past due pre-petition salary remuneration due Blanch and Mastellon, respectively, through February 1, 2014;
- (f) Evidence of payment, reserve for payment or other satisfaction of all cure amounts at Closing in respect of each Assigned Contract; and
- (g) Such other deeds, bills of sale, assignments, certificates of title, documents, and other instruments of transfer and conveyance as may reasonably be requested by Purchaser (documents to be delivered pursuant to Sections 8.1(a) through (f) and Section 7.4 collectively, the "Transaction Documents").

8.2 Approvals and Consents. A Final Order shall have been entered by the Bankruptcy Court in form and substance reasonably acceptable to Purchaser authorizing the Parties to perform and consummate the transactions contemplated herein.

8.3 Representations and Warranties. Each of the representations and warranties of Seller set forth in Section 3 of this Agreement shall be true and correct in all material respects (or in all respects, to the extent any such representation and warranty is already qualified by materiality) on and as of the date hereof and on and as of the Closing Date with the same effect

as though such representations and warranties had been made on and as of the Closing Date, except that to the extent such representations and warranties address matters only as of a particular date, such representations and warranties shall, to such extent, be true and correct on and as of such particular date as if made on and as of such particular date.

8.4 Covenants. Seller shall have performed and complied in all material respects with all of its agreements and covenants required to be performed or complied with under this Agreement on or prior to the Closing Date.

8.5 No Default. In the event that a DIP Financing Facility is entered into after the date of this Agreement, there shall exist no default or event of default by Debtor or Seller under the DIP Financing Facility that would adversely affect the transactions contemplated by this Agreement.

8.6 Compliance with Law. The transactions contemplated by this Agreement and the Transaction Documents, shall not violate any requirement of applicable Law and shall not be enjoined temporarily, preliminarily, or permanently by any Governmental Authority.

8.7 Bidding Procedures Order. The Bankruptcy Court shall have entered the Bidding Procedures Order which, *inter alia*, approves the amount and conditions for payment of the Breakup Fee and Expense Reimbursement, and which is in form and substance satisfactory to Purchaser.

8.8 Absence of Material Adverse Effect. Since the Petition Date, there shall have occurred no Material Adverse Effect.

8.9 Employment Agreements. Each of Richard Blanch ("Blanch") and Gerard Mastellon ("Mastellon") shall have executed and delivered an employment agreement in form and substance satisfactory to Purchaser; provided, that Purchaser agrees that execution and delivery of an employment agreement for each of Blanch and Mastellon, respectively, on the terms set forth in the respective Employment Agreement Term Sheet will satisfy this condition.

8.10 Phosphogenics Ltd License Agreement. Purchaser shall have negotiated, prior to the Closing, a License Agreement with Phosphogenics Ltd. which is substantially similar to the Phosphogenics License Agreement. To the extent Purchaser fails to negotiate such a license agreement with Phosphogenics Ltd., the Phosphogenics License Agreement shall have been assumed by Seller, and assigned to Purchaser at the Closing; provided, that Seller shall deliver evidence that all cure amounts payable under such Phosphogenics License Agreement through the Closing Date (including in respect of all royalties earned on applicable sales through the Closing Date) have been paid, reserved for or satisfied at Closing.

8.11 Bankruptcy Case. Since the date of this Agreement, there shall not have been any dismissal of the Bankruptcy Case or conversion of the Bankruptcy Case to a case under Chapter 7 of the Bankruptcy Code.

8.12 Absence of Litigation. Except for the Bankruptcy Case, the Sale Motion, the disclosed litigation in Debtor's Statement of Financial Affairs [Docket No. 35], and any objections by the U.S. Patent and Trademark Office to any pending patent applications, no

litigation or proceeding shall be pending or threatened wherein an unfavorable judgment, order, decree, stipulation or injunction would (i) prevent consummation of the transactions contemplated by this Agreement, (ii) cause the transactions contemplated by this Agreement to be rescinded following consummation or (iii) affect adversely in any material respect the right of Purchaser to own, operate or control any of the Acquired Assets, and no such Law, judgment, order, decree, stipulation or injunction shall be in effect. Except for the Bankruptcy Case and the litigation on the Debtor's Statement of Financial Affairs [Docket No. 35], and any objections by the U.S. Patent and Trademark Office to any pending patent applications, no litigation or proceeding shall be pending which could reasonably be expected to have a Material Adverse Effect.

9. TERMINATION OF AGREEMENT.

9.1 The Parties may terminate this Agreement prior to the Closing (whether before or after the entry of the Bidding Procedures Order and/or the Sale Order), as provided below:

- (a) the Parties may terminate this Agreement by mutual written consent;
- (b) Purchaser may terminate this Agreement by giving written notice to Seller if the condition set forth in Section 7.1 is satisfied but Seller is in material breach of any representation, warranty, or covenant contained in this Agreement that would cause any condition set forth in Section 8 not to be satisfied; provided, however, that in the case of a material breach of a representation, warranty, or covenant contained herein by Seller, Seller shall have ten (10) Business Days after receipt of notice from Purchaser of such breach in which to cure such breach;
- (c) Seller may terminate this Agreement by giving written notice to Purchaser if the conditions set forth in Sections 8.4 and 8.5 are satisfied but Purchaser is in material breach of any representation, warranty, or covenant contained in this Agreement that would cause any condition set forth in Section 7 not to be satisfied; provided, however, that in the case of a material breach of a representation, warranty or covenant contained herein by Purchaser, Purchaser shall have ten (10) Business Days after receipt of notice from Seller of such breach in which to cure such breach;
- (d) Either Party may terminate this Agreement by giving written notice to other Party if the Closing shall not have occurred on or before 5:00 pm (EST) on the fifteenth day after the entry of the Final Order, but only to the extent that such failure to close was not caused by an action or omission of the terminating Party;
- (e) Either Party may terminate this Agreement by giving written notice to the other if the Bankruptcy Court has not entered the Bidding Procedures Order on or before April 15, 2014, or if the Bidding Procedures Order has been entered but it has been stayed, withdrawn, or rescinded as of such date;
- (f) Either Party may terminate this Agreement by giving written notice to the other if the Bankruptcy Court has not entered the Final Order on or before May 15, 2014;

(g) Either Party may terminate this Agreement by giving written notice to the other if the Bankruptcy Court enters and order either (i) dismissing the Bankruptcy Case, or (ii) converting the Bankruptcy Case to a liquidation proceeding under Chapter 7 of the Bankruptcy Code;

(h) Either Party may terminate this Agreement in the event that any Law or order becomes effective restraining, enjoining, or otherwise prohibiting or making illegal the consummation of the transactions contemplated by this Agreement;

(i) Seller may terminate this Agreement at any time after the Bankruptcy Court approves an Alternate Transaction, or Purchaser may terminate this Agreement upon the closing of an Alternate Transaction;

(j) Purchaser may terminate this Agreement in the event the Bankruptcy Court grants relief from the automatic stay to any Person to permit foreclosure or the exercise of other remedies on any material assets of the Debtor, other than any such relief from automatic stay granted to the lender under the DIP Financing Facility;

(k) Purchaser may terminate this Agreement in event that the Seller modifies, alters or amends this Agreement without the consent of Purchaser, or in event that Seller consents to any such modification, alteration or amendment;

(l) In the event that a DIP Financing Facility is entered into, (i) either Party may terminate this Agreement if the non-terminating party has materially breached or defaulted under the terms of the DIP Financing Facility, and such material breach or default has not been cured within five (5) Business Days of written notice from the terminating Party, and/or (ii) Seller may terminate this Agreement if Dimaco fails to fund any required payment under such DIP Financing Facility within five (5) calendar days of such amounts becoming due and payable; or

(m) Purchaser may terminate this Agreement at any time after a Material Adverse Effect has occurred, and such Material Adverse Effect has not, or cannot be cured within a reasonable period of time, but in no event more than thirty (30) calendar days from the date that the Purchaser notices the Seller that such Material Adverse Effect has taken place.

9.2 Effect of Termination. If this Agreement is terminated pursuant to (a) any fault of Seller, or (b) the consummation of an Alternate Transaction, all obligations of the Parties hereunder shall terminate without any liability on the part of Purchaser or Seller, except for Seller's obligation, if any, to Purchaser to pay the Breakup Fee and Expense Reimbursement pursuant to Section 5.11, such payment shall be made upon the closing of an Alternate Transaction; provided, however, that this Section 9.2, and Section 5.11 and Section 13 hereof, shall survive any such termination. Notwithstanding any other provision of this Agreement, if this Agreement is terminated pursuant to any fault of the Purchaser, it shall forfeit its right to the Breakup Fee, the Expense Reimbursement and, at Seller's sole discretion, the forfeiture of Purchaser's Deposit.

10. INTELLECTUAL PROPERTY DISCLOSURE.

10.1 Intellectual Property. Certain of the Intellectual Property Rights listed on Schedule 2.1(h) of the Disclosure Schedules are not currently registered in the Debtor's name, but in most if not all cases the Debtor's registered d/b/a Le Metier de Beaute (the "DBA IP"). Purchaser recognizes that it is aware of such issues. Seller will retain counsel to take actions to remediate, to the extent possible, the registration issues and to register such Intellectual Property Rights in Debtor's name prior to Closing. At the Closing, Seller shall assign any rights, titles, or interests of Debtor, if any, in such Intellectual Property Rights to Purchaser.

11. POST-CLOSING COVENANTS.

11.1 Non-Disclosure. From and after the Closing, Seller shall not disclose or make use of (except to pursue its rights under this Agreement, the excluded Avoidance Actions, or in the administration of the Debtor's estate) any knowledge, information or documents of a confidential nature or not generally known to the public which are included in the Acquired Assets (including any such information which constitutes financial information, technical information or data relating to products, services and names of customers) (all such knowledge, information or documents, "Confidential Information"), except to the extent that such Confidential Information is or shall have become public knowledge other than through improper disclosure by Seller.

11.2 Compelled Disclosure. Notwithstanding anything set forth to the contrary in this Section 11, Seller may disclose a portion of the Confidential Information if the information is required by applicable law to be disclosed in response to a valid order of a court of competent jurisdiction or Government Authority; provided, that Seller must provide Purchaser prompt written notice and obtain or allow for a reasonable effort by Purchaser to seek an appropriate protective order or other appropriate remedy or, in Purchaser's sole discretion, waive compliance with the applicable terms of Section 11.1 (and if Purchaser seeks such an order, Seller will provide such cooperation as Purchaser shall reasonably requested). In the event that no such protective order or other remedy is obtained or Purchaser does not waive compliance with the applicable terms of Section 11.1 and Seller is nonetheless legally compelled to disclose such Confidential Information, Seller will furnish only that portion of the Confidential Information which Seller is advised by counsel is legally required and will give Purchaser written notice of the Confidential Information to be disclosed as far in advance as practicable and exercise all reasonable efforts to obtain reliable assurance that confidential treatment will be accorded the Confidential Information.

11.3 Taxes. All transfer taxes, deed excise stamps and similar charges related to the sale of the Acquired Assets contemplated by this Agreement shall be paid by Purchaser at the Closing. Purchaser and Seller shall cooperate in providing each other with any appropriate resale exemption and other similar documentation. Purchaser shall prepare an allocation of the Purchase Price (and all other allocable costs) among the Acquired Assets in accordance with Internal Revenue Code §1060 and the Treasury Regulations thereunder (and any similar provision of state, local or foreign Law, as appropriate). Purchaser shall use reasonable efforts to deliver such allocation to Seller no later than ninety-five (95) days after the Closing Date for Seller's review and comment, after which Purchaser shall finalize the allocation, which shall be binding on the Parties. Purchaser and Seller (and their respective Affiliates and Subsidiaries)

agree that this allocation shall represent the fair market values of the Acquired Assets and shall prepare and file tax returns (including, IRS Form 8594) in a manner consistent with such allocation. None of Seller, the Subsidiary, Purchaser or any of their respective Affiliates shall take any tax position (whether in tax audits, tax returns or otherwise) that is inconsistent with such allocation unless required to do so by applicable Law. Further, any adjustments to Purchase Price pursuant this Agreement shall also be allocated in accordance with the methodology set forth on such allocation schedule. For the avoidance of doubt, the Parties acknowledge that any of the Parties may be required to use a different methodology for financial reporting matters.

11.4 Collection of Acquired Receivables.

(a) Seller, on behalf of the Debtor, hereby irrevocably constitutes and appoints, effective as of the Closing, the Purchaser and assigns of Purchaser as true and lawful attorney of the Debtor and the Subsidiary with full power of substitution to collect for the account of Purchaser any Acquired Asset, including to endorse and cash any checks or instruments payable or endorsed to the Debtor, or to Seller on behalf of the Debtor, or their respective order that are received by Purchaser and that relate to the Acquired Receivables.

(b) All payments and reimbursements received by the Debtor or the Subsidiary or Affiliate of the Debtor in connection with or arising out of the Acquired Assets or Assumed Liabilities after the Closing, including monies, checks, and reimbursements with respect to Acquired Receivables, shall be held by such Person in trust for the benefit of Purchaser and shall not be or become property of such Person, of the Debtor or its bankruptcy estate, or of the Subsidiary, and, promptly upon receipt by such Person of such payments, reimbursements, monies or checks such Person shall forward such payments, reimbursements, monies or checks, over to Purchaser without right of setoff, recoupment, or any other deduction.

11.5 Intellectual Property Matters. Seller shall cause the Debtor and the Subsidiary to cease and discontinue promptly after the Closing any and all uses of any and all Intellectual Property Rights. As of and following the Closing, neither the Debtor nor the Subsidiary shall have any right, title, or interest in, or any authority or license to use or allow others to use in any manner whatsoever, any Intellectual Property Rights, and any such right, title, interest, authority, license, or sublicense, or other arrangement relating thereto (whether written or oral) existing prior to the Closing, shall automatically terminate simultaneously with and effective as of the Closing. Within ten (10) calendar days following the Closing Date, the Seller shall (a) file a motion with the Bankruptcy Court seeking a change of the caption of the Bankruptcy Case to discontinue the use of the d/b/a "Le Metier de Beaute," (b) execute corporate authority on behalf of the Debtor to afford Purchaser the right and power to transfer and assign the Debtor's use of any registration or certificate of "Le Metier de Beaute" or any other assumed name, fictitious name, d/b/a filings, or other filings containing any such trade names or marks included in the Intellectual Property Rights so as to cause such corporate names, Internet domain names, email addresses, trademarks, and marks of or used by the Debtor to change and eliminate any trade names or marks included in the Acquired Assets therefrom.

11.6 Sharing of Data.

(a) Seller shall retain all of the Debtor's Books and Records, in whatever form or nature that they exist. On or about the Closing, but in no event more than twenty (20) Business Days after the Closing, Purchaser shall duplicate all of the Debtor's Books and Records and that it believes it relates to the Acquired Assets, the Assigned Contracts and Assumed Liabilities.

(b) Between the Closing Date and the closing of the Bankruptcy Case, Purchaser and its authorized agents shall have reasonable access to the written books and records of the Debtor in the possession of Seller to the extent that: (i) such books, records and information relate to any period prior to the Closing Date; and (ii) such access may reasonably be required by Purchaser in connection with the Acquired Assets, Assigned Contracts and Assumed Liabilities. Such access shall be afforded by Seller upon receipt of reasonable advance notice and during normal business hours. If Seller shall desire to abandon or dispose of any such books and records upon or prior to its dissolution, Seller shall: (A) give Purchaser at least fifteen (15) calendar days prior written notice of such disposition; and (B) give Purchaser a reasonable opportunity, at Purchaser's sole expense, to segregate and remove such books and records as Purchaser may select and/or to copy such books and records as Purchaser may select.

(c) Notwithstanding anything to the contrary set forth in this Section 11.6, no access to, or examination of, any information or other investigation shall be permitted to the extent that it would require disclosure of information subject to attorney-client or other privilege; provided, that the party asserting such privilege advises the other party of the specific assertion of such privilege.

12. **NOTICES.** All notices required or permitted to be given by any Party shall be in writing and shall be deemed to have been properly given if sent by registered or certified mail, or by recognized overnight courier service (the "Courier Service"), postage prepaid, to the Parties at the addresses set forth below or to such other address as any Party may from time to time give notice pursuant to this Section 12. All notices shall be deemed received when delivered but in no event later than five (5) Business Days after they are deposited with either the United States Postal Service or the Courier Service, whichever shall first occur. Notice shall be given at the following addresses:

To Purchaser:

Dimaco, LLC
c/o Zukerman Gore Brandeis & Crossman, LLP
Eleven Times Square, 15th Floor
New York, New York 10036
Attention: Joseph E. Maloney

With a copy to:

Hurni & West, LLP
285 Grand Avenue, Bldg. One
Englewood, NJ 07631
Attention: Andrew Hurni

To Seller:

Kenneth P. Silverman, Esq., as Chapter 11 Operating Trustee
c/o SilvermanAcampora LLP
100 Jericho Quadrangle, Suite 300
Jericho, New York 11753
Attention: Gerard R. Luckman, Esq.

Any Party may change the address to which notices, requests, demands, claims, and other communications hereunder are to be delivered by giving the other Party or Parties notice in the manner herein set forth.

13. MISCELLANEOUS.

13.1 "AS IS" "WHERE IS" TRANSACTION. EXCEPT AS PROVIDED FOR HEREIN, PURCHASER HEREBY ACKNOWLEDGES AND AGREES THAT SELLER MAKES NO REPRESENTATIONS OR WARRANTIES WHATSOEVER, EXPRESS OR IMPLIED, WITH RESPECT TO ANY MATTER RELATING TO THE ACQUIRED ASSETS, INCLUDING INCOME TO BE DERIVED OR EXPENSES TO BE INCURRED IN CONNECTION WITH THE ACQUIRED ASSETS, THE PHYSICAL CONDITION OF ANY PERSONAL PROPERTY COMPRISING A PART OF THE ACQUIRED ASSETS, THE VALUE OF THE ACQUIRED ASSETS (OR ANY PORTION THEREOF), THE TRANSFERABILITY OF THE ACQUIRED ASSETS, THE TERMS, AMOUNT, VALIDITY, OR ENFORCEABILITY OF ANY ASSUMED LIABILITIES, THE TITLE OF THE ACQUIRED ASSETS (OR ANY PORTION THEREOF), THE MERCHANTABILITY OR FITNESS OF THE ACQUIRED ASSETS FOR ANY PARTICULAR PURPOSE, OR ANY OTHER MATTER OR THING RELATING TO THE ACQUIRED ASSETS OR ANY PORTION THEREOF. WITHOUT IN ANY WAY LIMITING THE FOREGOING, SELLER HEREBY DISCLAIMS ANY WARRANTY, EXPRESS OR IMPLIED, OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE AS TO ANY PORTION OF THE ACQUIRED ASSETS. PURCHASER FURTHER ACKNOWLEDGES THAT, PRIOR TO THE CLOSING DATE, THE PURCHASER, WILL HAVE CONDUCTED AN INDEPENDENT INSPECTION AND INVESTIGATION OF THE PHYSICAL CONDITION OF THE PROPERTY CONSTITUTING THE ACQUIRED ASSETS AND ALL SUCH OTHER MATTERS RELATING TO OR AFFECTING THE ACQUIRED ASSETS AS PURCHASER DEEMS NECESSARY OR APPROPRIATE AND THAT IN PROCEEDING WITH ITS ACQUISITION OF THE ACQUIRED ASSETS AND THE EXECUTION OF THIS AGREEMENT, PURCHASER IS DOING SO BASED SOLELY UPON SUCH INDEPENDENT INSPECTIONS AND INVESTIGATIONS. ACCORDINGLY, UPON

CLOSING, PURCHASER WILL ACCEPT THE ACQUIRED ASSETS "AS IS," "WHERE IS," AND "WITH ALL FAULTS."

13.2 Expenses. Except as otherwise set forth in this Agreement and, as applicable, the Transaction Documents, each Party shall bear its own costs and expenses (including legal fees and expenses) incurred in connection with this Agreement and the transactions contemplated hereby.

13.3 Disclosure Schedules. All Disclosure Schedules identified herein (the "Disclosure Schedules") shall be prepared by Purchaser and presented to Seller for review on or before 4:00 p.m. (EST) on the date that is no later than 27 days before the hearing to consider the Sale Motion.

13.4 No Impediment to Liquidation. Nothing herein shall be deemed or construed so as to limit, restrict, or impose any impediment to the Trustee's right to liquidate, dissolve, and wind-up the Debtor's affairs and to cease all business activities and operations at such time as he may determine following the Closing, including a post-closing conversion of the Bankruptcy Case to a case under Chapter 7 of the Bankruptcy Code.

13.5 Entire Agreement. This Agreement including the Transaction Documents and the Confidentiality Agreement constitute the entire agreement among the Parties with the respect to the subject matter hereof. This Agreement supersedes any prior understandings, agreements, or representations by or among the Parties, written or oral, with respect to the subject matter hereof. The confidentiality provisions of the Confidentiality Agreement shall terminate effective as of the Closing with respect to the Acquired Assets and the Assumed Liabilities.

13.6 Amendments and Waivers. The Parties may mutually amend any provision of this Agreement at any time prior to the Closing. No amendment of any provision of this Agreement shall be valid unless the same shall be in writing and signed by each of the Parties. No waiver by any Party of any right or remedy hereunder shall be valid unless the same shall be in writing and signed by the Party giving such waiver. No waiver by any Party with respect to any default, misrepresentation, or breach of warranty or covenant hereunder shall be deemed to extend to any prior or subsequent default, misrepresentation, or breach of warranty or covenant hereunder or affect in any way any rights arising by virtue of any prior or subsequent such occurrence.

13.7 Governing Law. Except to the extent governed by federal bankruptcy law, this Agreement shall be governed by and construed in accordance with the laws of the State of New York.

13.8 Exclusive Jurisdiction. To the fullest extent permitted by applicable Law, each Party hereto (a) agrees that any claim, action, or proceeding by such Party seeking any relief whatsoever arising out of, or in connection with this Agreement or any Transaction Document or the transactions contemplated hereby and thereby shall be brought only in (i) the Bankruptcy Court, if brought prior to the entry of a final decree closing the Bankruptcy Case, and (ii) in the federal courts in the Southern District of New York and the state courts of the State of New York, County of Manhattan (collectively, the "New York Courts"), if brought after entry of such

final decree closing the Bankruptcy Case, and shall not be brought, in each case, in any other State or Federal court in the United States of America or any court in any other country, (b) agrees to submit to the exclusive jurisdiction of the Bankruptcy Court or the New York Courts, as applicable, pursuant to the preceding clauses (a)(i) and (ii), for purposes of all claims, actions, or proceedings arising out of, or in connection with this Agreement or any Transaction Document or the transactions contemplated by this Agreement, (c) waives and agrees not to assert any objection that it may now or hereafter have to the laying of the venue of any such claim, action or proceeding brought in such a court or any claim that any such claim, action or proceeding brought in such a court has been brought in an inconvenient forum, (d) agrees that mailing of process or other papers in connection with any such claim, action or proceeding in the manner provided in Section 12 hereto shall be valid and sufficient service thereof, and (e) agrees that a final judgment in any such claim, action or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by applicable Law.

13.9 WAIVER OF JURY TRIAL. EACH PARTY HERETO ACKNOWLEDGES AND AGREES THAT ANY CONTROVERSY WHICH MAY ARISE UNDER THIS AGREEMENT IS LIKELY TO INVOLVE COMPLICATED AND DIFFICULT ISSUES, AND THEREFORE IT HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVES ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT AND ANY OF THE OTHER TRANSACTION DOCUMENTS OR THE TRANSACTIONS CONTEMPLATED HEREIN OR THEREIN. EACH PARTY HERETO CERTIFIES AND ACKNOWLEDGES THAT (I) NO REPRESENTATIVE, AGENT, OR ATTORNEY OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE SUCH WAIVER, (II) IT UNDERSTANDS AND HAS CONSIDERED THE IMPLICATIONS OF SUCH WAIVER, (III) IT MAKES SUCH WAIVER VOLUNTARILY, AND (IV) IT HAS BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION.

13.10 Survival of Representations. None of the representations and warranties made by the Parties herein or the documents or certificates contemplated hereby shall survive the Closing.

13.11 Assignment: Binding Upon Successors and Assigns. Neither Party may assign any of its rights or obligations hereunder without the prior written consent of the other Party; provided, however, that Purchaser may assign its rights to acquire the Acquired Assets in whole or in part to an Affiliate, provided such assignment shall not relieve Purchaser of its obligations hereunder. This Agreement shall be binding upon and inure to the benefit of the Parties and their respective successors and permitted assigns.

13.12 No Third Party Beneficiaries. No provisions of this Agreement are intended, nor will be interpreted, to provide or create any third party beneficiary rights or any other rights of any kind in any client, customer, affiliate, member, shareholder, partner, employee of any Party or any other Person unless specifically provided otherwise herein, and, except as so provided, all provisions herein will be solely between the Parties.

13.13 Headings. The section headings contained in this Agreement are inserted for convenience only and shall not affect in any way the meaning or interpretation of this Agreement.

13.14 Construction.

(a) The language used in this Agreement shall be deemed to be the language chosen by the Parties to express their mutual intent, and no rule of strict construction shall be applied against any Party.

(b) Any reference to any federal, state, local, or foreign statute or Law shall be deemed also to refer to all rules and regulations promulgated thereunder, unless the context requires otherwise.

(c) Any reference to "include," "includes," or "including" shall be interpreted to be followed by the phrase "without limitation" or "but not limited to",

(d) Any reference to \$ shall be to U.S. dollars.

(e) Any reference to any section shall be deemed to refer to a section of this Agreement, unless the context clearly indicates otherwise.

13.15 Severability. If any provision of this Agreement, or the application thereof, is for any reason held to any extent to be invalid or unenforceable, the remainder of this Agreement and application of such provision will be interpreted so as reasonably to effect the intent of the Parties. The Parties further agree to replace such unenforceable provision of this Agreement with a valid and enforceable provision that will achieve, to the extent possible, the economic, business, and other purposes of the void or unenforceable provision.

13.16 Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall be deemed to be one and the same agreement. A signed copy of this Agreement delivered by facsimile, e-mail or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original signed copy of this Agreement.

[Signature page to follow]

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

SELLER:

Kenneth P. Silverman, Esq.
Chapter 11 Operating Trustee of Metier Tribeca, LLC

.....
Kenneth P. Silverman, solely in his capacity
as Chapter 11 Operating Trustee of Metier
Tribeca, LLC

PURCHASER:

DIMACO, LLC

By: _____

John Diamond
Managing Member

AGREEMENT

1. **DEFINITIONS AND USAGE OF CERTAIN TERMS.** For purposes of this Agreement, the following terms have the meanings specified or referred to in this Section 1:

"Accounts Receivable" mean (i) all trade and other accounts receivable and other rights to payment of any kind that are or may become payable to the Debtor for services rendered or products delivered and the full benefit of all security for such accounts or rights to payment, and (ii) any claim, remedy or other right related to any of the foregoing.

"Acquired Assets" has the meaning set forth in Section 2.1, below.

"Acquired Avoidance Action" means any Avoidance Action on account of or with respect to payments or transfers of property made by the Debtor to any former and current managers, employees, and independent contractors of the Debtor and the Subsidiary prior to the filing of the Bankruptcy Case who are listed on Schedule 1.1 hereto if such person is employed or engaged by Purchaser or any of its Affiliates or assignees.

"Acquired Receivables" mean (i) all Accounts Receivable that have not been sold to Fundamental Funding LLC prior to the Closing, (ii) all Accounts Receivable which have been repurchased from Fundamental Funding, LLC, (iii) all notes and loans receivable including any rights to receive credit card proceeds and rights of Seller with respect to any collection procedures, together with (a) any security held by the Debtor for the payment thereof, as such exist as of the Closing or may arise thereafter, (b) any monies, checks or instruments received by or on behalf of the Debtor before or after the Closing in respect thereof, and (c) all records supporting the provision of products or services to which the receivable relates.

"Acquisition Proposal" means a proposal (other than by Purchaser) relating to (i) any merger, consolidation, restructuring, reorganization, plan of reorganization in the Bankruptcy Case, joint venture, refinancing, funding of a plan of reorganization in the Bankruptcy Case, business combination, sale or other disposition of all or any part of the Debtor, the Business or the Acquired Assets, except with respect to the Excluded Assets, pursuant to one or more transactions, (ii) the sale of any of the outstanding shares of capital stock or equity interests of the Debtor (including by way of a debt for equity swap, tender offer, foreclosure or plan of reorganization or liquidation) or (iii) any similar transaction or business combination involving one or more Persons (other than Purchaser) and Seller with respect to the Debtor, the Business, or the Acquired Assets, except with respect to the Excluded Assets.

"Affiliate" means, with respect to any Person, any other Person who directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with, such Person. The term "control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting securities, by contract or otherwise, and the terms "controlled" and "controlling" have meanings correlative thereto. For the avoidance of doubt, "Affiliate" of a corporation, limited liability company or other entity shall include (i) each officer, director and manager of such corporation, limited liability company or other entity, (ii) each holder of 10% or

more of the outstanding voting securities of such corporation, limited liability company or other entity and (iii) each subsidiary of such corporation, limited liability company or other entity.

"Agreement" has the meaning set forth in the Preamble, above.

"Alternate Transaction" means (i) any merger, consolidation, restructuring, reorganization, plan of reorganization in the Bankruptcy Case, joint venture, refinancing, funding of a plan of reorganization in the Bankruptcy Case, business combination, sale, or other disposition of all or any part of the Debtor, the Business, the Acquired Assets, except with respect to the Excluded Assets, other than the Subsidiary, pursuant to one or more transactions, (ii) the sale of any of the outstanding shares of capital stock or equity interests of the Debtor (including by way of a debt for equity swap, tender offer, foreclosure or plan of reorganization or liquidation) or (iii) any similar transaction or business combination involving, in the case of each of clause (i), (ii), and (iii) one or more Persons (other than Purchaser) and Seller with respect to the Debtor, the Business, or the Acquired Assets, except with respect to the Excluded Assets.

"Appointment Date" has the meaning set forth in Recital II, above.

"Assigned Contracts" mean all Debtor Contracts that are (i) listed on Schedule 2.1(d) of Disclosure Schedules as the date hereof and (ii) listed on Schedule 2.1(d) of the Disclosure Schedules after the date hereof with Purchaser's prior written consent.

"Assumed Liabilities" mean only those obligations of the Debtor under any Assigned Contract that accrue and are required to be performed from and after the Closing Date (except for any obligations and liabilities to the extent based on the actions of the Debtor), excluding cure amounts for the period prior to the Closing Date related to the Assigned Contracts, which shall be satisfied by Seller on behalf of the Debtor's estate.

"Avoidance Actions" mean all Causes of Action of the Debtor (or Seller as representative of the Debtor's estate) under Bankruptcy Code §§544 through and including 553, or other federal or state law.

"Bankruptcy Case" has the meaning set forth in Recital I, above.

"Bankruptcy Code" has the meaning set forth in Recital I, above.

"Bankruptcy Court" has the meaning set forth in Recital I, above.

"Bankruptcy Rules" means the Federal Rules of Bankruptcy Procedure, as amended, or any successor rules.

"Bidding Procedures" mean the procedures for the submission of competing bids for the acquisition of the Acquired Assets as approved by the Bankruptcy Court in the Bidding Procedures Order.

"Bidding Procedures Order" means the order entered by the Bankruptcy Court approving those portions of the Sale Motion that concern the notice of the public sale and bid procedures

hearing, the Bidding Procedures (including all bidding protections, such as, the Breakup Fee and Expense Reimbursement), substantially in the form attached as Exhibit A hereto.

"Blanch" has the meaning set forth in Section 8.9, below.

"Books and Records" mean all books and records pertaining to the Acquired Assets or the Business of any and every kind, including customer lists, correspondence, compact disks, compact disk lists, ledgers, disk or tape files, printouts, runs or other computer-prepared information, data, files, reports and operating records of every kind, held or maintained by or on behalf of the Debtor or by any Affiliate or Representative of the Debtor.

"Breakup Fee" has the meaning set forth in Section 5.11, below.

"Business" has the meaning set forth in Recital III, above.

"Business Day" means any day other than (i) Saturday or Sunday or (ii) any other day on which banks in New York, New York are permitted or required to be closed.

"Cash Purchase Price" has the meaning set forth in Section 2.4, below.

"Causes of Action" shall mean all claims, causes of action, choses in action, rights of recovery, repayment obligations, rights of setoff, and rights of recoupment that the Debtor (or Seller as representative of the Debtor's estate) has or may have against any Person.

"Closing" has the meaning set forth in Section 2.5, below.

"Closing Date" has the meaning set forth in Section 2.5, below.

"Confidential Information" has the meaning set forth in Section 11.1, below.

"Confidentiality Agreement" means the Non-Disclosure Agreement dated February 20, 2014, by and between the Debtor and Dimaco.

"Courier Service" has the meaning set forth in Section 12, below.

"DBA IP" has the meaning set forth in Section 10.1, below.

"Debtor" has the meaning set forth in the Preamble to this Agreement.

"Debtor Contracts" mean any agreement, contract, plan, undertaking, instrument, note, bond, mortgage, indenture, deed of trust, loan, credit agreement, franchise concession, permit, license, lease, purchase order, sales order or other similar commitment, obligation, arrangement or understanding, whether written or oral, between Seller and any other Person.

"Dimaco" has the meaning set forth in the Preamble to this Agreement.

"DIP Financing Facility" means any debtor-in-possession financing facility or facilities, if any, entered into after the date hereof by and between Seller, on behalf of the Debtor, and Dimaco.

"Disclosure Schedules" has the meaning set forth in Section 13.3, below.

"Employee Plans" mean all employment, consulting, wage, base compensation, bonus, incentive compensation, deferred compensation, pension, profit sharing, retirement, stock purchase, stock option, stock ownership, stock appreciation or depreciation rights, phantom stock, equity (or equity-based), leave of absence, layoff, vacation, sick time, day or dependent care, legal services, cafeteria, life, health, medical, dental, vision, welfare, accident, disability, workmen's compensation or other insurance, severance, separation, termination, change of control, collective bargaining or other benefit plans, understandings, agreements, practices, obligations, policies or arrangements of any kind, whether written or oral, and whether or not subject to ERISA, including any "employee benefit plan" within the meaning of Section 3(3) of ERISA.

"Employment Agreement Term Sheets" mean the employment agreement term sheets dated March 21, 2014 for each of Blanch and Mastellon setting forth the respective material terms of the employment agreements proposed to be entered into by the Purchaser and Blanch and Mastellon, respectively, copies of which Employment Agreement Term Sheets have been provided to the Trustee prior to the date of this Agreement.

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

"Excluded Assets" has the meaning set forth in Section 2.2, below.

"Excluded Debtor Contracts" mean all Debtor Contracts other than the Assigned Contracts.

"Expense Reimbursement" has the meaning set forth in Section 5.11, below.

"Filing Date" has the meaning set forth in Recital I, above.

"Final Order" means a Sale Order that is enforceable immediately upon entry and is not stayed by Bankruptcy Rules 6004(h) and 6006(d), or a Sale Order (or any revision, modification, or amendment thereto) as to which the time to appeal or seek review or rehearing has expired, and as to which no appeal or petition for review or motion for re-argument has been taken or been made and is pending for argument.

"Governmental Authority" means any (i) federal, state, local, municipal, foreign, international, multinational or other government (or any subdivision, branch, department, commission, board, bureau, agency, authority, official, body or instrumentality thereof), (ii) governmental or quasi-governmental entity of any nature (whether federal, state, local, municipal, foreign, international, multinational or otherwise, including any governmental branch, department, commission, board, bureau, agency, authority, official, body or instrumentality), (iii) any court, tribunal or judicial or arbitral body or tribunal or (iv) body exercising or entitled to exercise any administrative, executive, judicial, legislative, police, regulatory, or taxing authority or power of any nature.

"Intellectual Property Rights" mean all worldwide intellectual property rights belonging to the Debtor, including, without limitation, the Debtor's trade name, Le Métier de Beauté, all derivations thereof otherwise used by Debtor, and all logos and other corresponding intellectual property relating thereto; all U.S. and foreign patents, patent applications, patent rights, trademarks (registered and/or at common law), trademark applications, trade names, service marks, service mark applications, URLs, copyrights, copyright registrations and applications for registration, moral rights, franchises, licenses, inventories, know-how, trade secrets, customer lists, proprietary information, proprietary processes and formulae, databases and data collections, all source and object code, algorithms, architecture, structure, layouts, inventions, development tools, all goodwill and other general intangibles, and all products and proceeds thereof, and all documentation and media constituting, describing or relating to the above, including, manuals, memoranda, and records, including without limitation the intellectual property rights identified by Purchaser on Schedule 2.1(h) of the Disclosure Schedules.

"Inventory" means the Debtor's owned products manufactured or to be distributed by or on the Debtor's behalf, and any and all other owned inventory, and any finished goods returned by any of Debtor's customers, whether returned before or after the Closing, in each case wherever located, including all finished goods, works in process, raw materials, and all other materials and supplies to be used or consumed by or on behalf of Debtor in the production of finished goods or the operation of the Business.

"Knowledge" means, as to a particular matter, the actual knowledge of the Trustee after due inquiry of the Debtor's management.

"Law" shall mean any statute, law (including common law), constitution, treaty, ordinance, code, order, decree, directive, judgment, rule, regulation and any other binding requirement or determination of any Governmental Authority of any jurisdiction.

"Liability" with respect to any Person, means any liability or obligation of such Person of any kind, character or description, whether known or unknown, absolute or contingent, accrued or unaccrued, disputed or undisputed, liquidated or unliquidated, secured or unsecured, joint or several, due or to become due, vested or unvested, executory, determined, determinable or otherwise and whether or not the same is required to be accrued on the financial statements of such Person.

"Lien" means any lien (statutory or otherwise), claim, Liability, encumbrance, pledge, restriction, charge, instrument, license, preference, priority, security agreement, easement, covenant, right of recovery, option, charge, hypothecation, security interest, interest, right of way, encroachment, mortgage, deed of trust, imperfection of title, prior assignments, tax (including federal, state, local, municipal, foreign, international, multinational or other tax), order of any Governmental Authority, right of first refusal or similar interests, or other encumbrance or charge of any kind or nature whatsoever, including voting trusts or agreements, proxies and marital or community property interests.

"Mastellon" has the meaning set forth in Section 8.9, below.

"Material Adverse Effect" means a change in the business, assets, operations, or financial prospects of the Business, which is, or is reasonably likely to be, materially adverse to the business, assets, operations or financial prospects of the Business; provided, however, that any event or occurrence that would otherwise constitute a Material Adverse Effect as a consequence of (i) the Chapter 11 petition and related filings effected by the Debtor, (ii) general economic, legal, regulatory or political conditions in the United States of America (provided that the impact on the Seller and its subsidiaries is not materially disproportionate to the impact of similar entities), (iii) conditions generally affecting the industries in which the Debtor and the Subsidiary operate (provided that the impact on the Debtor and the Subsidiary is not materially disproportionate to the impact of similar entities), (iv) the commencement or escalation of war or armed hostilities or the occurrence of acts of terrorism or sabotage, (v) changes in the securities markets generally, or (vi) changes in law or generally accepted accounting principles, or any interpretation thereof, shall not be a Material Adverse Effect notwithstanding anything set forth herein to the contrary."

"New York Courts" has the meaning set forth in Section 13.8, below.

"Parties" or "Party" shall have the meaning set forth in the Preamble to this Agreement.

"Permits" mean all permits, licenses, franchises, approvals, authorizations, and consents required to be obtained from Governmental Authorities.

"Person" means any individual, corporation, partnership, limited liability company, joint venture, trust, unincorporated organization, any government or any agency or political subdivision thereof.

"Phosphagenics License Agreement" means that certain License Agreement by and between Phosphagenics Ltd. and the Debtor dated as of January 24, 2011.

"Purchase Price" has the meaning set forth in Section 2.4, below.

"Purchaser" has the meaning set forth in the Preamble to this Agreement.

"Purchaser's Deposit" shall mean \$212,500 of the funds loaned by Dimaco pursuant to Bankruptcy Code §364(c) as "So Ordered" by the Bankruptcy Court prior to the date of this Agreement.

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

"Released Employees" has the meaning set forth in Section 8.1(e), below.

"Representatives" means, collectively, with respect to any Person, such Person's directors, officers, managers, trustees, shareholders, members, partners, employees, agents, counsel, accountants, financial advisors, lenders, consultants and other representatives.

"Sale Order" means one or more orders of the Bankruptcy Court, substantially in form attached as Exhibit C hereto, which provides for, and authorizes, among other things, (a) the

sale of the Acquired Assets to Purchaser, and (b) the assignment by Seller, and assumption by Purchaser, of the Assigned Contracts, under Bankruptcy Code §§363 and 365.

“Seller” has the meaning set forth in the Preamble to this Agreement.

“Sale Motion” means the motion filed in the Bankruptcy Court on behalf of Seller, for among other things, approval of the notice of auction and sale hearing, Bidding Procedures and bidding protections, including the Breakup Fee and Expense Reimbursement, the sale of the Acquired Assets to Purchaser and the assignment by Seller, and assumption by Purchaser, of the Assigned Contracts.

“Subsidiary” means the Debtor’s wholly owned subsidiary Hang Tag, LLC.

“Successful Bid” means the final purchase price (a) bid at the public sale pursuant to the Bidding Procedures Order, (b) confirmed by the Trustee as the highest or best offer, and (c) approved by the Bankruptcy Court in the Final Order.

“Transaction Documents” has the meaning set forth in Section 8.1(f), below.

“Trustee” has the meaning set forth in the Preamble to this Agreement.

2. PURCHASE AND SALE.

2.1 Assets to be Sold. Upon the terms and subject to the conditions set forth in this Agreement, on the Closing Date, Seller shall sell, convey, transfer, and assign to Purchaser, and Purchaser shall purchase and accept from Seller, all right, title, and interest of the Debtor in and to all of the property and assets of the Debtor used in, or otherwise relating to the operation of the Business, whether real or personal, tangible or intangible, of every kind and description, and wherever located, “as is” and “where is”, free and clear of all Liens existing as of the Closing, regardless of whether any of such Acquired Assets existed before, on, or after the commencement of the Bankruptcy Case, including, without limitation, the following (the “Acquired Assets”), but excluding the Excluded Assets:

(a) all of the Debtor’s deposits, security deposits, prepayments, and prepaid expenses as of the Closing Date that relate to any Assigned Contract or any other Acquired Asset;

(b) the Acquired Receivables;

(c) all customer accounts;

(d) Assigned Contracts set forth on Schedule 2.1(d) of the Disclosure Schedules, excluding cure amounts related to the Assigned Contracts, which shall be satisfied by Seller on behalf of the Debtor’s estate from the proceeds of the Purchase Price;

(e) all equipment, computers (including all copies of software installed on any such computers, servers, or other electronic equipment, and any documentation and

media constituting, describing, or relating to such copies, including manuals, technical specifications and the like), furniture, supplies, fixtures, and other tangible personal property of the Debtor;

(f) all Inventory;

(g) all investment property, instruments, chattel paper, and real estate;

(h) all Intellectual Property Rights together with all income, royalties, damages, and payments due or payable to the Debtor at the Closing or thereafter relating to the Intellectual Property Rights, the right to register, prosecute, maintain, and defend the rights of the Debtor in the Intellectual Property Rights, the right to sue and recover damages for past or future infringements or misappropriations thereof, and the right to fully and entirely stand in the place of the Debtor in all matters related thereto;

(i) all Permits, to the extent transferable, necessary for Purchaser to perform its obligations under the Assigned Contracts after the Closing;

(j) all Books and Records;

(k) the Debtor's email addresses, website (including the URL, electronic images, text, and source codes therein), facsimile numbers, telephone numbers, and cellphones;

(l) all rights and claims with respect to the Acquired Assets, Assigned Contracts and Assumed Liabilities, including all enforcement rights, Acquired Avoidance Actions, and refunds including with respect to taxes for all periods ended after the Closing Date;

(m) all promotional materials, catalogues, research materials, mailing lists and customer lists, all names and addresses of customers, and sales reports by title and by customer to the extent available relating to the Business;

(n) the amount of, and all rights to any, insurance proceeds received by the Debtor after the date of this Agreement in respect of the loss, destruction, or condemnation of any Acquired Assets occurring prior to, on, or after the Closing or any Assumed Liabilities;

(o) all outstanding orders for the Debtor's products as of the Closing, which shall be transferred to Purchaser at Closing for processing and fulfillment; and

(p) all goodwill relating to the items set forth in this Section 2.1 and the definition of Acquired Assets.

2.2 Excluded Assets. Notwithstanding anything to the contrary contained in Section 2.1 or elsewhere in this Agreement, the following assets of the Debtor (collectively, the "Excluded Assets") are not part of the sale and purchase contemplated hereunder, are excluded from the Acquired Assets, and shall remain the property of the Debtor after the Closing:

(a) all cash and cash equivalents other than cash or cash equivalents that are (i) included in Sections 2.1(a), (f) and (n), above, or (ii) received by the Debtor in respect of any Acquired Receivable;

(b) the corporate charter, qualifications to conduct business as a foreign entity, arrangements with registered agents relating to foreign qualifications, taxpayer and other identification numbers, seals, minute books, stock transfer books and other documents relating to the organization and existence of the Debtor and the Subsidiary as limited liability companies;

(c) any Books and Records that do not relate to the Acquired Assets or the Assumed Liabilities or that Seller is, in its good faith determination, required by Law to retain, including tax returns, financial statements and corporate or other entity filings, provided that Purchaser shall have the right, subject to provisions of Section 11.6, below, to make copies of any such Books and Records to the extent they related to Acquired Assets or Assumed Liabilities;

(d) all of the Debtor's bank accounts and lock-boxes;

(e) all Accounts Receivable, other than Acquired Receivables;

(f) all rights of Seller and the Debtor under this Agreement or any of the Transaction Documents;

(g) all insurance policies, except to the extent constituting an Assigned Contract;

(h) Excluded Debtor Contracts;

(i) all insurance claims, insurance premium refunds, and proceeds to the extent related to any Excluded Assets;

(j) the rights and claims and Causes of Action of the Debtor (or the Seller on behalf of the Debtor's estate) arising from or solely relating to the Excluded Assets and other than Acquired Avoidance Actions, the Debtor's (or the Seller's on behalf of the Debtor's estate) rights and claims and Causes of Action arising pursuant to Bankruptcy Code §§544 through and including 553, and any other avoidance and/or fraudulent conveyance action under any other applicable provisions of the Bankruptcy Code or applicable Law; provided, however, that any Acquired Avoidance Actions are deemed waived;

(k) all rights to tax refunds, credits, or similar benefits for all periods ended on or prior to the Closing;

(l) all membership interests and all other equity interests relating to the Subsidiary; and

(m) all Employee Plans.

2.3 Assumed Liabilities; Purchaser Not Successor to the Debtor. Upon and subject to the terms and conditions of this Agreement, Purchaser shall assume and become responsible for, from and after the Closing, only the Assumed Liabilities. The assumption of the Assumed Liabilities by Purchaser shall not enlarge any rights of third parties under the Debtor Contracts or arrangements with Purchaser, the Debtor or Seller, and nothing herein shall prevent any party from contesting in good faith with any third party any Assumed Liability. Purchaser shall not be the successor to the Debtor and Seller hereby acknowledges and agrees that, pursuant to the terms and provisions of this Agreement, Purchaser shall not assume or become liable or obligated to pay, perform, or discharge any Liability whatsoever of the Debtor, whether or not relating to any of the Acquired Assets or the Business, whether fixed or unfixed, known or unknown, asserted or unasserted, liquidated or unliquidated, secured or unsecured, absolute or contingent, accrued or unaccrued, matured or unmatured other than the Assumed Liabilities.

2.4 Purchase Price. The purchase price to be paid by Purchaser for the Acquired Assets shall be an amount equal to \$4,250,000 (the "Purchase Price"). At the Closing, Purchaser shall pay Seller the Purchase Price less (i) any and all of the obligations outstanding under the DIP Financing Facility, if any is approved by the Bankruptcy Court, (ii) any and all obligations of the Debtor in respect of \$60,000 loaned by Dimaco to the Debtor pursuant to Bankruptcy Code §364(c) as "So Ordered" by the Bankruptcy Court on February 26, 2014, (iii) any and all obligations of the Debtor in respect of \$218,000 loaned by Dimaco to the Debtor pursuant to Bankruptcy Code §364(c) as "So Ordered" by the Bankruptcy Court on February 27, 2014, (iv) any and all obligations of Debtor in respect of up to \$222,000 loaned by Dimaco to Debtor pursuant to Bankruptcy Code §364(c) on an as "So Ordered" by the Bankruptcy Court on March 14, 2014, (v) any and all obligations of the Debtor in respect of future amounts loaned by Dimaco to the Debtor (or Seller on behalf of the Debtor) pursuant to Bankruptcy Code §364(c) on an as "So Ordered" basis by the Bankruptcy Court after the date hereof, (vi) any outstanding obligations under the \$100,000 secured pre-petition loan made by Dimaco to Debtor in February 2014, and (vii) the value of any and all distributable amounts (to the extent determinable by the Trustee in his sole discretion after consultation with Dimaco as of or before the Closing) on account of Dimaco's allowed unsecured claims against Debtor's estate (collectively, after the deductions in Section 2.4(i) through (vii), the "Cash Purchase Price"). Dimaco shall retain all rights to receive any distributable amounts on account of its allowed unsecured claims against the Debtor's estate that are not satisfied in connection with Section 2.4(vii), above. All payments of the Cash Purchase Price under this Section 2.4 shall be made by wire transfer of immediately available funds to an account that Seller, at least 48 hours prior to the Closing, has submitted to Purchaser in writing.

2.5 Closing. The closing of the transactions contemplated by this Agreement (the "Closing") shall take place at the offices of SilvermanAcampora LLP, 100 Jericho Quadrangle, Suite 300, Jericho, New York 11753, commencing at a time mutually agreed upon by the Parties, on the date that is not later than five (5) Business Days following: (a) the entry of the Final Order; and (b) satisfaction or waiver of all conditions to the obligations of the Parties to consummate the transactions contemplated herein (other than conditions with respect to actions the respective Parties will take at the Closing itself) or such other date as Purchaser and Seller may mutually determine (the "Closing Date"). The Parties shall use their commercially reasonable efforts to consummate the transactions contemplated herein within two (2) Business Days after the entry of the Final Order.

2.6 Further Assurances. At any time and from time to time after the Closing, at the request of Purchaser and without further consideration: (i) Seller shall (a) use commercially reasonable best efforts to effectuate an orderly transition of the Business to Purchaser and to minimize any disruption in the Business resulting from the transactions contemplated herein; (b) execute and deliver such other instruments of sale, transfer, conveyance, and assignment; and (c) take such actions as Purchaser may request to more effectively transfer, convey, and assign to Purchaser, and to confirm Purchaser's rights to, title in, and ownership of, the Acquired Assets, and to place Purchaser in actual possession and operating control thereof; and (ii) Purchaser shall provide Seller with access to Books and Records, employees, and suppliers, as same may be reasonably requested.

3. **REPRESENTATIONS AND WARRANTIES OF SELLER.** Seller hereby represents and warrants to Purchaser as follows:

3.1 Authorization of Transaction. Seller has the full power and authority (a) to execute and deliver this Agreement and the Transaction Documents, and (b) subject to the approval of the Bankruptcy Court as the case may be, to perform his obligations hereunder and under the Transaction Documents.

3.2 Title. Except as set forth in Section 3.4, below, which concerns the ownership of certain of the Intellectual Property utilized by the Debtor, to the best of Seller's Knowledge, as of the Appointment Date, the Debtor is the owner of the Acquired Assets, has good, valid, and marketable title thereto, and subject to the entry of and in accordance with the Final Order, Seller will have authority to sell, convey, transfer, and assign to Purchaser, all Acquired Assets free and clear of all Liens, with such Liens to attach to the proceeds of the sale of the Acquired Assets.

3.3 Intellectual Property Rights. To the best of Seller's Knowledge, and based upon discussion with Debtor's management, the Debtor owns all right, title and interest in, or has license to use (sufficient for the conduct of the Business as presently conducted), all Intellectual Property Rights used in the conduct of the Business as presently conducted. To the best of Seller's Knowledge, the Intellectual Property Rights do not infringe upon any intellectual property rights of any other person or entity (including patent, copyright, unfair competition, trademark, libel or invasion of privacy). Seller is not aware of any suit, action, or proceeding against Seller by any third party alleging such infringement.

3.4 Brokers' Fees. No broker, finder, or other Person acting under Seller's authority is entitled to any broker's commission or other fee in connection with the transactions contemplated by this Agreement and the Transaction Documents for which Seller or the Debtor's bankruptcy estate shall be responsible; provided, however, if Seller, in his business judgment and sole discretion, seeks and obtains Bankruptcy Court authorization for the employment of an auctioneer or broker to assist in the public sale of the Acquired Assets, any such fees or commissions shall be payable by Seller in accordance with such Bankruptcy Court authorization.

4. **REPRESENTATIONS AND WARRANTIES OF PURCHASER.** Purchaser hereby represents and warrants to Seller as follows:

4.1 Organization and Good Standing. Purchaser is a limited liability company duly organized, validly existing, and in good standing under the laws of the jurisdiction of its organization.

4.2 Power and Authorization. Purchaser has the requisite power and authority to execute and deliver this Agreement and the Transaction Documents and to perform its obligations hereunder and thereunder. The execution and delivery by Purchaser of this Agreement and the Transaction Documents, and the consummation by Purchaser of the transactions contemplated hereby and thereby, have been duly and validly approved and authorized by all necessary action on the part of Purchaser. This Agreement has been duly and validly executed and delivered by Purchaser, and constitutes a valid and binding obligation of Purchaser, assuming the due authorization, execution and delivery by Seller, enforceable against Purchaser in accordance with its terms. Each of the Transaction Documents, upon their execution and delivery by Purchaser and assuming the due authorization, execution and delivery by Seller, will constitute a valid and binding obligation of Purchaser, enforceable against Purchaser in accordance with its terms.

4.3 Brokers' Fees. No broker, finder, or other Person acting under Purchaser's authority is entitled to any broker's commission or other fee in connection with the transactions contemplated by this Agreement, and the Transaction Documents, for which Seller or the Debtor's bankruptcy estate shall be responsible.

4.4 Taxes. Purchaser shall pay all sales, transfer, documentary stamp and other similar taxes, if any, and all recording, filing and other governmental fees and costs assessable against Purchaser solely due to its purchase of the Acquired Assets and the assignment of the Assigned Contracts. Seller and Purchaser will cooperate to prepare and file with the proper public officials, as and to the extent available and necessary, all appropriate sales tax exemption certificates or similar instruments as may be necessary to avoid the imposition of sales, transfer and similar taxes in the transfer of the Acquired Assets and the assignment of the Assigned Contracts pursuant hereto.

4.5 Noncontravention. Neither the execution and delivery by Purchaser of this Agreement or any of the Transaction Documents nor the consummation by Purchaser of the transactions contemplated hereby or thereby will (a) conflict with or violate any provision of the organizational documents of Purchaser, (b) require on the part of Purchaser any material notice to or filing with, or material permit, authorization, consent or approval of, any Governmental Authority, or (c) violate any material order, writ, injunction, judgment, decree or Law applicable to Purchaser or any of its properties or assets

5. **COVENANTS.**

5.1 General. Seller's ability to comply, or to cause the Debtor to comply, with any of the covenants contained in this Section 5 shall be subject to, among other things, the provisions of the Bankruptcy Code and Rules, and any order, determination, or ruling of the Bankruptcy

Court. The provisions of this Section 5 shall be subject to the terms of the Bidding Procedures Order and the Sale Order.

5.2 Conduct of Business. Subject to any orders, rulings or determinations of the Bankruptcy Court and the provisions of the Bankruptcy Code and Rules, during the period from the date of this Agreement until the Closing Date, Seller shall use his best efforts to continue to operate the Debtor and the Business in the ordinary course, and in substantially the same manner as has been conducted since the Filing Date.

5.3 Closing Efforts. Each of the Parties shall use their commercially reasonable best efforts to take all actions and to do all things necessary, proper, or advisable to consummate the transactions contemplated by this Agreement, including using their commercially reasonable best efforts to ensure that the deliverables to be provided by it at the Closing are delivered on a timely basis and in accordance with the provisions of this Agreement, including entering into good faith negotiations to reach agreement on the terms of the Transaction Documents to be provided at the Closing, and to obtain all necessary consents and approvals with respect to such agreements; provided that the obligations of the Parties to consummate the transactions contemplated hereby are subject to the issuance by the Bankruptcy Court of the Final Order.

5.4 Governmental and Third-Party Notices and Consents. Each Party shall use its commercially reasonable best efforts to obtain, at its expense, all waivers, permits, consents, approvals or other authorizations from Governmental Authorities, and to effect all registrations, filings and notices with or to Governmental Authorities, as may be required for such Party to consummate the transactions contemplated by this Agreement, to otherwise comply with all applicable Laws in connection with the consummation of the transactions contemplated by this Agreement and to permit Purchaser to own the Acquired Assets following the Closing. Seller shall use his commercially reasonable best efforts to obtain all waivers, consents or approvals from third parties, and to give all such notices to third parties, as may be required for Seller to consummate the transactions contemplated by this Agreement, to otherwise comply with all applicable Laws in connection with the consummation of the transactions contemplated by this Agreement, and to permit Purchaser to own the Acquired Assets following the Closing, including those waivers, consents, approvals, and notices listed in Schedule 5.4 of the Disclosure Schedules, which shall be prepared by Purchaser prior to the entry of the Bidding Procedures Order. It being understood that as for Seller, commercially reasonable best efforts may be satisfied by providing notice and opportunity to be heard to such third parties in connection with obtaining an order of the Bankruptcy Court approving the transactions. If a counterparty to an Assigned Contract indicates orally or in writing that there is a material breach, default or basis for a breach or default under such Assigned Contract, Seller shall cause the Debtor, as soon as it is reasonably practicable, to inform Purchaser of such breach or default, and Seller and Purchaser shall cooperate to cure such breach or default and resolve such basis for a breach or default prior to the Closing to Purchaser's satisfaction. Seller shall cause the Debtor to reasonably cooperate with Purchaser in introducing Purchaser or permitting Purchaser to have access to the counterparties to the Assigned Contracts. Seller shall cause the Debtor to keep Purchaser reasonably informed, including by providing copies of correspondence and other material information, on a timely basis, as to the status of Seller's efforts to cure such breach or default or resolve such basis for a breach or default. To the extent that such a breach or default is monetary, Seller's responsibility to cure such monetary breach or default on behalf of the Debtor

shall be subject to the provisions of the Bankruptcy Code, any entered Bidding Procedures Order, as well as other orders, rulings or determinations of the Bankruptcy Court.

5.5 Contracts. In addition, during the period from the date of this Agreement until the Closing Date, Seller shall not amend, modify, reject, or terminate any Assigned Contract without the express written consent of Purchaser. In event Seller, on behalf of the Debtor, enters into a new Debtor Contract, Seller shall provide a copy of such Debtor Contract to Purchaser and Seller shall agree to revise Schedule 2.1(d) of the Disclosure Schedules upon Purchaser's written request to include such Debtor Contract as an Assigned Contract.

5.6 Access and Information. From the date of this Agreement until the first to occur of the Closing Date or the termination of this Agreement, (a) Seller shall cause the Debtor to permit Purchaser and its Representatives (including any lenders) to make (and Seller shall cause the Debtor to assist Purchaser and its Representatives (including any lenders) in making) all investigations and inspections of the Debtor, the Acquired Assets, the Business, Books and Records, and all other documents and information requested by Purchaser relating to the Debtor, the Acquired Assets, the Business, Books and Records, and the transactions contemplated herein, all of which shall be subject to any confidentially agreement between the Parties.

5.7 Employees. Seller, on behalf of the Debtor, and upon the Closing of the sale, hereby agrees to waive (and to cause the Subsidiary to waive) any condition or restriction that the Debtor or the Subsidiary may have the contractual right to impose on (i) Purchaser's (or any of its Affiliates') making of offers of employment or engagement to or (ii) the hiring and employment by Purchaser (or any of its Affiliates) of any employee of the Debtor. From the date of the this Agreement through the Closing Date, Seller will not, without the prior written consent of Purchaser terminate the employment of any Seller employee other than for cause. Seller shall terminate and as applicable, shall cause Subsidiary to terminate, effective immediately prior to the Closing, the employment or engagement with Seller or Subsidiary of each employee identified by Purchaser to the Seller as an employee Purchaser intends to hire.

5.8 Notice. Seller shall cause the Debtor to promptly notify Purchaser of any litigation, arbitration, or administrative proceeding pending, or to Seller's Knowledge, threatened against the Debtor, which challenges the transactions contemplated by this Agreement, and of any failure of Seller's ability to comply with or satisfy any covenant, conditions, or agreements contained in this Agreement.

5.9 Bankruptcy Covenants.

(a) Upon the full execution of this Agreement, Seller shall promptly file with the Bankruptcy Court a notice of the Sale Motion and the Sale Motion seeking the entry of, among other relief, the Bidding Procedures Order.

(b) If this Agreement and the sale of the Acquired Assets to Purchaser on the terms and conditions hereof are determined to be the "highest or otherwise best offer" in accordance with the Bidding Procedures Order, Purchaser and Seller agree to use commercially reasonable best efforts to cause the Bankruptcy Court to enter the Final Order, which shall include provisions authorizing and approving the transactions contemplated hereby, including:

(i) the sale of the Acquired Assets to Purchaser free and clear of all Liens pursuant to the terms of this Agreement and Bankruptcy Code §§363(b) and (f); (ii) finding Purchaser to be in good faith and providing for the protection afforded under Bankruptcy Code §363(m); (iii) waiving the stays set forth in Bankruptcy Rules 6004(h) and 6006(d); (iv) providing that Purchaser shall not be subject to any successor liability and shall have no liability or suffer any damages for any Liens existing prior to the Closing Date which may be asserted against the Debtor, the Acquired Assets, the Business, or the Debtor's bankruptcy estate, or any claims against Purchaser as successor to the Acquired Assets; (v) approving Purchaser's assumption and assignment of the Assigned Contracts pursuant to Bankruptcy Code §365 on the basis that cure amounts related to the Assigned Contracts shall be satisfied by the Seller on behalf of Debtor's estate from the proceeds of the Purchase Price; (vi) providing for the retention of jurisdiction by the Bankruptcy Court to resolve any and all disputes that may arise under or relate to this Agreement or the Final Order, whether between Seller and Purchaser or involving a Person in interest in the Bankruptcy Case; and (vii) containing findings of fact and conclusions of law that include the following: (A) the transactions under this Agreement were negotiated and entered into in good faith and at arm's-length; (B) the marketing and sale process conducted by Seller pursuant to the Bidding Procedures Order are bona fide and adequate; (C) Seller gave due and proper notice and an opportunity to be heard to all interested parties of this Agreement and the transactions contemplated herein; (D) Purchaser is not holding itself out to the public as a continuation of the Debtor; (E) the consideration to be paid by Purchaser under this Agreement, or as may be bid at the public sale constitutes reasonably equivalent value (as that term is used in Bankruptcy Code §548) and fair consideration for the Acquired Assets; and (F) neither Purchaser nor Seller is entering into the transactions contemplated by this Agreement fraudulently. Seller shall promptly provide Purchaser with copies of any objections to the Final Order.

(c) In the event an appeal is taken or a stay pending appeal is requested (or a petition for certiorari or motion for rehearing or reargument is filed), with respect to the Bidding Procedures Order, the Sale Order, the Final Order, or any other order of the Bankruptcy Court related to this Agreement, Seller shall take all steps as may be reasonable and appropriate to defend against such appeal, petition, or motion, and Purchaser agrees to cooperate in such efforts. Each Party shall use its commercially reasonable best efforts to obtain an expedited resolution for such appeal.

(d) From and after the date of this Agreement, except as may be provided in the Bidding Procedures Order, provisions of the Bankruptcy Code and Rules, or any order, ruling or determination of the Bankruptcy Court, Seller shall ensure that neither the Debtor nor the Subsidiary shall take any action or fail to take any action, which action or failure to act would reasonably be expected to prevent or impede the consummation of the transactions contemplated by this Agreement in accordance with the terms of this Agreement. Seller covenants and agrees that the terms of any plan of reorganization or liquidation, or proposed order of the Bankruptcy Court that may be filed, proposed, submitted or supported by Seller after entry of the Final Order or consummation of the transactions contemplated hereby, shall not conflict with, supersede, abrogate, nullify, modify, or restrict the terms of this Agreement, the Bidding Procedures Order or the Final Order, or the rights of Purchaser hereunder or thereunder.

(e) The Parties shall consult with each other regarding pleadings that any of them intends to file with the Bankruptcy Court in connection with, or which might reasonably

affect the Bankruptcy Court's approval of, as applicable, the Bidding Procedures Order and the Sale Order. Each Party shall promptly provide the other Party and its counsel with copies of all notices, filings, and orders of the Bankruptcy Court that such Party has in its possession (or receives) pertaining to the Sale Motion, or any other order or pleading that relates to any of the transactions contemplated by this Agreement, but only to the extent such papers are not publicly available on the docket of the Bankruptcy Court for the Bankruptcy Case or otherwise made available to the other Party and its counsel.

5.10 Acquisition Proposal or Alternate Transaction. Seller represents that, other than this Agreement, Seller is not a party to or bound by any contract with respect to an Acquisition Proposal or an Alternate Transaction. Other than as provided in, and contemplated by, the Bidding Procedures Order, Seller shall not, directly or indirectly, solicit or participate in negotiations or discussions regarding any Acquisition Proposal from any Person other than Purchaser, or execute or enter into a contract with respect to an Acquisition Proposal or Alternate Transaction. Subject to Bankruptcy Court approval, Seller agrees that in order for any Acquisition Proposal to be accepted by Seller and submitted for approval by the Bankruptcy Court, such Acquisition Proposal must be a Qualified Bid.

5.11 Breakup Fee and Expense Reimbursement. In the event that the Bankruptcy Court enters a Final Order approving an Alternate Transaction, then Purchaser shall be entitled to and Seller shall pay to Purchaser at the consummation of an Alternate Transaction (or in the case of a plan of reorganization or liquidation that is an Alternate Transaction, upon confirmation of such plan of reorganization or liquidation), two (2.0%) percent of the Purchase Price (the "Breakup Fee"). The Breakup Fee provided for by this Section 5.11 is intended to cover opportunity costs incurred by Purchaser in pursuing and negotiating this Agreement and the transactions contemplated hereby, and is considered by the Parties to be reasonable for such purposes. The Breakup Fee shall be paid from the first sale proceeds of an Alternate Transaction. The claims of Purchaser to the Breakup Fee shall constitute an administrative expense against the Debtor's bankruptcy estate under the applicable provisions of the Bankruptcy Code. In addition to any Breakup Fee that may be payable pursuant to this Section 5.11, upon any event in which the Breakup Fee is payable under the terms of this Agreement, Seller shall reimburse up to \$175,000 of the actual and documented out-of-pocket fees and expenses incurred by Purchaser and its Affiliates in the course of negotiating, drafting and approving this Agreement, the Disclosure Schedules and the Transaction Documents prior to the date this Agreement is terminated, whether incurred on or after the Petition Date (the "Expense Reimbursement"). The claims of Purchaser to the Expense Reimbursement shall constitute an administrative expense against Seller's bankruptcy estate under the applicable provisions of the Bankruptcy Code.

6. **CONDITIONS TO CLOSING OF EACH PARTY.** The respective obligations of each Party to consummate the transactions contemplated by this Agreement and the Transaction Documents to be consummated at the Closing are subject to the satisfaction of the condition that the sale of the Acquired Assets by Seller to Purchaser and the assumption and assignment of the Assigned Contracts as contemplated by this Agreement and the Transaction Documents, shall have been approved by the Bankruptcy Court pursuant to the Final Order in form and substance satisfactory to each Party, which as of the Closing Date shall be in full force and effect and shall

not have been violated, vacated, withdrawn, overruled, resolved or stayed, modified, vacated, reversed, amended, or revoked.

7. **CONDITIONS TO CLOSING OF SELLER.** The obligation of Seller to consummate the transactions contemplated by this Agreement and the Transaction Documents to be consummated at the Closing is subject to the satisfaction or waiver (but only a waiver in a writing signed on behalf of Purchaser), to the extent permitted by Law, of the following additional conditions:

7.1 Representations and Warranties. Each of the representations and warranties of Purchaser set forth in Section 4 of this Agreement shall be true and correct in all material respects (or in all respects, to the extent any such representation and warranty is already qualified by materiality) on and as of the date hereof and on and as of the Closing Date with the same effect as though such representations and warranties had been made on and as of the Closing Date, except that to the extent such representations and warranties address matters only as of a particular date, such representations and warranties shall, to such extent, be true and correct on and as of such particular date as if made on and as of such particular date.

7.2 Compliance with Law. There shall be no order by any Governmental Authority or any applicable Law or other fact or circumstance, which would prohibit or render illegal the transactions contemplated by this Agreement.

7.3 Absence of Litigation. Except for the Bankruptcy Case, the Sale Motion, the disclosed litigation in the Debtor's Statement of Financial Affairs [Docket No. 35], and any objections by the U.S. Patent and Trademark Office to any pending patent applications, to Seller's Knowledge no Legal Proceeding shall be pending or threatened, by or against Purchaser, wherein an unfavorable judgment, order, decree, stipulation or injunction would (i) prevent consummation of the transactions contemplated by this Agreement, (ii) cause the transactions contemplated by this Agreement to be rescinded following consummation, or (iii) alter the terms of any of the transactions provided for in this Agreement.

7.4 Deliverables. Purchaser shall execute and deliver to Seller this Agreement and any and all Transaction Documents, including an instrument of assignment and assumption, upon reasonable and customary terms mutually agreed upon by Purchaser and Seller, with respect to all Assigned Contracts and Assumed Liabilities being assumed at the Closing.

7.5 No Default. In the event that a DIP Financing Facility is entered into after the date of this Agreement, there shall exist no default or event of default by Dimaco under the DIP Financing Facility that would adversely affect the transactions contemplated by this Agreement.

7.6 Purchase Price. Purchaser shall satisfy the Cash Purchase Price.

7.7 Final Order. The Bankruptcy Court shall have entered the Final Order.

8. **CONDITIONS TO CLOSING OF PURCHASER.** The obligation of Purchaser to consummate the transactions contemplated by this Agreement and the Transaction Documents to be consummated at the Closing is subject to the satisfaction or waiver (but such waiver only in a

writing signed on behalf of Purchaser), to the extent permitted by Law, by Purchaser of the following additional conditions:

8.1 Deliverables. Seller shall have delivered to Purchaser the following, each to be in form and substance satisfactory to Purchaser and its counsel in their sole discretion:

- (a) An executed copy of this Agreement by Seller;
- (b) A customary bill of sale for all of the Acquired Assets which are tangible personal property, duly executed by Seller;
- (c) A customary assignment executed by Seller of all of the Acquired Assets which are intangible personal property;
- (d) Customary assignments, as prepared by Purchaser and executed by Seller, of all Intellectual Property Rights and customary separate assignments of all registered trademarks, service marks, patents, and copyrights, and all applications therefore;
- (e) Seller, on behalf of the Debtor and the Subsidiary, shall execute and deliver to Purchaser an irrevocable release, prepared by Purchaser, in form and substance satisfactory to Seller, pursuant to which Seller, on behalf of the Debtor and the Subsidiary releases from their respective employment, confidentiality, non-compete, non-solicitation, and similar obligations (but not any payment or repayment obligations which constitute Acquired Assets) of each of the Debtor's directors, managers, or employees hired by Purchaser (collectively, the "Released Employees"). Notwithstanding anything set forth herein to the contrary, the releases described in this Section 8.1(e) shall not include releases of covenants not to disclose confidential information of the Debtor or any of its clients or vendors, to any Person other than Purchaser or any Affiliate of Purchaser; and Blanch and Mastellon shall each deliver to Seller a waiver of any and all past due pre-petition salary remuneration due Blanch and Mastellon, respectively, through February 1, 2014;
- (f) Evidence of payment, reserve for payment or other satisfaction of all cure amounts at Closing in respect of each Assigned Contract; and
- (g) Such other deeds, bills of sale, assignments, certificates of title, documents, and other instruments of transfer and conveyance as may reasonably be requested by Purchaser (documents to be delivered pursuant to Sections 8.1(a) through (f) and Section 7.4 collectively, the "Transaction Documents").

8.2 Approvals and Consents. A Final Order shall have been entered by the Bankruptcy Court in form and substance reasonably acceptable to Purchaser authorizing the Parties to perform and consummate the transactions contemplated herein.

8.3 Representations and Warranties. Each of the representations and warranties of Seller set forth in Section 3 of this Agreement shall be true and correct in all material respects (or in all respects, to the extent any such representation and warranty is already qualified by materiality) on and as of the date hereof and on and as of the Closing Date with the same effect

as though such representations and warranties had been made on and as of the Closing Date, except that to the extent such representations and warranties address matters only as of a particular date, such representations and warranties shall, to such extent, be true and correct on and as of such particular date as if made on and as of such particular date.

8.4 Covenants. Seller shall have performed and complied in all material respects with all of its agreements and covenants required to be performed or complied with under this Agreement on or prior to the Closing Date.

8.5 No Default. In the event that a DIP Financing Facility is entered into after the date of this Agreement, there shall exist no default or event of default by Debtor or Seller under the DIP Financing Facility that would adversely affect the transactions contemplated by this Agreement.

8.6 Compliance with Law. The transactions contemplated by this Agreement and the Transaction Documents, shall not violate any requirement of applicable Law and shall not be enjoined temporarily, preliminarily, or permanently by any Governmental Authority.

8.7 Bidding Procedures Order. The Bankruptcy Court shall have entered the Bidding Procedures Order which, *inter alia*, approves the amount and conditions for payment of the Breakup Fee and Expense Reimbursement, and which is in form and substance satisfactory to Purchaser.

8.8 Absence of Material Adverse Effect. Since the Petition Date, there shall have occurred no Material Adverse Effect.

8.9 Employment Agreements. Each of Richard Blanch ("Blanch") and Gerard Mastellon ("Mastellon") shall have executed and delivered an employment agreement in form and substance satisfactory to Purchaser; provided, that Purchaser agrees that execution and delivery of an employment agreement for each of Blanch and Mastellon, respectively, on the terms set forth in the respective Employment Agreement Term Sheet will satisfy this condition.

8.10 Phosphogenics Ltd License Agreement. Purchaser shall have negotiated, prior to the Closing, a License Agreement with Phosphogenics Ltd, which is substantially similar to the Phosphogenics License Agreement. To the extent Purchaser fails to negotiate such a license agreement with Phosphogenics Ltd, the Phosphogenics License Agreement shall have been assumed by Seller, and assigned to Purchaser at the Closing; provided, that Seller shall deliver evidence that all cure amounts payable under such Phosphogenics License Agreement through the Closing Date (including in respect of all royalties earned on applicable sales through the Closing Date) have been paid, reserved for or satisfied at Closing.

8.11 Bankruptcy Case. Since the date of this Agreement, there shall not have been any dismissal of the Bankruptcy Case or conversion of the Bankruptcy Case to a case under Chapter 7 of the Bankruptcy Code.

8.12 Absence of Litigation. Except for the Bankruptcy Case, the Sale Motion, the disclosed litigation in Debtor's Statement of Financial Affairs [Docket No. 35], and any objections by the U.S. Patent and Trademark Office to any pending patent applications, no

litigation or proceeding shall be pending or threatened wherein an unfavorable judgment, order, decree, stipulation or injunction would (i) prevent consummation of the transactions contemplated by this Agreement, (ii) cause the transactions contemplated by this Agreement to be rescinded following consummation or (iii) affect adversely in any material respect the right of Purchaser to own, operate or control any of the Acquired Assets, and no such Law, judgment, order, decree, stipulation or injunction shall be in effect. Except for the Bankruptcy Case and the litigation on the Debtor's Statement of Financial Affairs [Docket No. 35], and any objections by the U.S. Patent and Trademark Office to any pending patent applications, no litigation or proceeding shall be pending which could reasonably be expected to have a Material Adverse Effect.

9. TERMINATION OF AGREEMENT.

9.1 The Parties may terminate this Agreement prior to the Closing (whether before or after the entry of the Bidding Procedures Order and/or the Sale Order), as provided below:

- (a) the Parties may terminate this Agreement by mutual written consent;
- (b) Purchaser may terminate this Agreement by giving written notice to Seller if the condition set forth in Section 7.1 is satisfied but Seller is in material breach of any representation, warranty, or covenant contained in this Agreement that would cause any condition set forth in Section 8 not to be satisfied; provided, however, that in the case of a material breach of a representation, warranty, or covenant contained herein by Seller, Seller shall have ten (10) Business Days after receipt of notice from Purchaser of such breach in which to cure such breach;
- (c) Seller may terminate this Agreement by giving written notice to Purchaser if the conditions set forth in Sections 8.4 and 8.5 are satisfied but Purchaser is in material breach of any representation, warranty, or covenant contained in this Agreement that would cause any condition set forth in Section 7 not to be satisfied; provided, however, that in the case of a material breach of a representation, warranty or covenant contained herein by Purchaser, Purchaser shall have ten (10) Business Days after receipt of notice from Seller of such breach in which to cure such breach;
- (d) Either Party may terminate this Agreement by giving written notice to other Party if the Closing shall not have occurred on or before 5:00 pm (EST) on the fifteenth day after the entry of the Final Order, but only to the extent that such failure to close was not caused by an action or omission of the terminating Party;
- (e) Either Party may terminate this Agreement by giving written notice to the other if the Bankruptcy Court has not entered the Bidding Procedures Order on or before April 15, 2014, or if the Bidding Procedures Order has been entered but it has been stayed, withdrawn, or rescinded as of such date;
- (f) Either Party may terminate this Agreement by giving written notice to the other if the Bankruptcy Court has not entered the Final Order on or before May 15, 2014;

(g) Either Party may terminate this Agreement by giving written notice to the other if the Bankruptcy Court enters and order either (i) dismissing the Bankruptcy Case, or (ii) converting the Bankruptcy Case to a liquidation proceeding under Chapter 7 of the Bankruptcy Code;

(h) Either Party may terminate this Agreement in the event that any Law or order becomes effective restraining, enjoining, or otherwise prohibiting or making illegal the consummation of the transactions contemplated by this Agreement;

(i) Seller may terminate this Agreement at any time after the Bankruptcy Court approves an Alternate Transaction, or Purchaser may terminate this Agreement upon the closing of an Alternate Transaction;

(j) Purchaser may terminate this Agreement in the event the Bankruptcy Court grants relief from the automatic stay to any Person to permit foreclosure or the exercise of other remedies on any material assets of the Debtor, other than any such relief from automatic stay granted to the lender under the DIP Financing Facility;

(k) Purchaser may terminate this Agreement in event that the Seller modifies, alters or amends this Agreement without the consent of Purchaser, or in event that Seller consents to any such modification, alteration or amendment;

(l) In the event that a DIP Financing Facility is entered into, (i) either Party may terminate this Agreement if the non-terminating party has materially breached or defaulted under the terms of the DIP Financing Facility, and such material breach or default has not been cured within five (5) Business Days of written notice from the terminating Party, and/or (ii) Seller may terminate this Agreement if Dimaco fails to fund any required payment under such DIP Financing Facility within five (5) calendar days of such amounts becoming due and payable; or

(m) Purchaser may terminate this Agreement at any time after a Material Adverse Effect has occurred, and such Material Adverse Effect has not, or cannot be cured within a reasonable period of time, but in no event more than thirty (30) calendar days from the date that the Purchaser notices the Seller that such Material Adverse Effect has taken place.

9.2 Effect of Termination. If this Agreement is terminated pursuant to (a) any fault of Seller, or (b) the consummation of an Alternate Transaction, all obligations of the Parties hereunder shall terminate without any liability on the part of Purchaser or Seller, except for Seller's obligation, if any, to Purchaser to pay the Breakup Fee and Expense Reimbursement pursuant to Section 5.11, such payment shall be made upon the closing of an Alternate Transaction; provided, however, that this Section 9.2, and Section 5.11 and Section 13 hereof, shall survive any such termination. Notwithstanding any other provision of this Agreement, if this Agreement is terminated pursuant to any fault of the Purchaser, it shall forfeit its right to the Breakup Fee, the Expense Reimbursement and, at Seller's sole discretion, the forfeiture of Purchaser's Deposit.

10. INTELLECTUAL PROPERTY DISCLOSURE.

10.1 Intellectual Property. Certain of the Intellectual Property Rights listed on Schedule 2.1(h) of the Disclosure Schedules are not currently registered in the Debtor's name, but in most if not all cases the Debtor's registered d/b/a Le Metier de Beaute (the "DBA IP"). Purchaser recognizes that it is aware of such issues. Seller will retain counsel to take actions to remediate, to the extent possible, the registration issues and to register such Intellectual Property Rights in Debtor's name prior to Closing. At the Closing, Seller shall assign any rights, titles, or interests of Debtor, if any, in such Intellectual Property Rights to Purchaser.

11. POST-CLOSING COVENANTS.

11.1 Non-Disclosure. From and after the Closing, Seller shall not disclose or make use of (except to pursue its rights under this Agreement, the excluded Avoidance Actions, or in the administration of the Debtor's estate) any knowledge, information or documents of a confidential nature or not generally known to the public which are included in the Acquired Assets (including any such information which constitutes financial information, technical information or data relating to products, services and names of customers) (all such knowledge, information or documents, "Confidential Information"), except to the extent that such Confidential Information is or shall have become public knowledge other than through improper disclosure by Seller.

11.2 Compelled Disclosure. Notwithstanding anything set forth to the contrary in this Section 11, Seller may disclose a portion of the Confidential Information if the information is required by applicable law to be disclosed in response to a valid order of a court of competent jurisdiction or Government Authority; provided, that Seller must provide Purchaser prompt written notice and obtain or allow for a reasonable effort by Purchaser to seek an appropriate protective order or other appropriate remedy or, in Purchaser's sole discretion, waive compliance with the applicable terms of Section 11.1 (and if Purchaser seeks such an order, Seller will provide such cooperation as Purchaser shall reasonably requested). In the event that no such protective order or other remedy is obtained or Purchaser does not waive compliance with the applicable terms of Section 11.1 and Seller is nonetheless legally compelled to disclose such Confidential Information, Seller will furnish only that portion of the Confidential Information which Seller is advised by counsel is legally required and will give Purchaser written notice of the Confidential Information to be disclosed as far in advance as practicable and exercise all reasonable efforts to obtain reliable assurance that confidential treatment will be accorded the Confidential Information.

11.3 Taxes. All transfer taxes, deed excise stamps and similar charges related to the sale of the Acquired Assets contemplated by this Agreement shall be paid by Purchaser at the Closing. Purchaser and Seller shall cooperate in providing each other with any appropriate resale exemption and other similar documentation. Purchaser shall prepare an allocation of the Purchase Price (and all other allocable costs) among the Acquired Assets in accordance with Internal Revenue Code §1060 and the Treasury Regulations thereunder (and any similar provision of state, local or foreign Law, as appropriate). Purchaser shall use reasonable efforts to deliver such allocation to Seller no later than ninety-five (95) days after the Closing Date for Seller's review and comment, after which Purchaser shall finalize the allocation, which shall be binding on the Parties. Purchaser and Seller (and their respective Affiliates and Subsidiaries)

agree that this allocation shall represent the fair market values of the Acquired Assets and shall prepare and file tax returns (including, IRS Form 8594) in a manner consistent with such allocation. None of Seller, the Subsidiary, Purchaser or any of their respective Affiliates shall take any tax position (whether in tax audits, tax returns or otherwise) that is inconsistent with such allocation unless required to do so by applicable Law. Further, any adjustments to Purchase Price pursuant this Agreement shall also be allocated in accordance with the methodology set forth on such allocation schedule. For the avoidance of doubt, the Parties acknowledge that any of the Parties may be required to use a different methodology for financial reporting matters.

11.4 Collection of Acquired Receivables.

(a) Seller, on behalf of the Debtor, hereby irrevocably constitutes and appoints, effective as of the Closing, the Purchaser and assigns of Purchaser as true and lawful attorney of the Debtor and the Subsidiary with full power of substitution to collect for the account of Purchaser any Acquired Asset, including to endorse and cash any checks or instruments payable or endorsed to the Debtor, or to Seller on behalf of the Debtor, or their respective order that are received by Purchaser and that relate to the Acquired Receivables.

(b) All payments and reimbursements received by the Debtor or the Subsidiary or Affiliate of the Debtor in connection with or arising out of the Acquired Assets or Assumed Liabilities after the Closing, including monies, checks, and reimbursements with respect to Acquired Receivables, shall be held by such Person in trust for the benefit of Purchaser and shall not be or become property of such Person, of the Debtor or its bankruptcy estate, or of the Subsidiary, and, promptly upon receipt by such Person of such payments, reimbursements, monies or checks such Person shall forward such payments, reimbursements, monies or checks, over to Purchaser without right of setoff, recoupment, or any other deduction.

11.5 Intellectual Property Matters. Seller shall cause the Debtor and the Subsidiary to cease and discontinue promptly after the Closing any and all uses of any and all Intellectual Property Rights. As of and following the Closing, neither the Debtor nor the Subsidiary shall have any right, title, or interest in, or any authority or license to use or allow others to use in any manner whatsoever, any Intellectual Property Rights, and any such right, title, interest, authority, license, or sublicense, or other arrangement relating thereto (whether written or oral) existing prior to the Closing, shall automatically terminate simultaneously with and effective as of the Closing. Within ten (10) calendar days following the Closing Date, the Seller shall (a) file a motion with the Bankruptcy Court seeking a change of the caption of the Bankruptcy Case to discontinue the use of the d/b/a "Le Metier de Beaute," (b) execute corporate authority on behalf of the Debtor to afford Purchaser the right and power to transfer and assign the Debtor's use of any registration or certificate of "Le Metier de Beaute" or any other assumed name, fictitious name, d/b/a filings, or other filings containing any such trade names or marks included in the Intellectual Property Rights so as to cause such corporate names, Internet domain names, email addresses, trademarks, and marks of or used by the Debtor to change and eliminate any trade names or marks included in the Acquired Assets therefrom.

11.6 Sharing of Data.

(a) Seller shall retain all of the Debtor's Books and Records, in whatever form or nature that they exist. On or about the Closing, but in no event more than twenty (20) Business Days after the Closing, Purchaser shall duplicate all of the Debtor's Books and Records and that it believes it relates to the Acquired Assets, the Assigned Contracts and Assumed Liabilities.

(b) Between the Closing Date and the closing of the Bankruptcy Case, Purchaser and its authorized agents shall have reasonable access to the written books and records of the Debtor in the possession of Seller to the extent that: (i) such books, records and information relate to any period prior to the Closing Date; and (ii) such access may reasonably be required by Purchaser in connection with the Acquired Assets, Assigned Contracts and Assumed Liabilities. Such access shall be afforded by Seller upon receipt of reasonable advance notice and during normal business hours. If Seller shall desire to abandon or dispose of any such books and records upon or prior to its dissolution, Seller shall: (A) give Purchaser at least fifteen (15) calendar days prior written notice of such disposition; and (B) give Purchaser a reasonable opportunity, at Purchaser's sole expense, to segregate and remove such books and records as Purchaser may select and/or to copy such books and records as Purchaser may select.

(c) Notwithstanding anything to the contrary set forth in this Section 11.6, no access to, or examination of, any information or other investigation shall be permitted to the extent that it would require disclosure of information subject to attorney-client or other privilege; provided, that the party asserting such privilege advises the other party of the specific assertion of such privilege.

12. **NOTICES.** All notices required or permitted to be given by any Party shall be in writing and shall be deemed to have been properly given if sent by registered or certified mail, or by recognized overnight courier service (the "Courier Service"), postage prepaid, to the Parties at the addresses set forth below or to such other address as any Party may from time to time give notice pursuant to this Section 12. All notices shall be deemed received when delivered but in no event later than five (5) Business Days after they are deposited with either the United States Postal Service or the Courier Service, whichever shall first occur. Notice shall be given at the following addresses:

To Purchaser:

Dimaco, LLC
c/o Zukerman Gore Brandeis & Crossman, LLP
Eleven Times Square, 15th Floor
New York, New York 10036
Attention: Joseph E. Maloney

With a copy to:

Hurni & West, LLP
285 Grand Avenue, Bldg. One
Englewood, NJ 07631
Attention: Andrew Hurni

To Seller:

Kenneth P. Silverman, Esq., as Chapter 11 Operating Trustee
c/o SilvermanAcampora LLP
100 Jericho Quadrangle, Suite 300
Jericho, New York 11753
Attention: Gerard R. Luckman, Esq.

Any Party may change the address to which notices, requests, demands, claims, and other communications hereunder are to be delivered by giving the other Party or Parties notice in the manner herein set forth.

13. MISCELLANEOUS.

13.1 "AS IS" "WHERE IS" TRANSACTION. EXCEPT AS PROVIDED FOR HEREIN, PURCHASER HEREBY ACKNOWLEDGES AND AGREES THAT SELLER MAKES NO REPRESENTATIONS OR WARRANTIES WHATSOEVER, EXPRESS OR IMPLIED, WITH RESPECT TO ANY MATTER RELATING TO THE ACQUIRED ASSETS, INCLUDING INCOME TO BE DERIVED OR EXPENSES TO BE INCURRED IN CONNECTION WITH THE ACQUIRED ASSETS, THE PHYSICAL CONDITION OF ANY PERSONAL PROPERTY COMPRISING A PART OF THE ACQUIRED ASSETS, THE VALUE OF THE ACQUIRED ASSETS (OR ANY PORTION THEREOF), THE TRANSFERABILITY OF THE ACQUIRED ASSETS, THE TERMS, AMOUNT, VALIDITY, OR ENFORCEABILITY OF ANY ASSUMED LIABILITIES, THE TITLE OF THE ACQUIRED ASSETS (OR ANY PORTION THEREOF), THE MERCHANTABILITY OR FITNESS OF THE ACQUIRED ASSETS FOR ANY PARTICULAR PURPOSE, OR ANY OTHER MATTER OR THING RELATING TO THE ACQUIRED ASSETS OR ANY PORTION THEREOF. WITHOUT IN ANY WAY LIMITING THE FOREGOING, SELLER HEREBY DISCLAIMS ANY WARRANTY, EXPRESS OR IMPLIED, OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE AS TO ANY PORTION OF THE ACQUIRED ASSETS. PURCHASER FURTHER ACKNOWLEDGES THAT, PRIOR TO THE CLOSING DATE, THE PURCHASER, WILL HAVE CONDUCTED AN INDEPENDENT INSPECTION AND INVESTIGATION OF THE PHYSICAL CONDITION OF THE PROPERTY CONSTITUTING THE ACQUIRED ASSETS AND ALL SUCH OTHER MATTERS RELATING TO OR AFFECTING THE ACQUIRED ASSETS AS PURCHASER DEEMS NECESSARY OR APPROPRIATE AND THAT IN PROCEEDING WITH ITS ACQUISITION OF THE ACQUIRED ASSETS AND THE EXECUTION OF THIS AGREEMENT, PURCHASER IS DOING SO BASED SOLELY UPON SUCH INDEPENDENT INSPECTIONS AND INVESTIGATIONS. ACCORDINGLY, UPON

CLOSING, PURCHASER WILL ACCEPT THE ACQUIRED ASSETS "AS IS," "WHERE IS," AND "WITH ALL FAULTS."

13.2 Expenses. Except as otherwise set forth in this Agreement and, as applicable, the Transaction Documents, each Party shall bear its own costs and expenses (including legal fees and expenses) incurred in connection with this Agreement and the transactions contemplated hereby.

13.3 Disclosure Schedules. All Disclosure Schedules identified herein (the "Disclosure Schedules") shall be prepared by Purchaser and presented to Seller for review on or before 4:00 p.m. (EST) on the date that is no later than 27 days before the hearing to consider the Sale Motion.

13.4 No Impediment to Liquidation. Nothing herein shall be deemed or construed so as to limit, restrict, or impose any impediment to the Trustee's right to liquidate, dissolve, and wind-up the Debtor's affairs and to cease all business activities and operations at such time as he may determine following the Closing, including a post-closing conversion of the Bankruptcy Case to a case under Chapter 7 of the Bankruptcy Code.

13.5 Entire Agreement. This Agreement including the Transaction Documents and the Confidentiality Agreement constitute the entire agreement among the Parties with the respect to the subject matter hereof. This Agreement supersedes any prior understandings, agreements, or representations by or among the Parties, written or oral, with respect to the subject matter hereof. The confidentiality provisions of the Confidentiality Agreement shall terminate effective as of the Closing with respect to the Acquired Assets and the Assumed Liabilities.

13.6 Amendments and Waivers. The Parties may mutually amend any provision of this Agreement at any time prior to the Closing. No amendment of any provision of this Agreement shall be valid unless the same shall be in writing and signed by each of the Parties. No waiver by any Party of any right or remedy hereunder shall be valid unless the same shall be in writing and signed by the Party giving such waiver. No waiver by any Party with respect to any default, misrepresentation, or breach of warranty or covenant hereunder shall be deemed to extend to any prior or subsequent default, misrepresentation, or breach of warranty or covenant hereunder or affect in any way any rights arising by virtue of any prior or subsequent such occurrence.

13.7 Governing Law. Except to the extent governed by federal bankruptcy law, this Agreement shall be governed by and construed in accordance with the laws of the State of New York.

13.8 Exclusive Jurisdiction. To the fullest extent permitted by applicable Law, each Party hereto (a) agrees that any claim, action, or proceeding by such Party seeking any relief whatsoever arising out of, or in connection with this Agreement or any Transaction Document or the transactions contemplated hereby and thereby shall be brought only in (i) the Bankruptcy Court, if brought prior to the entry of a final decree closing the Bankruptcy Case, and (ii) in the federal courts in the Southern District of New York and the state courts of the State of New York, County of Manhattan (collectively, the "New York Courts"), if brought after entry of such

final decree closing the Bankruptcy Case, and shall not be brought, in each case, in any other State or Federal court in the United States of America or any court in any other country, (b) agrees to submit to the exclusive jurisdiction of the Bankruptcy Court or the New York Courts, as applicable, pursuant to the preceding clauses (a)(i) and (ii), for purposes of all claims, actions, or proceedings arising out of, or in connection with this Agreement or any Transaction Document or the transactions contemplated by this Agreement, (c) waives and agrees not to assert any objection that it may now or hereafter have to the laying of the venue of any such claim, action or proceeding brought in such a court or any claim that any such claim, action or proceeding brought in such a court has been brought in an inconvenient forum, (d) agrees that mailing of process or other papers in connection with any such claim, action or proceeding in the manner provided in Section 12 hereto shall be valid and sufficient service thereof, and (e) agrees that a final judgment in any such claim, action or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by applicable Law.

13.9 WAIVER OF JURY TRIAL. EACH PARTY HERETO ACKNOWLEDGES AND AGREES THAT ANY CONTROVERSY WHICH MAY ARISE UNDER THIS AGREEMENT IS LIKELY TO INVOLVE COMPLICATED AND DIFFICULT ISSUES, AND THEREFORE IT HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVES ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT AND ANY OF THE OTHER TRANSACTION DOCUMENTS OR THE TRANSACTIONS CONTEMPLATED HEREIN OR THEREIN. EACH PARTY HERETO CERTIFIES AND ACKNOWLEDGES THAT (I) NO REPRESENTATIVE, AGENT, OR ATTORNEY OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE SUCH WAIVER, (II) IT UNDERSTANDS AND HAS CONSIDERED THE IMPLICATIONS OF SUCH WAIVER, (III) IT MAKES SUCH WAIVER VOLUNTARILY, AND (IV) IT HAS BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION.

13.10 Survival of Representations. None of the representations and warranties made by the Parties herein or the documents or certificates contemplated hereby shall survive the Closing.

13.11 Assignment; Binding Upon Successors and Assigns. Neither Party may assign any of its rights or obligations hereunder without the prior written consent of the other Party; provided, however, that Purchaser may assign its rights to acquire the Acquired Assets in whole or in part to an Affiliate, provided such assignment shall not relieve Purchaser of its obligations hereunder. This Agreement shall be binding upon and inure to the benefit of the Parties and their respective successors and permitted assigns.

13.12 No Third Party Beneficiaries. No provisions of this Agreement are intended, nor will be interpreted, to provide or create any third party beneficiary rights or any other rights of any kind in any client, customer, affiliate, member, shareholder, partner, employee of any Party or any other Person unless specifically provided otherwise herein, and, except as so provided, all provisions herein will be solely between the Parties.

13.13 Headings. The section headings contained in this Agreement are inserted for convenience only and shall not affect in any way the meaning or interpretation of this Agreement.

13.14 Construction.

(a) The language used in this Agreement shall be deemed to be the language chosen by the Parties to express their mutual intent, and no rule of strict construction shall be applied against any Party.

(b) Any reference to any federal, state, local, or foreign statute or Law shall be deemed also to refer to all rules and regulations promulgated thereunder, unless the context requires otherwise.

(c) Any reference to "include," "includes," or "including" shall be interpreted to be followed by the phrase "without limitation" or "but not limited to",

(d) Any reference to \$ shall be to U.S. dollars.

(e) Any reference to any section shall be deemed to refer to a section of this Agreement, unless the context clearly indicates otherwise.

13.15 Severability. If any provision of this Agreement, or the application thereof, is for any reason held to any extent to be invalid or unenforceable, the remainder of this Agreement and application of such provision will be interpreted so as reasonably to effect the intent of the Parties. The Parties further agree to replace such unenforceable provision of this Agreement with a valid and enforceable provision that will achieve, to the extent possible, the economic, business, and other purposes of the void or unenforceable provision.

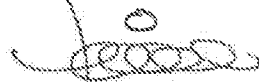
13.16 Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall be deemed to be one and the same agreement. A signed copy of this Agreement delivered by facsimile, e-mail or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original signed copy of this Agreement.

[Signature page to follow]

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

SELLER:

Kenneth P. Silverman, Esq.
Chapter 11 Operating Trustee of Metier Tribeca, LLC

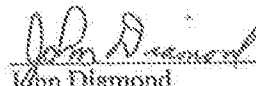


Kenneth P. Silverman, solely in his capacity
as Chapter 11 Operating Trustee of Metier
Tribeca, LLC

PURCHASER:

DIMACO, LLC

By:



John Diamond
Managing Member

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

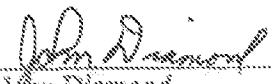
SELLER:

Kenneth F. Silverman, Esq.
Chapter 11 Operating Trustee of Metier Tribeca, LLC

.....
Kenneth F. Silverman, solely in his capacity
as Chapter 11 Operating Trustee of Metier
Tribeca, LLC

PURCHASER:

DIMACO, LLC

By: 

John Diamond
Managing Member

DISCLOSURE SCHEDULES
to the
ASSET PURCHASE AGREEMENT
by and among
KENNETH P. SILVERMAN, ESQ. ("Seller" or the "Trustee")
as Chapter 11 Operating Trustee of the
BANKRUPTCY ESTATE OF METIER TRIBECA, LLC ("Debtor")
d/b/a Le Métier de Beauté
and
DIMACO, LLC, as Purchaser ("Purchaser")

Dated as of March 31, 2014

These schedules (these "Schedules") constitute the Disclosure Schedules referred to and defined in the Asset Purchase Agreement identified above (the "Agreement"). All capitalized terms used in these Schedules and not otherwise defined herein shall have the meanings ascribed to such terms in the Agreement.

Schedule 1.1

Former and current managers, employees, and independent contractors of the Debtor and the Subsidiary prior to the filing of the Bankruptcy Case:

- Richard Blanch
- Gerard Mastellon
- Kayla Breese
- Mikey Castillo
- Ivan Castro
- Laura Collucci
- Romy Littman
- Monica Lopategui
- Richard Marquez
- Kimberly McFadden
- Taylor O'Mary
- Neli Raichev
- Janice Valitutti
- Sherene Vargas

Schedule 2.1(d)

Assigned Contracts

1. Warehousing and Servicing Agent Agreement by and between Metier Tribeca, LLC d/b/a Le Métier de Beaute and T&G Distribution Systems, Inc. b/b/a Advanced Distribution Systems, dated May 1, 2008.
2. The Agreement of Sublease between AuditionBooth LLC, as tenant and Metier Tribeca, LLC, as subtenant, dated as of August 18, 2011.
3. The Agreement by and among New 24 West 40th St. LLC, as landlord, AuditionBooth LLC, as tenant, Metier Tribeca, LLC, as subtenant, and Frank Celli, as guarantor, dated as September 20, 2011.
4. Wells Fargo financial leasing agreement-office equipment.
5. License Agreement between Phosphagenics Limited and Metier Tribeca, LLC dated January 24th, 2011.
6. Time Warner Cable Agreement.
7. McGraw
8. Oxford Healthcare Group Enrollment Agreement and Plan
9. Travelers Insurance

Schedule 2.1(h)

Intellectual Property Rights

- U.S. Patent Application Serial No. 13/838,096 (MWZ&B #RBLANCH-0014), for the Hangtag Social Commerce System
- U.S. Patent Application RBLANCH-0012 (US 13/778,483)
- U.S. Patent Application RBLANCH-0009 (US 13/741,068)
- U.S. Patent Application RBLANCH-0013-D (US 29446753)
- U.S. trademark registration for Métier, for cosmetics
- U.S. trademark registration for Le Métier De Beauté
- U.S. trademark registration for Métier, for nail lacquer
- European Community trademark registration for Le Métier De Beauté
- Brazilian trademark registration for Le Métier De Beauté
- Chinese trademark registration for Le Métier De Beauté, for cosmetic brushes and hair brushes
- Chinese trademark registration for Le Métier De Beauté, for cosmetics
- Japanese trademark registration for Le Métier De Beauté
- Korean trademark registration for Le Métier De Beauté, for cosmetics
- Russian trademark registration for Le Métier De Beauté
- The following domains names and URLs:
 - le-metier-de-beaute.myshopify.com,
 - lemetierdebeaute.com,
 - metierbeaute.com,
 - lemetierbeaute.com,
 - metiercosmetics.com,
 - metierbeauty.com,
 - www.metierdebeaute.com, and
 - www.metierbeaute.com

Schedule 5.4

Waivers, Consents, Approvals, and Notices

None.