

## PATENT ASSIGNMENT COVER SHEET

Electronic Version v1.1  
 Stylesheet Version v1.2

EPAS ID: PAT6284154

<b>SUBMISSION TYPE:</b>	NEW ASSIGNMENT
<b>NATURE OF CONVEYANCE:</b>	COURT ORDER
<b>CONVEYING PARTY DATA</b>	
<b>Name</b>	<b>Execution Date</b>
NATIONAL BANK OF CANADA	08/26/2020
<b>RECEIVING PARTY DATA</b>	
<b>Name:</b>	BOS SOLUTIONS LTD., A CANADIAN LIMITED COMPANY
<b>Street Address:</b>	10343 SAM HOUSTON PARK DRIVE
<b>Internal Address:</b>	SUITE 120
<b>City:</b>	HOUSTON
<b>State/Country:</b>	TEXAS
<b>Postal Code:</b>	77064
<b>PROPERTY NUMBERS Total: 2</b>	
<b>Property Type</b>	<b>Number</b>
<b>Patent Number:</b>	7144516
<b>Patent Number:</b>	6863809
<b>CORRESPONDENCE DATA</b>	
<b>Fax Number:</b>	(214)200-0853
<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>	
<b>Phone:</b>	2109787487
<b>Email:</b>	venisa.dark@haynesboone.com
<b>Correspondent Name:</b>	VENISA DARK, HAYNES AND BOONE LLP
<b>Address Line 1:</b>	2323 VICTORY AVENUE, SUITE 700
<b>Address Line 4:</b>	DALLAS, TEXAS 75219
<b>ATTORNEY DOCKET NUMBER:</b>	59789.2_LEGRANDM
<b>NAME OF SUBMITTER:</b>	VENISA DARK
<b>SIGNATURE:</b>	/VENISA DARK/
<b>DATE SIGNED:</b>	09/04/2020
<b>Total Attachments: 144</b>	
source=2020-08-26 Bankruptcy Order on Approval of Sale Assignment and Assumption#page1.tif	
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ENTERED  
08/27/2020

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

In re:	§	Case No. 20-32465
	§	
BOS SOLUTIONS LTD., <i>et al.</i> , <sup>1</sup>	§	Chapter 15
	§	
Debtors in a foreign proceeding	§	Jointly Administered

**ORDER GRANTING RECEIVER'S EMERGENCY MOTION FOR ENTRY OF AN  
ORDER: (I) GRANTING COMITY; (II) APPROVING THE SALE OF  
SUBSTANTIALLY ALL OF THE DEBTORS' ASSETS FREE AND CLEAR OF  
CLAIMS AND INTERESTS; (III) APPROVING THE ASSIGNMENT AND  
ASSUMPTION OF CERTAIN EXECUTORY CONTRACTS AND UNEXPIRED  
LEASES AND (IV) GRANTING RELATED RELIEF  
(Docket No. 51)**

Before the Court is the *Receiver's Emergency Motion for Entry of an Order: (I) Granting Comity; (II) Approving the Sale Process; (III) Approving the Sale of Substantially All of the Debtors' Assets Free and Clear of Claims and Interests; (IV) Approving the Form and Manner of the Cure and Sale Notices; and (V) Granting Related Relief* (the "Motion"), filed by Ernst & Young Inc. ("EY") solely in its capacity as court-appointed receiver (the "Receiver") of (1) BOS Solutions Ltd. ("BOS Ltd."), (2) BOS Solutions Inc. ("BOS Inc."), (3) BOS Leaseco LLC ("BOS Leaseco"), (4) BOS Solutions Real Estate Inc. ("BOS Real Estate"), and (5) BOS USHoldco Inc. ("BOS Holdco") (collectively, "BOS" or the "Debtors") based upon the Receivership Order dated May 4, 2020 (the "Receivership Order"), entered by the Court of Queen's Bench of Alberta in the Judicial Centre of Calgary, Canada, Court File No. 2001-05949 (the "Canadian Court" and the "Canadian Proceedings"), and as authorized foreign representative of the above-captioned Debtors. The Court has considered the Motion, the applicable law, the evidence in the record, and

<sup>1</sup> The Debtors are: (1) BOS Solutions Ltd., (2) BOS Solutions Inc., (3) BOS Leaseco LLC, (4) BOS Solutions Real Estate Inc., and (5) BOS USHoldco Inc.

the arguments made at the hearing on the Motion (the “Sale Hearing”), and well as the record of and docket filings in the Chapter 15 Cases, of which the Court takes judicial notice. This Court finds that notice was proper and that no party in interest made any response in opposition to the Motion, or, if so, the relief requested in any such response was denied for the reasons stated on the record, and further finds that the relief requested in the Motion should be GRANTED. Accordingly, the Court HEREBY FINDS THAT:

**Jurisdiction, Final Order, and Statutory Bases**

A. This Court has jurisdiction to hear and determine the Motion pursuant to 28 U.S.C. §§ 157(a), 157(b)(1), 1334(a), and 11 U.S.C. § 1501. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(N) and (P). Venue is proper in this District and in this Court pursuant to 28 U.S.C. § 1410.

B. This Order constitutes a final and appealable order within the meaning of 28 U.S.C. § 158(a). Notwithstanding anything to the contrary, including Federal Rule of Bankruptcy Procedure 6004(h), and to any extent necessary under Federal Rule of Bankruptcy Procedure 9014 and Federal Rule of Civil Procedure 54(b), as made applicable by Federal Rule of Bankruptcy Procedure 7054, this Court expressly finds that there is no just reason for delay in the implementation of this Order and expressly directs that this Order constitute an entry of judgment.

C. The statutory predicates for the relief requested in the Motion and granted herein are, *inter alia*, 11 U.S.C. §§ 105(a), 363, 365 and Federal Rules of Bankruptcy Procedure 2002, 6004, 9007, and 9014.

**Notice**

D. Notice of the Motion, the relief granted herein, and an opportunity to be heard in connection with any of the foregoing was provided to all parties in interest and was good,

sufficient, and appropriate under the circumstances, and no other or further notice of the Motion, the relief granted herein, or the Sale Hearing is required.

E. The Receiver conducted a sale process that afforded a full and fair opportunity for any person or entity to make its highest and best offer to purchase the Purchased Assets.<sup>2</sup> The sale process was duly noticed and conducted in a non-collusive, fair, and good faith manner, and a reasonable opportunity has been given to any interested party to make its highest and best offer for the Purchased Assets.

F. The Receiver has served notices (as amended, modified, or otherwise supplemented from time to time, the “Cure Notices”) of the potential assumption and assignment of the Assumed Contracts and of the Contract Cure Amounts upon each nondebtor counterparty to an Assumed Contract. *See* Docket Nos. 63, 74, 77, and 111. As evidenced by the affidavits of service previously filed with this Court, and based upon the representations of Receiver’s counsel at the Sale Hearing, the service and provision of the Cure Notices were good, sufficient, and appropriate under the circumstances and no further notice is or shall be required in respect of assumption and assignment of the Assumed Contracts or establishing Contract Cure Amounts for the respective Assumed Contracts.

G. Nondebtor counterparties to the Assumed Contracts have had an adequate opportunity to object to or be heard regarding assumption and assignment of the applicable Assumed Contracts and the Contract Cure Amounts set forth in the Cure Notices (including objections related to the adequate assurance of future performance and objections based on whether applicable law excuses the nondebtor counterparty from accepting performance by, or

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<sup>2</sup> All capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the Motion and the Asset Purchase and Sale Agreement (as may be amended, modified, or supplemented from time to time, the “APA”) by and between the Receiver and Stage 3 Separation, LLC (the “Purchaser”).

rendering performance to, the Purchaser for purposes of section 365(c)(1) of the Bankruptcy Code). The deadline to file an objection to the assumption and assignment to the Purchaser of any Assumed Contract (a “Contract Objection”) has expired, and to the extent any such party timely filed a Contract Objection, all such Contract Objections have been resolved, withdrawn, overruled, or continued to a later hearing by agreement of the parties. To the extent that any such party did not timely file a Contract Objection by the Contract Objection deadline, such party is deemed to have consented to: (i) the assumption and assignment of the Assumed Contract to the Purchaser pursuant to the terms of this Order; and (ii) the proposed Contract Cure Amounts set forth in the Cure Notice.

#### **Validity of Transfer**

H. The Receiver has full corporate power and authority to execute and consummate the proposed sale (the “Proposed Sale”), delivering all documents contemplated thereby, and no further consents, approvals, or conditions precedent are required for the Receiver to consummate the Proposed Sale.

I. The sale, transfer, and assignment of the Purchased Assets to the Purchaser will be, as of the closing date of the Proposed Sale (the “Closing Date”), a legal, valid, and effective sale, transfer, and assignment of such assets, and such sale, transfer, and assignment vests or will vest the Purchaser with all right, title, and interest of the Receiver and the Debtors to the Purchased Assets, subject solely to the Assumed Liabilities and Permitted Encumbrances, free and clear of all liens, claims, encumbrances, liabilities, and interests of any kind or nature whatsoever against the Receiver, the Debtors, their estates, or any of the Purchased Assets accruing, arising, or related to facts or circumstances existing as of or at any time prior to the Closing Date (collectively, “Free and Clear”).

**Good Faith of the Purchaser**

J. The Purchaser is not an “insider” or “affiliate” of any of the Debtors, as those terms are defined in 11 U.S.C. § 101.

K. The Receiver has demonstrated compelling circumstances and a good and sufficient business purpose and justification for the sale.

L. The Purchaser is purchasing the Purchased Assets in good faith and is a good faith buyer within the meaning of 11 U.S.C. § 363(m). The Purchaser is therefore entitled to the full protections of section 363(m) and has proceeded in good faith in all respects in connection with this proceeding.

M. The price to be paid for the Purchased Assets by the Purchaser was not controlled by any agreement among potential bidders at such sale, and neither the Receiver nor the Purchaser engaged in any collusion or any other conduct that would cause or permit the Proposed Sale to be avoidable under 11 U.S.C. § 363(n).

N. The Proposed Sale was negotiated at arms’ length and in good faith and represents a fair and reasonable offer to purchase the Purchased Assets under the circumstances of the Chapter 15 Cases. The Purchase Price being paid by the Purchaser (i) is the highest or best offer received by the Receiver, (ii) is fair and reasonable, (iii) is in the best interests of the Debtors’ creditors, employees, stakeholders and estates, (iv) constitutes full and fair consideration and reasonably equivalent value for the Purchased Assets, and (v) will provide a greater recovery for the Debtors’ creditors, stakeholders and other interested parties than would be provided by any other practically available alternative.

O. Approval of the Motion and the Proposed Sale, and the consummation of the Proposed Sale is in the best interest of the Debtors, their creditors, their estates, and all other parties-in-interest.

**Satisfaction of 11 U.S.C. § 363(f)**

P. The Purchaser would not have entered into the Proposed Sale and would not consummate the Proposed Sale if the sale of the Purchased Assets to the Purchaser was not Free and Clear of all pre-petition and post-petition liens, claims (as “claim” is defined in 11 U.S.C. § 101(5)), interests and encumbrances, including but not limited to security interests of whatever kind or nature, mortgages, pledges, mechanics’ liens, materialmen’s liens, warehousemen’s liens, shippers’ liens, consensual liens, non-consensual liens, statutory liens, security deeds, pledges, restrictions, easements, rights of way, rights of pre-emption, instruments, preferences, priorities, title retention contracts, conditional sales agreements, charges, suits, licenses, options, rights-of-recovery, judgments, orders and decrees of any court or foreign or domestic governmental entity, interests, taxes (including foreign, state, and local taxes), covenants, restrictions, indentures, instruments, leases, options, contracts, agreements, setoffs, recoupments, claims for reimbursement, contribution, indemnity or exoneration, successor, substantial continuation, product, environmental, tax, reclamation, labor, COBRA Coverage, FMLA, WARN, benefits under any benefit plan or ERISA, CERCLA, *alter ego*, and other liabilities, causes of action known or unknown, contract rights and claims, to the fullest extent of the law, in each case, of any kind or nature, whether secured or unsecured, choate or inchoate, filed or unfiled, scheduled or unscheduled, perfected or unperfected, liquidated or unliquidated, noticed or unnoticed, recorded or unrecorded, contingent or non-contingent, material or non-material, known or unknown, statutory or non-statutory, matured or unmatured, legal or equitable relating to, accruing or arising

any time prior to the Closing Date (collectively, the “Liens”). The Receiver, on behalf of the Debtors, may sell the Purchased Assets located in the United States Free and Clear of Liens because, in each case, one or more of the standards set forth in 11 U.S.C. § 365(f)(1)-(5) has been satisfied. Those holders of Liens against the Debtors, their estates, or any of the Purchased Assets located in the United States, who did not object, or who withdrew their objections, to the Proposed Sale or the Motion are deemed to have consented thereto pursuant to section 363(f)(2) of the Bankruptcy Code. Those holders of Liens who did object fall within one or more of the other subsections of section 363(f) of the Bankruptcy Code and are adequately protected by having their Liens, if any, in each instance against the Debtors, their estates, or any of the Purchased Assets, attach to the proceeds (the “Proceeds”) received ultimately attributable to the Purchased Assets in which such creditor alleges an interest, in the same order of priority, with the same validity, force, and effect that such creditor had prior to the Proposed Sale, and subject to any claims and defenses the Debtors and their estates may possess with respect thereto.

Q. The transfer of the Purchased Assets to the Purchaser Free and Clear of Liens will not result in any undue burden or prejudice to any holders of Liens. Except as expressly permitted or otherwise specifically provided by the Proposed Sale or this Order, all such Liens of any kind or nature whatsoever shall attach to the Proceeds received ultimately attributable to the Purchased Assets in which such creditor alleges an interest, in the same order of priority, with the same validity, force, and effect that such creditor had prior to the Proposed Sale, and subject to any claims and defenses the Debtors and their estates may possess with respect thereto. All persons or entities having Liens against or in any of the Debtors or Purchased Assets shall be forever barred, estopped, and permanently enjoined from pursuing or asserting such Liens, if any, whether by

payment, setoff, or otherwise, against the Purchaser, any Purchased Assets, or any successors or assigns.

**Assumption and Assignment of the Assumed Contracts**

R. The assumption and assignment of the Assumed Contracts (as such Assumed Contracts may be amended, supplemented, or otherwise modified prior to assumption without further order of the Court with the consent of the Receiver, the contract counterparty, and the Purchaser) that are designated for assumption and assignment pursuant to the terms of this Order and the APA is integral to the APA, does not constitute unfair discrimination, is in the best interests of the Debtors, their estates, their creditors, and all other parties in interest, and represents the reasonable exercise of sound and prudent business judgment by the Receiver.

S. The Receiver met all requirements of section 365(b) of the Bankruptcy Code for each of the Assumed Contracts. The Receiver, pursuant to the APA, has: (a) cured and/or provided adequate assurance of cure of any default existing prior to the Closing Date under all of the Assumed Contracts, within the meaning of section 365(b)(1)(A) of the Bankruptcy Code; and (b) provided compensation or adequate assurance of compensation to any counterparty for actual pecuniary loss to such party resulting from a default prior to the Closing Date under any of the Assumed Contracts, within the meaning of section 365(b)(1)(B) of the Bankruptcy Code. Each of the Assumed Contracts shall be transferred to the Purchaser Free and Clear of all Liens. Pursuant to Bankruptcy Code § § 105(a), 363, and 365, all parties to the Assumed Contracts are forever barred and enjoined from raising or asserting against the Purchaser any assignment fee, default, breach or claim or pecuniary loss, or condition to assignment, arising under or related to the Assumed Contracts existing as of the Closing Date or arising by reason of the Closing Date

T. The Purchaser has demonstrated adequate assurance of future performance under the relevant Assumed Contracts within the meaning of section 365(b)(1)(C) and 365(f)(2)(B) of the Bankruptcy Code. Pursuant to section 365(f) of the Bankruptcy Code, the Assumed Contracts to be assumed and assigned under the APA shall be assigned and transferred to, and remain in full force and effect for the benefit of, the Purchaser, notwithstanding any provision in the contracts or other restrictions prohibiting their assignment or transfer.

U. No monetary or non-monetary defaults exist in the performance under the Assumed Contracts as of the date of this Order other than the failure to pay amounts equal to the Contract Cure Amounts or defaults that are not required to be cured as contemplated in section 365(b)(1)(A) of the Bankruptcy Code. In accordance with the terms set forth in the APA and this Order, the Receiver shall pay the Contract Cure Amounts for each of the Assumed Contracts.

**Compelling Circumstances for Immediate Sale**

V. To maximize the value of the Purchased Assets to the Debtors, their estates, creditors, and parties in interest, it is essential that the Closing Date of the Proposed Sale occur within the time constraints set forth in the Motion. Time is of the essence in consummating the Proposed Sale.

W. Given all of the circumstances in the Chapter 15 Cases and the adequacy and fair value of the price to be paid for the Purchased Assets, the Proposed Sale constitutes a reasonable exercise of the Receiver's business judgment and should be approved.

X. The consummation of the Proposed Sale is legal, valid, and properly authorized under all applicable provisions of the Bankruptcy Code, including, without limitation, 11 U.S.C. §§ 105(a), 363(b), (f), and (m), and 365 and, with respect to the Proposed Sale, all of the applicable requirements of such sections have been complied with. Accordingly, the Court

**HEREBY ORDERS THAT:**

**General Provisions**

1. The relief requested in the Motion is **GRANTED**. The Proposed Sale is approved as set forth in this Order.

2. All objections to the Motion or the relief requested therein that have not been withdrawn, waived, or settled as announced to the Court at the Sale Hearing or by stipulation filed with this Court or as otherwise provided in this Order, and all reservations of rights included therein, are hereby overruled on the merits.

3. The Alberta Approval and Vesting Order entered in the Canadian Proceeding, a copy of which is attached to this Order as Exhibit A, is hereby recognized and given full force and effect in the United States.

**Approval of the Proposed Sale**

4. Given all of the circumstances of the Chapter 15 Cases and the adequacy and fair value to be paid for the Purchased Assets, the Proposed Sale constitutes a reasonable exercise of the Receiver's business judgment and is hereby approved. The Proposed Sale described in the APA attached to this Order as Exhibit B (as may be amended, modified or supplemented) and any other ancillary agreements and documents thereto, and all of the terms and conditions thereof, are hereby approved.

5. Pursuant to 11 U.S.C. § 363(b) and (f) and the *Order Granting Emergency Petition for Recognition as Foreign Main Proceeding Pursuant to Sections 1515 and 1517 of the United States Bankruptcy Code and Related Relief* [Docket No. 41], the Receiver is authorized and empowered to take any and all actions necessary or appropriate to: (a) consummate the Proposed Sale pursuant to and in accordance with the terms and conditions of the sale documents relating

thereto; (b) close the Proposed Sale as contemplated in this Order; (c) execute and deliver, perform, consummate, implement, and close the Proposed Sale, together with all additional instruments and documents that may be reasonably necessary or desirable to implement the Proposed Sale, including any other ancillary documents, or as may be reasonably necessary and appropriate to the performance of the obligations as contemplated by the Proposed Sale and other ancillary documents; and (d) take all further actions as may reasonably be requested by the Purchaser for the purpose of assigning, transferring, granting, conveying, and conferring to the Purchaser, or reducing to possession, any or all of the Purchased Assets, as may be necessary or appropriate to the performance of the Receiver's obligations as contemplated by the APA.

6. This Order shall be binding in all respects upon the Receiver, the Debtors, and the Debtors' creditors, all holders of equity interests in any of the Debtors, all holders of any claim(s), whether known or unknown, against any Debtor, debentureholders, bondholders, any holders of Liens against or on all or any portion of the Purchased Assets, any parties in interest, all contract counterparties, the Purchaser, and all successors and assigns of the Purchaser, and any trustees, examiners, responsible officers, estate representatives, or similar entities for any of the Debtors, if any, subsequently appointed in any of the Chapter 15 Cases or upon a subsequent filing of each or any of the Debtors under Chapter 7 or 11 of the Bankruptcy Code. This Order and the Proposed Sale shall inure to the benefit of the Receiver, the Debtors, the Purchaser, and their respective successors and assigns.

### **Transfer of Purchased Assets**

7. Pursuant to 11 U.S.C. §§ 105(a) and 363(b) and (f), the Receiver is authorized to transfer the Purchased Assets on the Closing Date. Such transfer shall constitute a legal, valid, binding, and effective transfer of such Purchased Assets and, upon the Receiver's receipt of the

Purchase Price, shall be Free and Clear of all Liens. Upon the consummation of the Proposed Sale on the Closing Date, the Purchaser shall take title to and possession of the Purchased Assets as provided in the APA.

8. All persons or entities other than the Receiver, if any, that are in possession of some or all of the Purchased Assets and any certificates of title, instruments, or other indicia of title representing or evidencing ownership of the Purchased Assets located in the United States that have been pledged as security in respect of the Purchased Assets (the “Indicia of Ownership”) are directed to surrender possession of such Purchased Assets and Indicia of Ownership. The Receiver shall exercise commercially reasonable efforts to assist the Purchaser in assuring that all persons or entities will surrender possession of the Purchased Assets and Indicia of Ownership to (i) the Receiver before the Closing Date or (ii) the Purchaser on or after the Closing Date. All persons or entities are hereby forever prohibited and enjoined from taking any action that would adversely affect or interfere with the ability of the Receiver to sell and transfer the Purchased Assets located in the United States to the Purchaser in accordance with the terms of the Proposed Sale and this Order. All of the Debtors’ interests in the Purchased Assets shall be, as of the Closing Date and upon the occurrence of the Closing, transferred to and vested in the Purchaser. Upon the occurrence of the closing of the Proposed Sale, this Order shall be considered and shall constitute for any and all purposes a full and complete general assignment, conveyance, and transfer of the Purchased Assets in the United States acquired by the Purchaser under the APA and/or a bill of sale, deed, or assignment transferring good and marketable, indefeasible title and interest in the Purchased Assets to the Purchaser. All persons presently or on or after the Closing Date in possession of some or all of the Purchased Assets are directed to surrender possession of the

Purchased Assets to the Purchaser on the Closing Date or at such time thereafter as the Purchaser may request.

9. Pursuant to 11 U.S.C. § 363(f), the transfer of title to the Purchased Assets located in the United States shall be Free and Clear of any and all Liens.

10. The Purchaser is not a successor (*de facto*, by alter ego, by veil piercing, as continuing business enterprise, or otherwise) and shall not be liable as successors under any theory of successor liability for Liens that encumber or relate to the Purchased Assets located in the United States. Further, the Purchaser is relying on such a determination that it is not subject to successor liability. All Liens shall attach solely to the Proceeds received with the same validity, priority, force, and effect that they now have as against the Purchased Assets located in the United States, and subject to any claims and defenses the Debtors and their estates may possess with respect thereto.

11. On the Closing Date, each party in interest is authorized and is hereby directed to execute such documents and take all other actions as may be necessary to release Liens on the Purchased Assets located in the United States, if any, as provided for herein, as such Liens may have been recorded or may otherwise exist.

12. This Order shall be effective as a determination that, as of the Closing Date, all Liens of any kind or nature whatsoever existing as to the Purchased Assets prior to the Closing Date, other than the Assumed Liabilities and Permitted Encumbrances, have been unconditionally released, discharged, and terminated and that the Free and Clear conveyances described herein have been effected, with such Liens to attach to the Proceeds received by the Receiver in the same priority that existed prior to the Proposed Sale; provided, however, that notwithstanding the foregoing, any Liens against the Owned Real Property located in Rio Vista, Texas held by any

Governmental Authority to secure payment of ad valorem property taxes and other personal property taxes or assessments due and owing for the fiscal year 2020 shall continue to attach to the Owned Real Property until such taxes have been paid by the Purchaser pursuant to Section 3.6 of the APA; and provided further, however, that Proceeds from the sale of the Purchased Assets in the amounts set forth in the objections filed by Midland Central Appraisal District, Johnson County, Rio Vista Independent School District, and Midland County (collectively, the “Objecting Parties”) (Docket Nos. 55 and 66) shall be kept in a segregated Receiver managed bank account, and such amounts may only be distributed upon subsequent order of the Canadian Court, duly noticed to the Objecting Parties. All parties’ rights to object to the priority, validity, amount, and extent of the Liens attaching to the Proceeds, including any Liens asserted by the Objecting Parties, are fully preserved.

13. On or before the Closing Date, the Debtors’ creditors are authorized and directed to execute such documents and take all other actions as may be necessary to release any Liens of any kind against the Purchased Assets, as such Liens may have been recorded or may otherwise exist, and deliver such executed documents to the Receiver to be held in escrow. If any person or entity that has filed statements or other documents or agreements evidencing Liens on or in, all of any portion of the Purchased Assets (a “Claim Holder”) has not delivered to the Receiver or Purchaser prior to the Closing Date, in proper form for filing and executed by the appropriate parties, termination statements, instruments of satisfaction, releases of liens and easements, and any other documents necessary or desirable to the Purchaser for the purpose of documenting the release of all Liens that such Claim Holder has or may assert with respect to all or any portion of the Purchased Assets, then the Purchaser is authorized to execute and file such statements, instruments, releases, and other documents on behalf of such Claim Holder with respect to the

Purchased Assets and each and every filing office, agency, clerk, or recorder is authorized and directed to accept the same. The Purchaser is authorized to file, register, or otherwise record a certified copy of this Order with the appropriate filing office, agency, clerk, or recorder which, once filed, registered, or otherwise recorded, shall constitute conclusive evidence of the sale of the Purchased Assets located in the United States, Free and Clear, including the release of all Liens in the Purchased Assets located in the United States as of the Closing Date of any kind or nature whatsoever.

14. To the greatest extent available under applicable law, (a) the Purchaser shall be authorized, as of the Closing Date, to operate under any license, permit, approval, certificate of occupancy, certificate of need, authorization, accreditation, operating permit, registration, plan and the like of any governmental entity relating to the Purchased Assets (collectively, the “Permits”), (b) all such Permits are deemed to have been, and hereby are, deemed to be transferred to the Purchaser as of the Closing Date, and (c) each governmental entity that has issued or granted a Permit and who did not object to the sale of the Purchased Assets shall be deemed to have consented to the transfer of such Permit to the Purchaser as of the Closing Date. To the maximum extent permitted by Bankruptcy Code § 525, no governmental entity may revoke or suspend any Permit relating to the operation of the Purchased Assets sold, transferred, or conveyed to the Purchaser on account of the filing or pendency of these bankruptcy cases or the consummation of the APA.

15. Without limiting any other provision set forth herein, the provisions of this Order authorizing the sale of the Purchased Assets Free and Clear of Liens shall be self-executing, and neither the Debtors nor the Purchaser shall be required to execute or file releases, termination statements, assignments, consents, or other instruments in order to effectuate, consummate, and

implement the provisions of this Order relating to the transfer of the Purchased Assets Free and Clear of Liens.

16. The Purchaser has not assumed and is not otherwise obligated for any of the claims against the Debtors (including, without limitation, the Excluded Liabilities) other than the Assumed Liabilities as set forth in the APA, and the Purchaser has not purchased any of the Excluded Assets as set forth in the APA. Except as expressly permitted or otherwise specifically provided in the APA or this Order, all persons or entities holding Liens in all or any portion of the Purchased Assets located in the United States against any Debtor arising under or out of, in connection with, or in any way relating to the Debtors, the Purchased Assets, the operation of the Debtors' business prior to the Closing Date, or the transfer of the Purchased Assets to the Purchaser, are hereby forever prohibited and permanently enjoined from asserting such Liens and claims, whether by payment, setoff, or otherwise, against the Purchaser, their successors or assigns, the property of such successors or assigns, or the Purchased Assets.

17. This Order is and shall be binding upon and govern the acts of all persons and entities, including, without limitation, all county clerks, filing agents, filing officers, title agents, title companies, recorders of mortgages, recorders of deeds, registrars of deeds, administrative agencies, governmental departments, secretaries of state, federal and local officials, and all other persons and entities who may be required by operation of law, the duties of their office, or contract, to accept, file, register, or otherwise record or release any documents or instruments, or who may be required to report or insure any title or state of title in or to any lease, and each of the foregoing entities is hereby directed to and shall accept for filing any and all of the documents and instruments necessary and appropriate to consummate, effectuate, or reflect the transactions contemplated in this Order or the Proposed Sale.

**Treatment of Executory Contracts and Unexpired Leases**

18. Pursuant to sections 105(a) and 365 of the Bankruptcy Code, the Receiver is authorized, on behalf of the Debtors, to assume and assign to the Purchaser each of the Assumed Contracts upon the closing of the Proposed Sale. The payment of the Contract Cure Amounts: (a) cures all monetary defaults existing thereunder as of the Closing Date; (b) compensates the applicable non-debtor counterparties for any actual pecuniary loss resulting from such default; and (c) together with the assumption of the Assumed Contracts by the Receiver, on behalf of the Debtors, and the assignment of the Assumed Contracts to the Purchaser constitutes adequate assurance of future performance thereof.

19. To the extent that any counterparty to an Assumed Contract did not timely file a Contract Objection by the Contract Objection deadline, such counterparty is deemed to have consented to: (i) the assumption and assignment of the Assumed Contract pursuant to the terms of this Order; and (ii) the proposed Contract Cure Amounts set forth in the Cure Notice. To the extent any counterparty to an Assumed Contract failed to timely object to a Contract Cure Amount, such Contract Cure Amount shall be deemed to be finally determined, and any such counterparty shall be prohibited from challenging, objecting to, or denying the validity and finality of the Contract Cure Amount at any time, and such Contract Cure Amount, when paid, shall completely revive any Assumed Contract to which it relates.

17. Any provision in any Assumed Contract that prohibits or conditions the assignment of such Assumed Contract or allows the non-debtor counterparty to such Assumed Contract to impose any penalty, fee, charge, rent increase, profit sharing arrangement, or other condition on renewal or extension, or to modify any term or condition upon the assignment of such Assumed Contract, constitutes an unenforceable anti-assignment provision that is void and of no force and

effect in connection with the Proposed Sale. All other requirements and conditions under section 363 and 365 of the Bankruptcy Code for the assumption by the Receiver, on behalf of the Debtors, and assignment to the Purchaser of the Assumed Contracts have been satisfied. Upon the closing of the Proposed Sale, in accordance with sections 363 and 365 of the Bankruptcy Code, the Purchaser shall be fully and irrevocably vested with all right, title, and interest of the Debtors under the Assumed Contracts, and such Assumed Contracts shall remain in full force and effect for the benefit of the Purchaser.

18. Each non-debtor counterparty to an Assumed Contract is forever barred, estopped, and permanently enjoined from asserting against the Receiver, the Debtors, or the Purchaser, or their respective property (including, without limitation, the Purchased Assets) in connection with this transaction: (i) any assignment fee, acceleration, default, breach, or claim or pecuniary loss, or condition to assignment existing, arising, or accruing as of the Closing Date or arising by reason of the closing, including any breach related to or arising out of change-in control in such Assumed Contracts, or any purported written or oral modification to the Assumed Contracts; or (ii) any claim, counterclaim, defense, breach, default, condition, setoff, or other claim asserted or capable of being asserted against the Debtors or the Receiver existing as of the Closing Date or arising by reason of the closing, except for the Assumed Liabilities.

19. If the Purchaser identifies additional Assumed Contracts after the Closing Date, the Receiver shall serve a supplemental Cure Notice by first-class mail, facsimile, electronic transmission, or overnight mail on the contract counterparty (and its attorney, if known) to such Assumed Contract, and such contract counter-party shall have ten (10) calendar days to object to the assumption and assignment of the Assumed Contract. If no objection is filed with the Court within ten (10) calendar days from the date of service of a supplemental Cure Notice, the Assigned

Contracts contained in the supplemental Cure Notice shall be deemed assumed and assigned pursuant to this Order without further order of this Court.

**Other Provisions**

27. Pursuant to the Alberta Approval and Vesting Order, the Receiver shall not distribute the Proceeds from the sale of the Purchased Assets without further order of the Canadian Court; provided, however, the Receiver may apply any part of such proceeds to repay any amounts the Receiver has borrowed for which it issued a Receiver's Certificate pursuant to the Receivership Order.

28. Except as otherwise expressly set forth in this Order or the APA, the Purchaser shall not have any liability or other obligation to the Debtors or the Receiver arising under or related to any of the Purchased Assets.

29. The Purchaser shall not be liable for any Liens of any kind or nature whatsoever in or against the Debtors, or any of their predecessors or affiliates, and the Purchaser shall have no successor or vicarious liabilities of any kind or character including, but not limited to, liabilities on account of any tax arising, accruing, or payable under, out of, in connection with, or in any way relating to the ownership or operation of any of the Purchased Assets prior to the Closing Date of the sale, except as agreed to in the APA or auxiliary documents executed by the Purchaser in connection therewith.

30. Following the Closing Date, no Claim Holder shall interfere with the Purchaser's title to or use and enjoyment of the Purchased Assets based on or related to such Lien or claim (as "claim" is defined in 11 U.S.C. § 101(5)), or any actions that the Receiver may take in the Chapter 15 Cases.

31. The Proposed Sale is undertaken by the Purchaser without collusion and in good faith, as that term is defined in 11 U.S.C. § 363(m), and accordingly, the reversal or modification on appeal of the authorization provided herein to consummate the sale shall not affect the validity of the Proposed Sale, unless such authorization and consummation of the Proposed Sale are duly stayed pending appeal. The Purchaser is a good faith buyer within the meaning of 11 U.S.C. § 363(m) and, as such, is entitled to the full protections of section 363(m).

32. The Proposed Sale may not be avoided, and no party shall be entitled to damages or other recovery, pursuant to 11 U.S.C. § 363(n).

33. Pursuant to Federal Rules of Bankruptcy Procedure 7062, 9014, 6004(h), and 6006(d), this Order shall be effective immediately upon entry, and the Receiver and the Purchaser are authorized, but not required, to close the sale immediately upon entry of this Order, and any stay periods in Federal Rules of Bankruptcy Procedure 7062 or 6004(h), or otherwise, are expressly waived. The Purchaser shall be deemed to be acting in “good faith” and shall be entitled to the protections of Bankruptcy Code § 363(m) as to all aspects of the APA (as may be amended, modified or supplemented) if this Order or any authorization contained herein is reversed or modified on appeal.

34. To the extent this Order is inconsistent with any prior order or pleading in the Chapter 15 Cases, the terms of this Order shall govern. Nothing in any order of this Court or contained in any plan of reorganization or liquidation confirmed in the Chapter 15 Cases, or in any subsequent or converted cases of the Debtors, shall conflict with or derogate from the provisions of the APA (as may be amended, modified or supplemented) or the terms of this Order

35. To the extent there are any inconsistencies between the terms of this Order and the Proposed Sale (including all documents executed in connection therewith), the terms of this Order

shall govern. However, the failure specifically to include any particular provisions of the APA or any related agreements or instruments in this Order shall not diminish or impair the effectiveness of such provisions, it being the intent of the Court, the Receiver and the Purchaser that the APA and any related agreements and instruments are authorized and approved in their entirety with such amendments thereto as may be made by the parties in accordance with this Order.

36. The Receiver is authorized to take all actions necessary to effectuate the relief granted pursuant to this Order.

37. No bulk sale law or any similar law of any state or other jurisdiction shall apply in any way to the sale and the transactions contemplated by the APA.

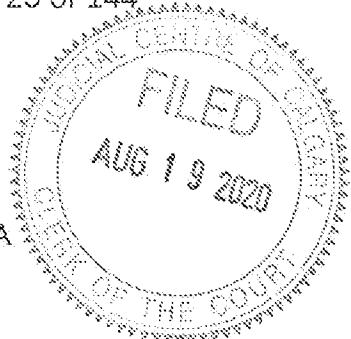
38. The findings and conclusions set forth herein constitute the Court's findings of fact and conclusions of law pursuant to Federal Rule of Bankruptcy Procedure 7052, made applicable to this proceeding pursuant to Federal Rule of Bankruptcy Procedure 9014. To the extent that any of the findings of fact set forth herein constitute conclusions of law, they are adopted as such. To the extent any of the conclusions of law set forth herein constitute findings of fact, they are adopted as such.

39. This Court shall retain jurisdiction to interpret, implement, and enforce the terms and provisions of this Order, and to adjudicate, if necessary, any and all disputes concerning or related to this Order, including, but not limited to, the power to adjudicate any objections or disputes concerning payment of tax claims or liens.

**Signed: August 26, 2020.**

  
\_\_\_\_\_  
DAVID R. JONES  
UNITED STATES BANKRUPTCY JUDGE

# **EXHIBIT A**



COURT FILE NUMBER 2001-05949  
 COURT COURT OF QUEEN'S BENCH OF ALBERTA  
 JUDICIAL CENTRE CALGARY  
 PROCEEDINGS IN THE MATTER OF THE RECEIVERSHIP OF BOS SOLUTIONS LTD., BOS SOLUTIONS INC., BOS LEASECO LLC, BOS SOLUTIONS REAL ESTATE INC., and BOS USHOLDCO INC.

APPLICANT ERNST & YOUNG INC., in its capacity as Court-appointed Receiver of the current and future assets, undertakings and properties of BOS Solutions Ltd., BOS Solutions Inc., BOS LeaseCo LLC, BOS Solutions Real Estate Inc., and BOS USHoldCo Inc.

DOCUMENT APPROVAL AND VESTING ORDER  
 (Sale by Receiver)

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT BLAKE, CASSELS & GRAYDON LLP  
 3500, 855 – 2<sup>nd</sup> Street SW  
 Calgary, Alberta T2P 4J8

Attention: Kelly J. Bourassa /  
 Amanda G. Manasterski

I hereby certify this to be a true copy of the original Order

Telephone: 403-260-9697 /  
 403-260-9756  
 Facsimile: 403-260-9700

Dated this 19 day of August 2020

Email: kelly.bourassa@blakes.com /  
amanda.manasterski@blakes.com

[Signature]  
 for Clerk of the Court

File Ref.: 8431/1363

DATE ON WHICH ORDER WAS PRONOUNCED: August 19, 2020

LOCATION WHERE ORDER WAS PRONOUNCED: CALGARY

JUSTICE WHO MADE THIS ORDER: The Honourable Justice C.M. Jones

**UPON THE APPLICATION** by Ernst & Young Inc., in its capacity as Court-appointed receiver and manager (the "Receiver") of the current and future assets, undertakings and properties of BOS Solutions Ltd., BOS Solutions Inc., BOS LeaseCo LLC, BOS Solutions Real Estate Inc., and BOS USHoldCo Inc. (the "Debtors") for an order approving the sale transaction (the "Transaction") contemplated by an agreement of purchase and sale between the Receiver and Stage 3 Separation, LLC, and an entity to be formed under the laws of Canada or a province thereof (collectively, the "Purchaser"), dated August 10, 2020, as amended by the amending agreement dated effective as of August 12, 2020 between the Receiver and the Purchaser (collectively, the "Sale Agreement"), and vesting in the Purchaser (or its Canadian nominee, Stage 3 Separation Canada Inc.), the Debtors' right, title and interest in and to the assets described in the Sale Agreement (the "Purchased Assets");

**AND UPON HAVING READ** the order granted by the Honourable Justice P.R. Jeffrey dated May 4, 2020, filed (the "Receivership Order"); **AND UPON** having read the second report of the Receiver dated August 10, 2020 (the "Second Report"), filed; **AND UPON** having read the Receiver's supplement to the Second Report dated August 18, 2020 (the "Supplemental Report"), filed; **AND UPON** having read the affidavit of service of Breanne Mezei (the "Affidavit of Service"), filed; **AND UPON HEARING** the submissions of counsel for the Receiver, the Purchaser, and any other parties present, no one appearing for any other person on the service list, although properly served as appears from the Affidavit of Service;

**IT IS HEREBY ORDERED AND DECLARED THAT:**

**SERVICE**

1. Service of notice of this application and supporting materials is hereby declared to be good and sufficient, no other person is required to have been served with notice of this application and time for service of this application is abridged to that actually given.

**APPROVAL OF TRANSACTION**

2. The Transaction is hereby approved and execution of the Sale Agreement by the Receiver is hereby authorized and approved, with such minor amendments as the Receiver may deem necessary. The Receiver is hereby authorized and directed to take such additional steps, perform, consummate, implement, execute and deliver such additional documents,

including conveyance documents, bills of sale, assignments, transfers, deeds, representations, indicia of title, tax elections, documents and instructions of whatsoever nature or kind as may be necessary or desirable for completion of the Transaction and conveyance of the Purchased Assets to the Purchaser (or its Canadian nominee, Stage 3 Separation Canada Inc.) in accordance with the terms of the Sale Agreement.

3. The Transaction and Sale Agreement are commercially reasonable and in the best interest of the Debtors and their stakeholders. Capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the Sale Agreement.

### **VESTING OF PROPERTY**

4. Upon delivery of a Receiver's certificate to the Purchaser (or its Canadian nominee, Stage 3 Separation Canada Inc.) substantially in the form set out in **Schedule "A"** hereto (the **"Receiver's Closing Certificate"**), all of the Vendor's and the Debtors' right, title and interest in and to the Purchased Assets shall vest absolutely in the name of the Purchaser (or its Canadian nominee, Stage 3 Separation Canada Inc.), free and clear of and from any and all caveats, security interests, hypothecs, pledges, mortgages, liens, trusts or deemed trusts, reservations of ownership, royalties, options, rights of pre-emption, privileges, interests, assignments, actions, judgements, executions, levies, taxes, writs of enforcement, charges, or other claims, whether contractual, statutory, financial, monetary or otherwise, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, **"Claims"**) including, without limiting the generality of the foregoing:
  - (a) any encumbrances or charges created by the Receivership Order;
  - (b) any charges, liens, security interests or claims, whether evidenced by registrations pursuant to the *Personal Property Security Act* (Alberta), the Uniform Commercial Code (United States) or any other personal or real property registry system, or otherwise;
  - (c) any liens or claims of lien under the *Builders' Lien Act* (Alberta) or any other builders', mechanics', garagekeeper's lien act or similar statute; and
  - (d) those Claims listed in **Schedule "B"** hereto

(all of which are collectively referred to as the "**Encumbrances**", which term shall not include the encumbrances, caveats, interests, easements, and restrictive covenants listed in **Schedule "C"** (collectively, "**Permitted Encumbrances**"),

and for greater certainty, this Court orders that all Claims including Encumbrances other than Permitted Encumbrances affecting or relating to the Purchased Assets are hereby expunged, discharged and terminated as against the Purchased Assets.

5. Upon delivery of the Receiver's Closing Certificate, and upon filing of a certified copy of this Order, together with any applicable registration fees, all governmental authorities including those referred to below in this paragraph (collectively, "**Governmental Authorities**") are hereby authorized, requested and directed to accept delivery of such Receiver's Closing Certificate and certified copy of this Order as though they were originals and to register such transfers, interest authorizations, discharges and discharge statements of conveyance as may be required to convey to the Purchaser or its Canadian nominee, Stage 3 Separation Canada Inc., clear title to the Purchased Assets subject only to Permitted Encumbrances.
6. The aid and assistance of the officials of the public registries of any province or territory in Canada or in the United States is requested to give effect to this Order by transferring each of the registrations identified in the Sale Agreement to the name of the Purchaser (or its Canadian nominee, Stage 3 Separation Canada Inc.), namely, the Registrars of the Alberta Personal Property Registry, the Saskatchewan Personal Property Registry, the British Columbia Personal Property Registry, and the Ontario Personal Property Registry (collectively, the "**PPR Registrars**") shall and are hereby directed to forthwith cancel and discharge any registrations at its respective Personal Property Registry (whether made before or after the date of this Order) claiming security interests (other than Permitted Encumbrances) in the estate or interest of the Debtors in any of the Purchased Assets which are of a kind prescribed by applicable regulations as serial-numbered goods.
7. In order to effect the transfers and discharges described above, this Court directs each of the Governmental Authorities to take such steps as are necessary to give effect to the terms of this Order and the Sale Agreement. Presentment of this Order and the Receiver's Closing Certificate shall be the sole and sufficient authority for the Governmental Authorities to make and register transfers of title or interest and cancel and discharge

registrations against any of the Purchased Assets of any Claims including Encumbrances but excluding Permitted Encumbrances.

8. The Receiver is hereby authorized and directed to take all necessary steps and execute any and all documents to effect any and all discharges listed in Schedule "B", and the PPR Registrars and all other persons in control or otherwise supervising such offices of registration or recording shall forthwith remove and discharge all such registrations. The Receiver is hereby authorized to file discharges of same forthwith after the filing of the Receiver's Closing Certificate.
9. No authorization, approval or other action by and no notice to or filing with any Governmental Authorities or regulatory body exercising jurisdiction over the Purchased Assets is required for the due execution, delivery and performance by the Receiver of the Sale Agreement.
10. For the purposes of determining the nature and priority of Claims, net proceeds from sale of the Purchased Assets (to be held in an interest bearing trust account by the Receiver) shall stand in the place and stead of the Purchased Assets from and after delivery of the Receiver's Closing Certificate and all Claims including Encumbrances (but excluding Permitted Encumbrances) shall not attach to, encumber or otherwise form a charge, security interest, lien, or other Claim against the Purchased Assets and may only be asserted against the net proceeds from sale of the Purchased Assets with the same priority as they had with respect to the Purchased Assets immediately prior to the sale, as if the Purchased Assets had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the sale. Unless otherwise ordered (whether before or after the date of this Order), the Receiver shall not make any distributions to creditors of net proceeds from sale of the Purchased Assets without further order of this Court, provided however the Receiver may apply any part of such net proceeds to repay any amounts the Receiver has borrowed for which it has issued a Receiver's Certificate pursuant to the Receivership Order.
11. Except as expressly provided for in the Sale Agreement or by section 5 of the Alberta *Employment Standards Code*, the Purchaser (or its Canadian nominee, Stage 3 Separation Canada Inc.) shall not, by completion of the Transaction, have liability of any kind whatsoever in respect of any Claims against the Debtors.

12. Upon completion of the Transaction and issuance of the Receiver's Closing Certificate, the Debtors and all persons who claim by, through or under the Debtors in respect of the Purchased Assets, and all persons or entities having any Claims of any kind whatsoever in respect of the Purchased Assets, save and except for persons entitled to the benefit of the Permitted Encumbrances, shall stand absolutely and forever barred, estopped and foreclosed from and permanently enjoined from pursuing, asserting or claiming any and all right, title, estate, interest, royalty, rental, equity of redemption or other Claim whatsoever in respect of or to the Purchased Assets, and to the extent that any such persons or entities remain in the possession or control of any of the Purchased Assets, or any artifacts, certificates, instruments or other indicia of title representing or evidencing any right, title, estate, or interest in and to the Purchased Assets, they shall forthwith deliver possession thereof to the Purchaser (or its Canadian nominee, Stage 3 Separation Canada Inc.).
13. The Purchaser (or its Canadian nominee, Stage 3 Separation Canada Inc.) shall be entitled to enter into and upon, hold and enjoy the Purchased Assets for its own use and benefit without any interference of or by the Debtors, or any person claiming by, through or against the Debtors.
14. Immediately upon closing of the Transaction and issuance of the Receiver's Closing Certificate, holders of Permitted Encumbrances shall have no claim whatsoever against the Receiver.
15. The Receiver is directed to file with the Court a copy of the Receiver's Closing Certificate forthwith after delivery thereof to the Purchaser (or its Canadian nominee, Stage 3 Separation Canada Inc.).
16. Pursuant to clause 7(3)(c) of the *Personal Information Protection and Electronic Documents Act* (Canada) and section 20(e) of the *Alberta Personal Information Protection Act*, the Receiver is authorized and permitted to disclose and transfer to the Purchaser (or its Canadian nominee, Stage 3 Separation Canada Inc.) all human resources and payroll information in the Debtors' records pertaining to the Debtors' past and current employees. The Purchaser (or its Canadian nominee, Stage 3 Separation Canada Inc.) shall maintain and protect the privacy of such information and shall be entitled to use the personal

information provided to it in a manner which is in all material respects identical to the prior use (of such information) to which the Debtors were entitled.

#### MISCELLANEOUS MATTERS

17. Notwithstanding:

- (a) the pendency of these proceedings and any declaration of insolvency made herein;
- (b) the pendency of any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c.B-3, as amended (the "BIA"), or United States Bankruptcy Code, in respect of the Debtors, and any bankruptcy order issued pursuant to any such applications;
- (c) any assignment in bankruptcy made in respect of the Debtors; and
- (d) the provisions of any federal or provincial statute:

the vesting of the Purchased Assets in the Purchaser (or its Canadian nominee, Stage 3 Separation Canada Inc.) pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of the Debtors and shall not be void or voidable by creditors of the Debtors, nor shall it constitute nor be deemed to be a transfer at undervalue, settlement, fraudulent preference, assignment, fraudulent conveyance, or other reviewable transaction under the BIA or any other applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

- 18. The Receiver, the Purchaser (or its Canadian nominee, Stage 3 Separation Canada Inc.) and any other interested party, shall be at liberty to apply for further advice, assistance and direction as may be necessary in order to give full force and effect to the terms of this Order and to assist and aid the parties in closing the Transaction.
- 19. This Honourable Court hereby requests the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada, in any of its provinces or territories, in the United States, or in any foreign jurisdiction, to act in aid of and to be complimentary to this Court in carrying out the terms of this Order, to give effect to this Order and to assist the Receiver and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested

to make such order and to provide such assistance to the Receiver, as an officer of the Court, as may be necessary or desirable to give effect to this Order or to assist the Receiver and its agents in carrying out the terms of this Order.

20. Service of this Order shall be deemed good and sufficient by:

(a) Serving the same on:

- (i) the persons listed on the service list created in these proceedings;
- (ii) any other person served with notice of the application for this Order;
- (iii) any other parties attending or represented at the application for this Order;
- (iv) the Purchaser or the Purchaser's solicitors; and

(b) Posting a copy of this Order on the Receiver's website at:

[www.ey.com/ca/BOSSolutions](http://www.ey.com/ca/BOSSolutions)

and service on any other person is hereby dispensed with.

21. Service of this Order may be effected by facsimile, electronic mail, personal delivery or courier. Service is deemed to be effected the next business day following transmission or delivery of this Order.



J.C.Q.B.A

**Schedule "A"**

**Receiver's Closing Certificate**

COURT FILE NUMBER	2001-05949
COURT	COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL CENTRE	CALGARY
PROCEEDINGS	IN THE MATTER OF THE RECEIVERSHIP OF BOS SOLUTIONS LTD., BOS SOLUTIONS INC., BOS LEASECO LLC, BOS SOLUTIONS REAL ESTATE INC., and BOS USHOLDCO INC.
APPLICANT	ERNST & YOUNG INC., in its capacity as Court-appointed Receiver of the current and future assets, undertakings and properties of BOS Solutions Ltd., BOS Solutions Inc., BOS LeaseCo LLC, BOS Solutions Real Estate Inc., and BOS USHoldCo Inc.
DOCUMENT	<b>RECEIVER'S CLOSING CERTIFICATE</b>
ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT	BLAKE, CASSELS & GRAYDON LLP 3500, 855 – 2 <sup>nd</sup> Street SW Calgary, Alberta T2P 4J8  Attention: Kelly J. Bourassa / Amanda G. Manasterski  Telephone: 403-260-9697 / 403-260-9756 Facsimile: 403-260-9700  Email: <a href="mailto:kelly.bourassa@blakes.com">kelly.bourassa@blakes.com</a> / <a href="mailto:amanda.manasterski@blakes.com">amanda.manasterski@blakes.com</a>  File Ref.: 8431/1363

**RECITALS**

- A. Pursuant to an Order of the Honourable Justice P.R. Jeffrey of the Court of Queen's Bench of Alberta, Judicial District of Calgary (the "Court") dated May 4, 2020, Ernst & Young Inc. was appointed as the receiver and manager (the "Receiver") of the current and future assets,

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undertakings and properties of BOS Solutions Ltd., BOS Solutions Inc., BOS LeaseCo LLC, BOS Solutions Real Estate Inc., and BOS USHoldCo Inc. (the "**Debtors**").

- B. Pursuant to an Order of the Court dated August 19, 2020 the Court approved the agreement of purchase and sale made as of August 10, 2020 between the Receiver and Stage 3 Separation, LLC, and an entity to be formed under the laws of Canada or a province thereof (collectively, the "**Purchaser**"), as amended by the amending agreement dated effective as of August 12, 2020 between the Receiver and the Purchaser (collectively, the "**Sale Agreement**"), and provided for the vesting in the Purchaser of the Debtors' right, title and interest in and to the Purchased Assets, which vesting is to be effective with respect to the Purchased Assets upon the delivery by the Receiver to the Purchaser of a certificate confirming (i) the payment by the Purchaser of the Purchase Price for the Purchased Assets; (ii) that the conditions to Closing as set out in the Sale Agreement have been satisfied or waived by the Receiver and the Purchaser; and (iii) the Transaction has been completed to the satisfaction of the Receiver.
- C. Unless otherwise indicated herein, capitalized terms have the meanings set out in the Sale Agreement.

**THE RECEIVER CERTIFIES** the following:

1. The Purchaser (or its Canadian nominee, Stage 3 Separation Canada Inc.) has paid and the Receiver has received the Purchase Price for the Purchased Assets payable on the Closing Date pursuant to the Sale Agreement;
2. The conditions to Closing as set out in the Sale Agreement have been satisfied or waived by the Receiver and the Purchaser (or its Canadian nominee, Stage 3 Separation Canada Inc.); and
3. The Transaction has been completed to the satisfaction of the Receiver.

4. This Certificate was delivered by the Receiver at \_\_\_\_\_ on \_\_\_\_\_.

**Ernst & Young Inc.**, in its capacity as receiver and manager of the current and future assets, undertakings and properties of **BOS Solutions Ltd.**, **BOS Solutions Inc.**, **BOS LeaseCo LLC**, **BOS Solutions Real Estate Inc.**, and **BOS USHoldCo Inc.**, and not in its personal capacity.

**Per:** \_\_\_\_\_

**Name:**

**Title:**

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**Schedule "B": Encumbrances to be Discharged**

The Purchased Assets shall be conveyed to the Purchaser (or its Canadian nominee, Stage 3 Separation Canada Inc.) free and clear of all Encumbrances (other than Permitted Encumbrances) (each as defined in the Sale Agreement), including without limitation the following:

**Canadian Encumbrances to be Discharged****Alberta**

Registration Number	Registration Date	Registering Party	Nature of Registration
03092920663	2003-Sep-29	National Bank of Canada, as Agent	Land Charge
08101617453	2008-Oct-16	National Bank of Canada, as Agent	Security Agreement
19112819720	2019-Nov-28	National Bank of Canada, as Agent	Security Agreement
20061707521	2020-June-17	Workers' Compensation Board/Collection Unit	Workers' Compensation Board Charge

**British Columbia**

Registration Number	Registration Date	Registering Party	Nature of Registration
122703G	2011-May-02	National Bank of Canada, as Agent	Security Agreement
115074J	2016-Feb-16	Element Fleet Management Inc.	Security Agreement

**Saskatchewan**

Registration Number	Registration Date	Registering Party	Nature of Registration
300389354	2008-Oct-24	National Bank of Canada, as Agent	Security Agreement

Ontario

Registration Number	Registration Date	Registering Party	Nature of Registration
File No.: 763869798 20200720 1604 9234 2533	2020-July-20	National Bank of Canada, as Agent	PPSA Financing Statement / Claim for Lien
File No.: 732723444 20171006 1407 1462 1526	2017-Oct-06	Element Fleet Management Inc.	PPSA Financing Statement / Claim for Lien

U.S. Encumbrances to be DischargedColorado

Registration Number	Registration Date	Debtor	Registering Party	Nature of Registration
2011F020120	May 4, 2011	BOS Solutions, Inc.	National Bank of Canada, as Agent for and on behalf of itself, the lenders and the swap lenders	UCC-1 Financing Statement
20182087478	October 1, 2018	BOS Solutions, Inc.	National Bank of Canada	UCC-1 Financing Statement
20192005828	January 18, 2019	BOS Solutions, Inc.	National Bank of Canada, as Agent for and on behalf of itself, the lenders and the swap lenders	UCC-1 Financing Statement
20192005834	January 18, 2019	BOS Solutions, Inc.	National Bank of Canada, as Agent for and on behalf of itself, the lenders and the swap lenders	UCC-1 Financing Statement

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2011F020122	May 4, 2011	BOS Solutions Real Estate, Inc.	National Bank of Canada, as Agent for and on behalf of itself, the lenders and the swap lenders	UCC-1 Financing Statement
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Delaware

Registration Number	Registration Date	Debtor	Registering Party	Nature of Registration
20111667917	May 4, 2011	BOS LeaseCo LLC	National Bank of Canada, as Agent for and on behalf of itself, the lenders and the swap lenders	UCC-1 Financing Statement
20111667800	May 4, 2011	BOS USHoldco Inc.	National Bank of Canada, as Agent for and on behalf of itself, the lenders and the swap lenders	UCC-1 Financing Statement

**Schedule "C": Permitted Encumbrances**

At the closing of the Transaction, the Purchaser (or its Canadian nominee, Stage 3 Separation Canada Inc.) will be conveyed clear title to the Purchased Assets subject to the Permitted Encumbrances as set forth in the Sale Agreement in the definition of "Permitted Encumbrances".

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# **EXHIBIT B**

**ERNST & YOUNG INC.,  
IN ITS CAPACITY AS COURT APPOINTED RECEIVER AND MANAGER OF THE ASSETS,  
PROPERTIES AND UNDERTAKINGS OF BOS SOLUTIONS LTD., BOS SOLUTIONS INC.,  
BOS LEASECO LLC, BOS SOLUTIONS REAL ESTATE INC. and BOS USHOLDCO INC.  
AND NOT IN ITS INDIVIDUAL OR CORPORATE CAPACITY**

**and**

**STAGE 3 SEPARATION, LLC, a Texas limited liability company, and an entity to be  
formed under the laws of Canada or a province thereof**

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**ASSET PURCHASE AND SALE AGREEMENT**

**August 10, 2020**

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## ASSET PURCHASE AND SALE AGREEMENT

**THIS ASSET PURCHASE AND SALE AGREEMENT** is made as of the 10<sup>th</sup> day of August 2020.

### BETWEEN:

**ERNST & YOUNG INC.**, IN ITS CAPACITY AS COURT APPOINTED RECEIVER AND MANAGER OF THE ASSETS, PROPERTIES AND UNDERTAKINGS OF BOS SOLUTIONS LTD., BOS SOLUTIONS INC., BOS LEASECO LLC, BOS SOLUTIONS REAL ESTATE INC. and BOS USHOLDCO INC. AND NOT IN ITS INDIVIDUAL OR CORPORATE CAPACITY

(herein referred to as the "**Vendor**")

- and -

**STAGE 3 SEPARATION, LLC**, A TEXAS LIMITED LIABILITY COMPANY ("**S3S**"), and an entity to be formed under the laws of Canada or a province thereof ("**Canada S3S**" together with S3S hereinafter collectively referred to as the "**Purchaser**").

### WHEREAS:

- A. Pursuant to the Receivership Order, the Vendor was appointed as receiver and manager of all of the current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situated, of the Debtors;
- B. The Vendor has determined that it is in the best interests of the creditors and stakeholders of the Debtors to conduct Sale Process Procedures pursuant to which potential bidders may submit bids to purchase the Purchased Assets and Assumed Liabilities; and
- C. The Purchaser, subject to Court Approval and completion of the Sale Process Procedures, has agreed to purchase and acquire and the Vendor has agreed to sell, transfer and assign to the Purchaser, all of the right, title and interest of the Vendor and the Debtors to the Purchased Assets and Assumed Liabilities, on the terms and conditions set forth herein.

**NOW THEREFORE** this Agreement witnesses that in consideration of the mutual covenants and agreements contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are acknowledged by each Party to the other, the Parties agree as follows.

## ARTICLE 1 INTERPRETATION

### 1.1 Definitions

In this Agreement the following words and terms shall have the meaning set forth below:

- (a) "**Adjustment Ratio**" means the ratio obtained by dividing (i) the Base Price by (ii) \$72,100,000, expressed as a percentage;
- (b) "**Affiliate**" means, with respect to any Person, any other Person or group of Persons acting in concert, directly or indirectly, that controls, is controlled by or is

under common control with such Person and the term "control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of such Person whether through ownership of voting securities or ownership interests, by contract or otherwise, and specifically with respect to a corporation, partnership or limited liability company, means direct or indirect ownership of securities having the power to elect a majority of the board of directors or similar body governing the affairs of such Person;

- (c) **"Agreed Allocation"** has the meaning ascribed to that term in Section 3.4;
- (d) **"Agreement"** means this asset purchase and sale agreement and all Schedules attached hereto, as they may be amended, restated or supplemented from time to time in accordance with the terms hereof;
- (e) **"Alberta Approval and Vesting Order"** shall mean an order of the Alberta Court: (i) approving the Transaction contemplated by this Agreement; (ii) authorizing the Vendor to perform this Agreement; and (iii) vesting and assigning all right, title and interest of the Vendor and Debtors in and to the Purchased Assets to the Purchaser free and clear of all Claims (other than Permitted Encumbrances) and assigning all rights, title and interest of the Vendor and Debtors in the Purchased Assets to the Purchaser, in a form acceptable to the Vendor and the Purchaser;
- (f) **"Alberta Court"** means the Court of Queen's Bench of Alberta, Judicial District of Calgary, Canada;
- (g) **"Applicable Law"** means, in respect of any Person, assets, transaction, event or circumstance:
  - (i) Any applicable federal, provincial, state, territorial, local or municipal laws, acts, treaties, statutes (including rules and regulations enacted thereunder), codes and principles of common law;
  - (ii) judgments, decrees and orders of courts of competent jurisdiction;
  - (iii) regulations, orders, ordinances and directives issued by Governmental Authorities;
  - (iv) the terms and conditions of all Permits, approvals and authorizations, which are applicable to such Person, asset, transaction, event or circumstance; and
  - (v) any other requirement (including pursuant to any settlement, consent decree or determination of or settlement under any arbitration) or rule of law;
- (h) **"Applicable Privacy Law"** means all Applicable Law relating to privacy and the collection, use and disclosure of Personal Information in all applicable jurisdictions, including the Personal Information Protection and Electronic Documents Act (Canada), and/or any substantially similar provincial law such as the Personal Information Protection Act (Alberta);

- (i) **"Approval and Vesting Orders"** means the Alberta Approval and Vesting Order and US Approval and Vesting Order;
- (j) **"Assignment and Assumption Agreement"** means an assignment and assumption agreement substantially in the form attached hereto as Exhibit A evidencing the assignment to the Purchaser of the Vendor's and the Debtors' right, title and interest in, to and under the Assumed Contracts and the assumption by the Purchaser of all the Assumed Liabilities under or in respect of the Assumed Contracts;
- (k) **"Assumed Contracts"** means all Contracts listed and described in Schedule 1.1(k) (but excluding the Unassignable Contracts and the Excluded Contracts);
- (l) **"Assumed Liabilities"** has the meaning ascribed to that term in Section 2.3(a);
- (m) **"Base Price"** has the meaning ascribed to that term in Section 3.1(a);
- (n) **"Books and Records"** means all of the Debtors' books and records relating to, or used in support of, the Purchased Assets, including all technical and Business records, all contracts, licenses, approvals, warranties, manuals, accounting records, copies of insurance policies (excluding copies of insurance policies relating to directors' and officers' insurance), maintenance and usage logs related to the Purchased Assets, all programs and procedures of the Debtors related to their maintenance, usage, or operations and all Data Room Information related to the ownership, operation or conduct of the Purchased Assets and the Business whether in hard copy or electronic format; but specifically excluding any Personal Employee Information; provided, however, Personal Employee Information shall be provided for the Transferred Employees;
- (o) **"Business"** means the oilfield services and environmental services businesses of the Debtors in Canada and the United States, as conducted by the Debtors immediately prior to the Receivership Order and as currently being conducted by the Vendor;
- (p) **"Business Day"** means a day other than a Saturday, Sunday or any other day on which the principal chartered banks located in Calgary, Alberta and Houston, Texas are not open for the transaction of domestic business during normal banking hours;
- (q) **"Canada S3S"** has the meaning ascribed to that term in the Preamble;
- (r) **"Canadian Debtor"** means BOS Solutions Ltd.;
- (s) **"Capital Spares"** means all of the capital spares owned by the Debtors for use in the Business, including the parts, machinery and equipment listed on Part II of Schedule 1.1(nn);
- (t) **"Chapter 15 Proceedings"** means proceedings commenced under Chapter 15 of the US Bankruptcy Code by the Vendor, in its capacity as the foreign representative of the Debtors;

- (u) **"Claim"** means any right or claim of any Person that may be asserted or made, in whole or in part, against the Debtors and their respective directors, officers, employees, agents or advisors, whether or not asserted or made, in connection with any indebtedness, liability or obligation of any kind whatsoever, and any interest accrued thereon or costs payable in respect thereof, including by reason of the commission of a tort (intentional or unintentional), by reason of any breach of contract or other agreement (oral or written), by reason of any breach of duty (including any legal, statutory, equitable or fiduciary duty) or by reason of any right of ownership of or title to property or assets or right to a trust or deemed trust (statutory, express, implied, resulting, constructive or otherwise), and whether or not any indebtedness, liability or obligation is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, unsecured, present or future, known or unknown, by guarantee, surety or otherwise, and whether or not any right or claim is executory or anticipatory in nature including any right or ability of any Person to advance a claim for contribution or indemnity or otherwise with respect to any matter, action, cause or chose in action whether existing at present or commenced in the future, together with any other rights or claims of any kind that, if unsecured, would be a debt provable in bankruptcy within the meaning of the Bankruptcy and Insolvency Act (Canada) had the Debtors become bankrupt;
- (v) **"Claiming Party"** has the meaning ascribed to that term in Section 9.4(a);
- (w) **"Closing"** means the completion of the purchase by the Purchaser and sale by the Vendor of all right, title and interest of the Vendor and the Debtors in and to the Purchased Assets, the assumption by the Purchaser of all the Assumed Liabilities and the completion of all other transactions contemplated by this Agreement that are to occur contemporaneously with such sale, in each case subject to and in accordance with the terms and conditions of this Agreement;
- (x) **"Closing Date"** means the date that is the later of: (i) three (3) Business Days following the later of the receipt by the Vendor of the Approval and Vesting Orders; and (ii) such other Business Day as the Parties may agree in writing;
- (y) **"Closing Payment"** has the meaning ascribed to that term in Section 3.3(b);
- (z) **"Closing Time"** means 10:00 a.m. (prevailing Calgary, Alberta time) on the Closing Date or such other date and time as the Parties may agree in writing that the Closing shall take place;
- (aa) **"Contract Cure Amount"** means, with respect to any Assumed Contract, the amounts required to be paid, if any, in connection with the assumption and assignment of such Assumed Contract pursuant to Section 365 of the US Bankruptcy Code;
- (bb) **"Contracts"** means all written contracts, agreements, leases, understandings and arrangements related to the Business to which any one or more of the Debtors are a party or by which any one or more Debtors or any of the Purchased Assets is bound or under which any one or more of the Debtors have rights;
- (cc) **"Court"** means collectively, the Alberta Court and the US Court;

- (dd) **"Court Approval"** means the approval of the Transaction by the Court pursuant to the Approval and Vesting Orders;
- (ee) **"Data Room Information"** means all information made available (by the Vendor, Debtors or otherwise) for the Purchaser's review in electronic form in relation to the Debtor and/or the Purchased Assets prior to the execution of this Agreement by either (i) delivering such information to Purchaser or Purchaser's Representatives via email or (ii) uploading such information to the online data room maintained by Vendor in connection with the Transaction;
- (ff) **"De Minimus Threshold"** has the meaning set forth in Section 4.2(c);
- (gg) **"Debtors"** means, collectively, the US Debtors and the Canadian Debtor;
- (hh) **"Debtors' Benefit Plan"** means each employee compensation, retirement and/or benefit plan, program, policy, agreement or other arrangement, whether or not in writing, whether or not registered, whether or not insured and whether or not funded relating to current or former employees, directors or officers of the Debtors, including any "employee welfare benefit plan" within the meaning of Section 3(1) of ERISA, any "employee pension benefit plan" within the meaning of Section 3(2) of ERISA, any "registered pension plan", "retirement compensation arrangement", "registered retirement savings plan" or "deferred profit sharing plan", within the meaning of the Income Tax Act, whether or not subject to ERISA, and any bonus, incentive, deferred compensation, profit sharing, retirement, supplemental retirements, vacation, stock purchase, stock option, stock appreciation rights, stock-based, short-term disability, long-term disability, severance, retention, employment, health, welfare, life insurance, retiree medical or life insurance, change of control or fringe benefit plan, program or a plan, scheme, program or arrangement sponsored or administered by a Governmental Authority or required to be maintained by Applicable Law, in each case that is sponsored, maintained, contributed or entered into by, or for which there is any liability (fixed, contingent or otherwise) to, any of the Debtors;
- (ii) **"Delivery Location"** has the meaning set forth in Section 6.3(a);
- (jj) **"Effective Time"** means 12:01 a.m. (prevailing Calgary, Alberta time) on the Closing Date;
- (kk) **"Employees"** means all individuals employed by any of the Debtors as of the relevant time who provide their services primarily in relation to the Business;
- (ll) **"Encumbrances"** means any mortgages, deeds of trust, leases, pledges, liens, security interests, levies, charges, easements, restrictive covenants, encroachments or other encumbrances, claims, charges, adverse Claims, options or other pre-emptive interests or rights;
- (mm) **"Environment"** means the components of the earth and includes ambient and indoor air, land, surface and sub-surface strata, groundwater, surface water, all layers of the atmosphere, all organic and inorganic matter and living organisms, and the interacting natural systems that include such components; and **"Environmental"** means relating to or in respect of the Environment;

- (nn) **"Equipment"** means, collectively, wherever located, all of the equipment, motor vehicles, rolling stock, implements, tools, furniture, fixtures, computers and other tangible personal property of the Debtors and the Leased Equipment, including as more particularly listed and described in Part I of Schedule 1.1(nn);
- (oo) **"Excluded Assets"** means:
- (i) all shares of capital stock, partnership units or other equity interests held by the Vendor on behalf of the Debtors;
  - (ii) all policies of insurance or assurance (including directors and officers insurance and claims against insurance and insurance settlements), except for Prepaid Expenses related thereto and the right to receive the proceeds of insurance in respect of Purchased Assets and all Books and Records related thereto which shall not constitute Excluded Assets;
  - (iii) the Purchase Price and any amounts held in escrow by the Vendor on behalf of the Debtors;
  - (iv) all rights to receive a refund of and/or credit in respect of, Taxes paid by or on behalf of any Debtors;
  - (v) the general ledger, financial statements, accounting and Tax records, minute books, corporate seal, taxpayer and other identification numbers and other corporate records of the Debtors relating to the organization, maintenance and existence of the Debtors, provided however, that the Purchaser shall be provided with copies of all such items that pertain to the Purchased Assets or the Business;
  - (vi) any cash collateral securing letters of credit;
  - (vii) all cash, cash equivalents, deposits and bank accounts;
  - (viii) the Excluded Contracts, if any;
  - (ix) the excluded assets, if any, as set forth in and described Schedule 1.1(oo);
  - (x) all agreements, contracts, documents or data to the extent that they are owned or licensed by a Third Party with prohibitions in respect of the deliverability or disclosure by the Vendor or the Debtors to an assignee, transferee or purchaser;
  - (xi) the rights of the Vendor under this Agreement or any other agreement, certificate or instrument executed and delivered pursuant to this Agreement; and
  - (xii) the sponsorship of, and all assets or contracts maintained pursuant to or in connection with, all Debtors' Benefit Plans;
- (pp) **"Excluded Contract"** means all Contracts which are not Assumed Contracts, including all Debtors' Benefits Plans, which are more particularly listed and

described in Schedule 1.1(pp), all employment agreements between any of the Debtors' and any of Employees other than specifically listed as an Assumed Contract, all Unassignable Contracts for which the Vendor concludes, acting reasonably, that any such Unassignable Contracts cannot be assigned under any circumstances and provides written notice of such Unassignable Contracts to Purchaser pursuant to Section 2.4(b);

- (qq) **"Excluded Liabilities"** has the meaning ascribed to that term in Section 2.3(b);
- (rr) **"Final Order"** means an order of the Court that has not been vacated, stayed, set aside, amended, reversed, annulled or modified, as to which no appeal or application for leave to appeal therefrom has been filed and the applicable appeal period with respect thereto shall have expired without the filing of any appeal or application for leave to appeal, or if any appeal(s) or application(s) for leave to appeal therefrom have been filed, any (and such appeal(s) or application(s) have been dismissed, quashed, determined, withdrawn or disposed of with no further right of appeal) and all opportunities for rehearing, reargument, petition for certiorari and appeal being exhausted or having expired without any appeal, motion or petition having been filed and remaining pending, any requests for rehearing have been denied, and no order having been entered and remaining pending staying, enjoining, setting aside, annulling, reversing, remanding, or superseding the same, and all conditions to effectiveness prescribed therein or otherwise by Applicable Law or order having been satisfied;
- (ss) **"Final Statement of Adjustments"** has the meaning ascribed to that term in Section 4.4(b);
- (tt) **"GAAP"** means the generally accepted accounting principles from time to time approved by the Chartered Professional Accountants of Canada or any successor entity thereto, or the US generally accepted accounting principles, as applicable, in effect as at the date of this Agreement, unless otherwise specified herein;
- (uu) **"General Conveyance"** means a bill of sale and general conveyance substantially in the form attached hereto as Exhibit B evidencing the conveyance to the Purchaser of the Vendor's and the Debtors' right, title and interest in and to the Purchased Assets (other than the Assumed Contracts) and the assumption by the Purchaser of the Assumed Liabilities (other than the Assumed Liabilities under or in respect of the Assumed Contracts);
- (vv) **"Governmental Authority"** means any domestic or foreign government, whether federal, provincial, state, territorial or municipal; any governmental agency, ministry, department, tribunal, commission, bureau, board, court (including the Court) or other instrumentality exercising or purporting to exercise legislative, judicial, regulatory or administrative functions of, or pertaining to, government, having jurisdiction over a Party, the Purchased Assets or the Transaction; and any arbitrator (public or private); in each case, whether in Canada, the US, or any other applicable jurisdiction;
- (ww) **"Governmental Order"** means any order, writ, judgment, injunction, decree, stipulation, determination or award entered by or with any Governmental Authority;

- (xx) **"GST/HST"** means the goods and services Tax/harmonized sales Tax levied under the Excise Tax Act (Canada) and the regulations thereto, as amended from time to time; and **"GST/HST Legislation"** means such act and regulations collectively;
- (yy) **"Income Tax Act"** means, collectively, the Income Tax Act, R.S.C. 1985, c.1 (5th Supplement), the Income Tax Application Rules, R.S.C. 1985, c.2 (5th Supplement) and the Income Tax Regulations, in each case as amended to the date hereof;
- (zz) **"Intellectual Property"** means all (a) trademarks, service marks, certification marks, trade names, logos, symbols and similar indicia of source of origin, trade dress, domain names and social media accounts, the goodwill connected with the use of and symbolized by the foregoing and all registrations and applications for any of the foregoing in any jurisdiction throughout the world; (b) copyrights and published and unpublished works of authorship, whether copyrightable or not and all copyright registrations and applications for registration thereof, all renewals, extensions, restorations and revisions thereof and all moral rights related thereto in any jurisdiction throughout the world, (c) inventions (whether or not patentable or reduced to practice), invention disclosures and submissions, patents, including any extensions, reexaminations and reissues, divisionals, continuations and continuations-in-part, patent disclosures and any improvements thereto and all registrations and applications for any of the foregoing in any jurisdiction throughout the world; (d) know-how, trade secrets and other proprietary and confidential information (including ideas, processes, methods, techniques, research and development information and results, drawings, specifications, layouts, designs, formulae, algorithms, proposals, technical data, marketing plans and customer, prospect and supplier lists, compositions, industrial models, and architectures); (e) mask works and applications and registrations thereof; (f) software and rights therein; and (g) other intellectual property and related proprietary rights; and (h) all rights to assert, defend and recover for any past, present and future infringement, misuse, misappropriation, impairment, unauthorized use or other violation of any of the foregoing, including as more particularly listed and described in Schedule 1.1(zz);
- (aaa) **"Interim Statement of Adjustments"** has the meaning ascribed to that term in Section 4.4(a);
- (bbb) **"Inventory"** means, wherever located, all tangible personal property, substances and consumable goods of any kind or nature (other than the Equipment and Capital Spares) owned by the Debtors including all materials, supplies, tooling, spare parts, service parts, pipes, tubing and accessories (including those in possession of suppliers, customers and other Third Parties);
- (ccc) **"Leased Equipment"** means, wherever located, the Vendor's and the Debtors' interest, to the extent it is assignable, in all equipment, motor vehicles, rolling stock, implements, tools, furniture and other similar tangible personal property which is leased by the Debtors from a Third Party as specifically listed and described in Schedule 1.1(ccc);

- (ddd) **"Leased Real Property"** means all real property (including all buildings, fixtures and improvements), as applicable, leased by the Debtors or the Vendor and listed and described in Schedule 1.1(ddd);
- (eee) **"Legal Proceeding"** means any litigation, action, suit, investigation, hearing, claim, complaint, grievance, audit, arbitration proceeding or other proceeding and includes any appeal or review or retrial of any of the foregoing and any application for same;
- (fff) **"Losses and Liabilities"** means any and all assessments, charges, costs, damages, debts, expenses, fines, liabilities, losses, obligations and penalties, whether accrued or fixed, absolute or contingent, matured or unmatured or determined or determinable, including those arising under any Applicable Law, Claim by any Governmental Authority or Governmental Order and those arising under any contract, agreement, arrangement, commitment or undertaking and costs and expenses of any Legal Proceeding, assessment, judgment, settlement or compromise relating thereto, and all interest, fines and penalties and reasonable legal fees and expenses incurred in connection therewith (on a full indemnity basis);
- (ggg) **"Net Book Value"** means the net book value of the applicable item of Equipment or Capital Spare as set forth in Folder 5.1.6 or Folder 4.9.1, respectively, in the online data room maintained by Vendor in connection with the Transaction as of July 16, 2020;
- (hhh) **"Outside Date"** has the meaning set forth in Section 10.1(f);
- (iii) **"Owned Real Property"** means all fee simple real property (including all buildings, fixtures and improvements located thereon), as applicable, owned by the Debtors listed and described in Schedule 1.1(iii);
- (jjj) **"Parties"** means, collectively, the Purchaser and the Vendor, and **"Party"** means any one of them;
- (kkk) **"Permits"** means all franchises, licences, qualifications, authorizations, consents, certificates, certificates of authorization, decrees, orders-in-council, registrations, exemptions, consents, variances, waivers, filings, grants, notifications, privileges, rights, orders, judgments, rulings, directives, permits and other approvals, submitted to, obtained from, issued by or required by a Governmental Authority, including the permits as more particularly listed and described in Schedule 1.1(kkk);
- (III) **"Permitted Encumbrances"** means:
  - (i) Encumbrances given as security to a public utility or any Governmental Authority when required in the ordinary course of business but only insofar as they relate to any obligations or amounts not due as at the Closing Date;
  - (ii) applicable municipal by-laws, development agreements, subdivision agreements, site plan agreements, servicing agreements, cost sharing reciprocal agreements and building and zoning restrictions and other

similar agreements which do not materially impair the use of the Owned Real Property or Leased Real Property (based on the current use of such affected property) affected thereby;

- (iii) any easements, servitudes, rights-of-way, licenses, agreements, restrictions that run with the land and other Encumbrances (including easements, rights-of-way and agreements for railways, sewers, drains, gas and water mains or electric light and power or telephone, telecommunications or cable conduits, poles, wires and cables) which do not materially impair the use, operation or marketability of the Owned Real Property or Leased Real Property (based on the current use of such affected property) affected thereby;
- (iv) any privilege in favour of any lessor or licensor for rent to become due or for other obligations or acts, the performance of which is required under contracts of the Debtors (including in respect of the Leased Equipment) so long as the payment or the performance of such other obligation or act is not delinquent and provided that such Encumbrances or privileges do not materially affect the use or the operation of the assets affected thereby;
- (v) rights reserved to or vested in any Governmental Authority to control or regulate any of the Purchased Assets in any manner; and
- (vi) any Encumbrance which is released at or prior to Closing;

(mmm) **"Person"** means any individual, corporation, limited or unlimited liability company, joint venture, partnership (limited or general), trust, trustee, executor, Governmental Authority or other entity however designated or instituted;

(nnn) **"Personal Employee Information"** means in respect of an individual who is a current employee, officer or director of any Debtor, Personal Information reasonably required by the Debtor for the purposes of (i) establishing, managing or terminating an employment relationship, or (ii) managing a post-employment relationship between the Debtor and the individual, but does not include Personal Information about the individual that is unrelated to that relationship;

(ooo) **"Personal Information"** means information about an identifiable natural Person, but does not include the business contact information when such information is used to contact such natural Person as a representative of a business or in relation to the individual's business responsibilities or the name, title, business address or business telephone number of an employee of any Debtor, that is to be disclosed to the Purchaser at Closing or that was disclosed to the Purchaser to permit the Purchaser to carry out its due diligence in connection with the Transaction;

(ppp) **"Prepaid Expenses"** means all prepaid expenses or deposits of the Debtors (but excluding prepaid expenses in respect of insurance, including directors' and officers' insurance, property Taxes related to the Business and workers' compensation prepayments), in all cases to the extent such amounts are transferable to the Purchaser, including as more particularly listed and described in Schedule 1.1(ppp);

- (qqq) **"Prime Rate"** means the rate of interest, expressed as a rate per annum, designated by the main branch in Calgary, Alberta of the National Bank of Canada as the reference rate used by it to determine rates of interest charged by it on Canadian dollar commercial loans made in Canada and which is announced by such bank, from time to time, as its prime rate, provided that whenever such bank announces a change in such reference rate then the "Prime Rate" for the purposes of this Agreement shall correspondingly change effective on the date the change in such reference rate is effective;
- (rrr) **"Purchase Price"** has the meaning ascribed to that term in Section 3.1(a);
- (sss) **"Purchased Assets"** means all of the tangible and intangible assets, undertaking and properties of the Debtors, other than the Excluded Assets, wherever located, including as more particularly described below:
- (i) Assumed Contracts;
  - (ii) Books and Records (except, in the case of those required by Applicable Law to be retained by the Vendor as copies thereof), in the case of any Books and Records that are stored in electronic form, the media on which the Books and Records are stored and any back-up related thereto;
  - (iii) Equipment (subject to the terms and conditions of the Contracts in respect of the Leased Equipment) other than Leased Equipment which is not assignable to Purchaser;
  - (iv) Capital Spares;
  - (v) Inventory;
  - (vi) the US Leased Vehicles;
  - (vii) Intellectual Property;
  - (viii) all rights to receive a refund of and/or credit in respect of, Taxes with respect to the Purchased Assets (other than the Owned Real Property) for any period or portion thereof on or following the Closing Date;
  - (ix) all rights to receive a refund of and/or credit in respect of, Taxes with respect to the Owned Real Property for any period or portion thereof following December 31, 2019;
  - (x) Permits, other than Permits which are not transferrable to the Purchaser;
  - (xi) Prepaid Expenses, other than Prepaid Expenses which are not transferrable to Purchaser;
  - (xii) Owned Real Property;
  - (xiii) all rights to receive the proceeds of insurance in respect of Purchased Assets and all Books and Records related thereto;

(xiv) all goodwill, together with the exclusive right of the Purchaser to represent itself as carrying on the Business in succession to the Debtors; and

(xv) all rights to related Claims for refunds and rights of set-off.

For certainty, the Excluded Assets are not part of the Transaction, are excluded from Purchased Assets and remain the exclusive property of the Debtors;

(ttt) **"Purchaser"** has the meaning ascribed to that term in the Preamble;

(uuu) **"Purchaser's Solicitors"** means the law firm of Goodmans LLP, in respect of Canadian matters, and King & Spalding LLP in respect of US matters, or such other firm or firms of solicitors as are appointed by the Purchaser from time to time and notice of which is provided to the Vendor;

(vvv) **"Receiver's Certificate"** means the certificate attached to the Approval and Vesting Order at Schedule "A" thereto;

(www) **"Receivership Order"** means the order of the Alberta Court, dated May 4, 2020, pursuant to which the Vendor was appointed as the receiver and manager of all of the current and future assets, undertakings and properties of every nature or kind whatsoever and wheresoever situate, of the Debtors;

(xxx) **"Receivership Proceedings"** means the court proceedings brought in the Alberta Court, pursuant to Alberta Court Action No. 2001-05949, filed on May 4, 2020, pursuant to which the Vendor was appointed as receiver and manager of all of the current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate of the Debtors;

(yyy) **"Representative"** means, in respect of a Person, each director, officer, employee, agent, legal counsel, accountant, professional advisor and other representative of such Person and its Affiliates, and with respect to the Vendor, includes the directors, officers, employees, agents, legal counsel, accountants, professional advisors and other representatives;

(zzz) **"Responding Party"** has the meaning ascribed to that term in Section 9.4(a);

(aaaa) **"S3S"** has the meaning ascribed to that term in the Preamble;

(bbbb) **"Sale Process Procedures"** means the procedures for the sale solicitation process in relation to the Vendor, as referenced in the Sale Process Order;

(cccc) **"Sale Process Order"** means the order of the Alberta Court to be sought by the Vendor, establishing among other things, the Sale Process Procedures;

(dddd) **"Specific Conveyances"** means all conveyances, bills of sale, assignments, transfers, and other documents or instruments that are reasonably required or desirable to convey, assign and transfer the Vendor's and the Debtors' right, title and interest in and to the Purchased Assets to the Purchaser including:

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- (i) one or more bills of sale for the Equipment forming part of the Purchased Assets;
  - (ii) assignments of each of the Assumed Contracts;
  - (iii) assignments in registrable form of all licenses, trademarks and trade names (whether or not registered), patents, copyrights, and other such forms of Intellectual Property, including all goodwill associated with same, which form part of the Purchased Assets; and
  - (iv) a special warranty deed and any required ancillary documents with respect to the Owned Real Property;
- (eeee) **"Tax" or "Taxes"** means, with respect to any Person, all supranational, national, federal, provincial, state, local or other taxes, including income taxes, branch taxes, profits taxes, capital gains taxes, gross receipts taxes, windfall profits taxes, value added taxes, severance taxes, ad valorem taxes, property taxes, capital taxes, net worth taxes, production taxes, sales taxes including provincial sales taxes and retail sales taxes, use taxes, licence taxes, excise taxes, franchise taxes, environmental taxes, transfer taxes, withholding or similar taxes, payroll taxes, employment taxes, employer health taxes, pension plan premiums and contributions, social security premiums, workers' compensation premiums, employment insurance or compensation premiums, stamp taxes, occupation taxes, premium taxes, alternative or add-on minimum taxes, GST/HST, customs duties or other taxes of any kind whatsoever imposed or charged by any Governmental Authority, together with any interest, penalties, or additions with respect thereto and any interest in respect of such additions or penalties;
- (ffff) **"Tax Legislation"** means, collectively, the Income Tax Act, the GST/HST Legislation, all Canadian and US federal, provincial, state, territorial, county, municipal and local, foreign, or other statutes, ordinances or regulations imposing a Tax, including all treaties, conventions, rules, regulations, orders, and decrees of any jurisdiction;
- (gggg) **"Tax Returns"** means all returns, information returns, reports, declarations, elections, notices, filings and statements in respect of Taxes that are required to be filed with any applicable Governmental Authority, including all amendments, schedules, attachments or supplements thereto and whether in tangible or electronic form;
- (hhhh) **"Third Party"** means any Person who is not a Party, Affiliate or Representative;
- (iiii) **"Third Party Claim"** means any Claim by a Third Party asserted against the Vendor for which the Purchaser has indemnified the Vendor or is otherwise responsible for pursuant to this Agreement;
- (jjjj) **"Transaction"** means the transaction for the purchase and sale of the Purchased Assets and the assumption of the Assumed Liabilities as contemplated in this Agreement;

(kkkk) **"Transaction Personal Information"** means any Personal Information in the possession, custody or control of the Vendor including Personal Information about employees, suppliers, customers, directors, officers or shareholders of the Debtors that is:

- (i) disclosed to the Purchaser or its Representatives before the Effective Time by the Vendor, its Representatives, or otherwise; or
- (ii) collected by the Purchaser or its Representatives before the Effective Time from the Vendor, its Representatives, or otherwise;

in each case in connection with the Transaction;

(llll) **"Transfer Taxes"** means all present and future transfer taxes, sales taxes including provincial sales taxes and retail sales taxes, use taxes, production taxes, value-added taxes, goods and services taxes, land transfer taxes, registration and recording fees, and any other similar or like taxes and charges imposed by a Governmental Authority in connection with the sale, transfer or registration of the transfer of the Purchased Assets, including GST/HST;

(mmmm) **"Transferred Employees"** has the meaning ascribed to that term in; Section 6.5(e)

(nnnn) **"Treasury Regulations"** means the regulations promulgated under the Internal Revenue Code of 1986 (US), as amended;

(oooo) **"US"** means the United States of America;

(pppp) **"US Approval and Vesting Order"** shall mean an order of the US Court: (i) approving the Transaction contemplated by this Agreement; (ii) vesting and assigning all right, title and interest of the Vendor and Debtors in and to the US Purchased Assets to the Purchaser free and clear of all Claims and Encumbrances (other than Permitted Encumbrances) and assigning all right, title and interest of the Vendor and Debtors in and to the US Purchased Assets to the Purchaser, in a form acceptable to the Vendor and the Purchaser; and (iii) recognizing and giving full force and effect to the Alberta Approval and Vesting Order, in form and substance acceptable to the Vendor and the Purchaser;

(qqqq) **"US Bankruptcy Code"** means Title 11 of the United States Code 11 §§101-1532, as amended;

(rrrr) **"US Court"** means the United States Bankruptcy Court for the Southern District of Texas (Houston Division);

(ssss) **"US Debtors"** means, collectively, BOS Solutions Inc., BOS Leaseco LLC, BOS Solutions Real Estate Inc. and BOS USHoldco Inc.;

(tttt) **"US Leased Vehicles"** means, collectively, those vehicles leased by Debtors as of the date of this Agreement pursuant to the terms of the US Vehicle Lease;

- (uuuu) **"US Purchased Assets"** means those of the Purchased Assets owned by the US Debtors;
- (vvvv) **"US Recognition Order"** means the order issued by the US Court in the Chapter 15 Proceedings dated May 19, 2020 (Docket No. 41) recognizing the Vendor's petition for recognition as a foreign main proceeding and the Vendor as a foreign representative of the Debtors;
- (www) **"US Sale Process Order"** means the order of the US Court dated July 6, 2020 (Docket No. 57), establishing among other things, the Sale Process Procedures;
- (xxxx) **"US Vehicle Lease"** means that certain Master Vehicle Lease Agreement by and between Union Leasing Inc. and BOS Solutions Inc. dated July 1, 2009;
- (yyyy) **"Unassignable Contracts"** has the meaning ascribed to that term in Section 2.4(b);
- (zzzz) **"Vendor"** has the meaning ascribed to that term in the Preamble;
- (aaaaa) **"Vendor's Counsel"** means the law firm of Blake, Cassels & Graydon LLP (or any successor thereto), in respect of Canadian matters, and Haynes and Boone LLP in respect of US matters, or such other firm or firms of solicitors as are appointed by the Vendor from time to time and notice of which is provided to the Purchaser; and
- (bbbbb) **"WARN Act"** means the Worker Adjustment and Retraining Notification Act (US).

## 1.2 Interpretation

The following rules of construction shall apply to this Agreement unless the context otherwise requires:

- (a) All references to monetary amounts, unless indicated to the contrary, are to the lawful currency of the United States of America and all references to cash are references to any form of immediately available funds by way of wire transfer, certified cheque or bank draft.
- (b) Words importing the singular include the plural and vice versa, and words importing gender include the masculine, feminine and neuter genders.
- (c) The word "include" and derivatives thereof shall be read as if followed by the phrase "without limitation".
- (d) The words "hereto", "herein", "hereof", "hereby", "hereunder" and similar expressions refer to this Agreement and not to any particular provision of this Agreement.
- (e) The headings contained in this Agreement are for convenience of reference only and shall not affect the meaning or interpretation hereof.

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- (f) Reference to any Article, Section or Schedule means an article, section or schedule of this Agreement unless otherwise specified.
- (g) References to agreements and other contractual instruments shall be deemed to include all amendments, extensions and other modifications to such instruments (but only to the extent such amendments, extensions and other modifications are not prohibited by the terms of this Agreement).
- (h) Whenever this Agreement refers to a number of days, such number shall refer to calendar days unless Business Days are specified. Whenever any action must be taken hereunder on or by a day that is not a Business Day, then such action may be validly taken on or by the next day that is a Business Day.
- (i) If any provision of a Schedule hereto conflicts with or is at variance with any provision in the body of this Agreement, the provisions in the body of this Agreement shall prevail to the extent of the conflict.
- (j) All documents executed and delivered pursuant to the provisions of this Agreement are subordinate to the provisions hereof and the provisions hereof shall govern and prevail in the event of a conflict.
- (k) This Agreement has been negotiated by each Party with the benefit of legal representation, and any rule of construction to the effect that any ambiguities are to be resolved against the drafting Party does not apply to the construction or interpretation of this Agreement.

### **1.3 Schedules and Exhibits**

The following are the Schedules and Exhibits attached to and incorporated in this Agreement by reference and deemed to be a part hereof:

Schedule 1.1(k)	Assumed Contracts
Schedule 1.1(nn)	Equipment, Capital Spares and Delivery Locations
Schedule 1.1(oo)	Excluded Assets
Schedule 1.1(pp)	Excluded Contracts
Schedule 1.1(zz)	Intellectual Property
Schedule 1.1(ccc)	Leased Equipment
Schedule 1.1(ddd)	Leased Real Property
Schedule 1.1(iii)	Owned Real Property
Schedule 1.1(kkk)	Permits
Schedule 1.1(ppp)	Prepaid Expenses
Schedule 2.3(a)(iii)	Assumed Liabilities

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Schedule 8.2(i) Liens to be Released at Closing

Exhibit A Form of Assignment Agreement

Exhibit B Form of General Conveyance

#### **1.4 Knowledge**

References to a Party's knowledge or awareness and similar references mean the actual knowledge or awareness, as the case may be, of the officers of such Party who are primarily responsible for the matters in question, and does not include knowledge and awareness of any other Person or any constructive or imputed knowledge. A Party shall not have any obligation to make inquiry of any Person or the files and records of any Person or of any Government Authority in connection with any representations and warranties contained herein that are made to its knowledge, information, belief or awareness.

#### **1.5 Supplements to Schedules**

Prior to the Closing, either Party may, by written notice to the other Party no fewer than ten (10) days prior to the Closing, unless another time period is specified herein (in which case such specified time period shall control), amend or supplement any one (1) or more of the Schedules to update the description of the Purchased Assets, Excluded Assets, Assumed Liabilities or Excluded Liabilities to, among other things, reflect assets and properties acquired or disposed of after the date hereof in compliance with the terms of this Agreement. Purchaser shall have the right prior to the Closing Date, in its sole discretion, to remove any Equipment from Schedule 1.1(nn), including, for the avoidance of doubt, all furniture, fixtures, computers and other tangible personal property of the Debtors located at the Leased Real Property. Should the Purchaser remove any such Equipment, such removed Equipment shall be deemed not to be a Purchased Asset and shall not be assigned to or assumed by the Purchaser.

### **ARTICLE 2 PURCHASE AND SALE OF PURCHASED ASSETS**

#### **2.1 Agreement of Purchase and Sale**

Subject to the terms and conditions of this Agreement, the Vendor hereby agrees to sell, assign and transfer to the Purchaser, and the Purchaser agrees to purchase, assume, accept and receive from the Vendor, all of the Vendor's and the Debtors' right, title and interest in and to the Purchased Assets as herein provided, in each case free and clear of all Encumbrances and Claims (other than Permitted Encumbrances) and to assume, pay, satisfy, discharge, perform and fulfil, the Assumed Liabilities, in each case, at the Effective Time.

#### **2.2 Transfer of Purchased Assets**

Provided that Closing occurs and subject to the terms and conditions of this Agreement, title, possession, risk and beneficial ownership of the Purchased Assets and Business shall transfer from the Vendor and the Debtors to the Purchaser at the Effective Time.

## 2.3 Liabilities

- (a) Provided that Closing occurs and subject to the terms and conditions of this Agreement, the Purchaser shall assume, pay, satisfy, discharge, perform and fulfil, from and after the Effective Time, only those obligations and Losses and Liabilities of the Debtors which:
- (i) relate to the Assumed Contracts, Intellectual Property, Leased Equipment and Permits, in each case that arise out of events, facts or circumstances first occurring after the Effective Time;
  - (ii) relate to the Transferred Employees solely as set forth in Section 6.5, in each case that arise out of events, facts or circumstances first occurring after the Effective Time; or
  - (iii) are listed in Schedule 2.3, in each case that arise out of events, facts or circumstances first occurring after the Effective Time (other than the Taxes payable by the Purchaser pursuant to Sections 3.5, 3.6 and 3.7 of this Agreement).

(collectively, the "**Assumed Liabilities**"). For the avoidance of doubt, the Assumed Liabilities shall expressly exclude all of the Excluded Liabilities.

- (b) Other than the Assumed Liabilities, the Purchaser shall not assume or have any obligation to discharge, perform or fulfill any obligation or liability of the Debtors of any kind whatsoever (collectively, the "**Excluded Liabilities**") and all Excluded Liabilities remain the obligation and responsibility of the Debtors, including the obligations and Losses and Liabilities of the Debtors:
- (i) owing to a lender or creditor of the Debtors, including any bank overdrafts or bank indebtedness and any indebtedness or liabilities other than the Assumed Liabilities owing under any promissory note, or contract for the borrowing of money;
  - (ii) relating to Taxes (other than the Taxes payable by the Purchaser pursuant to Sections 3.5, 3.6 and 3.7 of this Agreement);
  - (iii) relating to any current or former employee of or other natural-person service provider to any of the Debtors (including the Employees and the Transferred Employees) in each case that arise out of events, facts or circumstances first occurring before the Effective Time;
  - (iv) all liabilities relating to or arising out of any Debtors' Benefit Plan; and
  - (v) relating to an Excluded Asset.

## 2.4 Assignment of Assumed Contracts and Third-Party Consents

- (a) Vendor shall assign to Purchaser all of the Vendor's and the Debtors' right, title and interest in and to, and all Debtors' duties and obligations under, the Assumed Contracts listed on Schedule 1.1(k), Purchaser shall assume as of the Closing

Date all such right, title, interest of the Vendor and the Debtors in and to the Assumed Contracts, provided however, Vendor shall pay and shall be responsible for the Contract Cure Amounts in connection with the assumption and assignment of the Assumed Contracts. To the extent any Assumed Contract does not constitute an executory contract subject to assumption and assignment under Section 365 of the US Bankruptcy Code (to the extent applicable), then the rights and obligations under such Assumed Contracts shall be transferred to Purchaser as part of the sale of the Purchased Assets with such rights and obligations (excluding, for the avoidance of doubt, all Contract Cure Amounts) being expressly assumed by Purchaser. Notwithstanding the foregoing, Purchaser shall have the right prior to the Closing Date, in its sole discretion, to remove any Assumed Contract from Schedule 1.1(k). Should the Purchaser remove any such Assumed Contract, such Assumed Contract shall be deemed not to be assumed by the Vendor and assigned to the Purchaser.

- (b) To the extent that the Court Approval or Applicable Law does not permit the assignment to the Purchaser of any Assumed Contract (any such Assumed Contracts, collectively, the "**Unassignable Contracts**"), unless the Vendor concludes, acting reasonably, that any Unassignable Contracts cannot be assigned under any circumstances and provides written notice of such Unassignable Contracts to Purchaser, then:
- (i) each of the Parties shall use reasonable commercial efforts to obtain, as may be required by the terms of such Assumed Contracts, consents or approvals to the assignment of such Assumed Contracts; provided that the Vendor shall not be required to pay any amount or fee whatsoever, including any costs or expenses in connection with its efforts to obtain such consent or approval, which shall be for the sole account of the Purchaser, and for greater certainty, the Purchaser shall be responsible for and shall pay all costs or expenses, which shall be paid either directly to the applicable counterparty or to the Vendor at or prior to Closing, which costs or expenses shall be in addition to the Purchase Price received by the Vendor for the Purchased Assets;
  - (ii) pending the effective transfer or assignment of the relevant Unassignable Contracts, the Vendor shall hold the right, title, interest in and to, and the duties and obligations under, such Unassignable Contracts in trust for the exclusive benefit of the Purchaser as bare trustee and agent, provided that the Purchaser will pay, perform, discharge and fulfill all duties and obligations of the Vendor and the Purchaser shall have all right, title, interest in and to, and all duties and obligations under, such Unassignable Contracts during that period;
  - (iii) the Vendor will, at the reasonable request and direction of the Purchaser (and at Purchaser's sole cost and expense), in the name of the Vendor or otherwise as the Purchaser shall reasonably specify, take all such reasonable actions and do all such reasonable things as shall, in the reasonable opinion of the Purchaser, be necessary or desirable in order that the rights, entitlements, benefits, remedies, duties and obligations of the Vendor under any such Unassignable Contract may be enjoyed, received or performed, as the case may be, in accordance with the terms

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of such Unassignable Contract, including that all monies receivable under such Unassignable Contract may be received by the Purchaser and that all rights and licenses under such Unassignable Contracts may be exercised by the Purchaser;

- (iv) the Vendor shall promptly, but in no event more than five (5) Business Days, pay over to the Purchaser all such monies collected by the Vendor in respect of such Unassignable Contracts, net of any unpaid related costs or expenses (including any Taxes that are payable in respect of the receipt of such amounts), and shall provide Purchaser with reasonable supporting documentation with respect to such costs and expenses;
- (v) to the extent permitted by the applicable Unassignable Contract:
  - (A) the Purchaser will pay, perform and discharge the duties and obligations under such Unassignable Contract, on behalf of the Vendor until such time as the effective transfer or assignment of the relevant Unassignable Contracts to the Purchaser;
  - (B) the Vendor will exercise the rights, entitlements, benefits and remedies under such Unassignable Contracts, on behalf of the Purchaser until such time as the effective transfer or assignment of the relevant Unassignable Contracts to the Purchaser;
  - (C) the Purchaser shall indemnify and save harmless the Vendor from and against all of the Vendor's Losses and Liabilities arising as a consequence of the provisions of this Section 2.4, except to the extent caused by the gross negligence or wilful misconduct of the Vendor or Vendor's Representatives and except for Vendor's overhead and general administrative costs (to be determined in a manner consistent with past practices of Vendor in respect of the Purchased Assets); and
- (vi) the Vendor's obligations under this Section 2.4 shall expire and terminate and cease to be in effect on the date that is thirty (30) days following Closing, at which time all Unassignable Contracts for which consent is required for the assignment of such Unassignable Contract which has not been obtained by such date shall be deemed to be an Excluded Contract under this Agreement; without any adjustment of any kind whatsoever to the Purchase Price.
- (c) Nothing in this Agreement shall constitute an agreement to assign, and shall not be construed as an assignment of, or an attempt to assign to the Purchaser, any Unassignable Contract until such time as the necessary consents or approvals with respect to the assignment are obtained.
- (d) Both before and after Closing, each of the Parties shall use all commercially reasonable efforts to obtain any and all approvals required under Applicable Law and any and all material consents of Third Parties required to permit the Transaction to be completed. The Parties acknowledge that the acquisition of such consents shall not be a condition precedent to Closing. In addition, it shall be the

sole obligation of the Purchaser, at the Purchaser's sole cost and expense, to provide any and all financial assurances, deposits or security that may be required by Governmental Authorities or any Third Parties to permit the transfer to the Purchaser of the Purchased Assets or any of them.

## **2.5 Acquisition and Assignment of US Leased Vehicles**

- (a) As soon as reasonably practicable following the date of this Agreement, Vendor shall take all necessary actions to acquire, on behalf of the Debtors, all right, title and interest in and to each of the US Leased Vehicles. Within five (5) business days following the date that the Vendor fulfills the requirements of paragraph 9(b) of the Receivership Order with respect to a US Leased Vehicle, the Vendor shall assign to the Purchaser, and the Purchaser shall assume and acquire, all right, title and interest in and to such US Leased Vehicle.
- (b) Pending the effective transfer or assignment of all right, title and interest in and to each of the US Leased Vehicles to the Purchaser, the Vendor shall hold such right, title and interest in and to, and all duties and obligations in respect of, such US Leased Vehicles in trust for the exclusive benefit of the Purchaser as bare trustee and agent.
- (c) The Purchaser shall indemnify and save harmless the Vendor from and against all of the Vendor's Losses and Liabilities arising as a consequence of the provisions of this Section 2.5, except to the extent caused by the gross negligence or willful misconduct of the Vendor or Vendor's Representatives and except for Vendor's overhead and general administrative costs (to be determined in a manner consistent with past practices of Vendor).
- (d) The Vendor shall not, without the prior written consent of the Purchaser, reject the US Vehicle Lease.

## **ARTICLE 3 PURCHASE PRICE**

### **3.1 Consideration**

In full consideration of the sale, assignment, transfer and conveyance of the Purchased Assets to the Purchaser, at the Closing, the Purchaser shall:

- (a) pay to the Vendor an aggregate amount in cash in immediately available funds equal to \$ [REDACTED] (the "**Base Price**"), subject to adjustment as set forth in Section 3.3 and Article 4 hereof, plus an amount in cash in immediately available funds equal to \$ [REDACTED] (the "**US Leased Vehicle Price**"), subject to adjustment as set forth in Section 4.3 hereof; and
  - (b) assume all of the Assumed Liabilities,
- (collectively, the "**Purchase Price**").

### **3.2 Deposit**

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- (a) An amount equal to \$ [REDACTED] shall be paid in cash by the Purchaser to the Vendor upon execution of this Agreement by the Parties as a deposit (the "**Deposit**"), which Deposit received by the Vendor pursuant to this Section 3.2(a) shall be held in trust by the Vendor or the Vendor's Counsel in an interest-bearing account and shall be releasable in accordance with this Agreement.
- (b) If Closing occurs in accordance with the terms and conditions of this Agreement, the Deposit, together with all interest thereon to the Closing Date, shall be credited against the Purchase Price, in partial satisfaction of the Purchaser's obligation to pay the Purchase Price at Closing and shall be released to the Vendor or Vendor's Counsel in immediately available funds.
- (c) If this Agreement is terminated:
  - (i) by the Vendor pursuant to:
    - (A) Section 10.1(c); or
    - (B) Section 10.1(e) on account of the conditions set forth in Sections 3.2 or 5.2 not being satisfied, or not capable of being satisfied, or waived by the Outside Date and the Vendor is ready, willing and able to consummate the transactions contemplated hereby; or
  - (ii) by Purchaser pursuant to Section 10.1(d) and Vendor is, at the time of such termination, entitled to terminate this Agreement pursuant to Section 10.1(e) on account of the conditions in Sections 3.2 or 5.2 not being satisfied, or not capable of being satisfied, or waived by the Outside Date,

then the Deposit, together with all interest thereon to such date, shall be forfeited to the Vendor as liquidated damages and not for the purchase of assets or services, and the Deposit, together with all interest thereon to such date, shall be released from escrow and paid to Vendor, as its sole and exclusive remedy in such scenario, free of any claims by the Purchaser thereto. The provision for payment of liquidated damages in this Section 3.2(c) has been included because, in the event of a termination of this Agreement described in this Section 3.2(c), the actual damages to be incurred by the Vendor can reasonably be expected to approximate the amount of liquidated damages called for herein and because the actual amount of such damages would be difficult if not impossible to measure accurately.

- (d) If the Agreement is terminated for any reason other than as contemplated by Section 3.2(c), then the Deposit, together with all interest thereon to such date, shall be released from escrow and paid to Purchaser.

### **3.3 Satisfaction of the Purchase Price**

At Closing, the Purchase Price shall be paid and satisfied as follows:

- (a) the Deposit, together with all interest thereon to the Closing Date, shall be credited against the Purchase Price, in partial satisfaction of the Purchaser's obligation to pay the Purchase Price at Closing; and

- (b) the Purchaser shall pay to the Vendor at Closing, by certified cheque, bank draft or electronic wire transfer, an amount equal to (i) the Purchase Price, less (ii) the Deposit, together with all interest thereon to the Closing Date, as set forth in the Interim Statement of Adjustments, less or plus (as applicable) (iii) any adjustments pursuant to Article 4 (collectively, the "**Closing Payment**").

### 3.4 Allocation of the Consideration

No later than thirty (30) days prior to the Closing Date, the Purchaser shall deliver to the Vendor the Purchaser's proposed allocation of the consideration among the Purchased Assets. The Vendor shall have five (5) days following its receipt of such allocation to propose any changes or indicate its concurrence therewith. If the Vendor does not concur with the proposed allocation, the Purchaser and the Vendor will use commercially reasonable efforts to reach agreement on the allocation of the consideration among the Purchased Assets in a manner consistent with Applicable Law (the resulting allocation, an "**Agreed Allocation**"). The Purchaser, on the one hand, and the Vendor, on the other hand, shall (i) be bound by the Agreed Allocation for purposes of determining Taxes, and (ii) prepare and file, and cause its Affiliates to prepare and file, its Tax Returns on a basis consistent with the Agreed Allocation. The Purchaser and the Vendor shall cooperate in preparing any updates or revisions to the Agreed Allocation in respect of any adjustments to the consideration. Neither the Purchaser nor the Vendor shall take any position inconsistent with the Agreed Allocation in any Tax Return, in any refund claim, in any audit, or otherwise unless required by a final determination by an applicable Governmental Authority; provided, however, that (A) the Purchaser's cost for the Purchased Assets may differ from the total amount allocated hereunder to reflect the inclusion in the total cost of items (for example, capitalized acquisition costs) not included in the amount so allocated, (B) the amount realized by the Vendor may differ from the total amount allocated hereunder to reflect transaction costs that reduce the amount realized for Tax purposes, (iii) nothing in this Agreement will prevent a Party from settling any proposed deficiency or adjustment by any Governmental Authority based upon or arising out of the final allocation, and (iv) neither the Vendor or any of its Affiliates nor the Purchaser or any of its Affiliates will be obligated to litigate any challenge to such allocation of the consideration by a Governmental Authority. Each Party shall promptly notify the other upon receipt of notice of any pending or threatened Tax audit or assessment challenging the final allocation. If the Vendor and the Purchaser do not reach an Agreed Allocation by the date that is five (5) days prior to the Closing Date, the Vendor and the Purchaser will each prepare its own allocation of the of the consideration among the Purchased Assets to be used by such party and its Affiliates, provided such allocation is reasonable and in accordance with Applicable Law.

### 3.5 Transfer Taxes

The Parties agree that, conditional upon the Closing occurring:

- (a) the Purchase Price is exclusive of all Transfer Taxes and the Purchaser shall be liable for and shall pay any and all Transfer Taxes pertaining to the Purchaser's acquisition of the Purchased Assets or the registration of any Specific Conveyances necessitated hereby;
- (b) subject to Section 3.7, where the Vendor is required under Applicable Law to collect or pay Transfer Taxes, the Purchaser will pay the amount of such Transfer Taxes to the Vendor at Closing, which such Transfer Taxes Vendor shall remit to the appropriate Governmental Authority as soon after Closing as is practicable and in compliance with the applicable Tax Legislation. The Purchaser shall provide the

Vendor with a purchase exemption certificate or its equivalent to support any reasonable exemption claimed in respect of the Purchased Assets; or if the Vendor is required under Applicable Law to pay any such Transfer Taxes, the Purchaser shall promptly reimburse the Vendor the full amount of such Transfer Taxes upon delivery to the Purchaser of copies of receipts showing payment of such Transfer Taxes;

- (c) except where the Vendor is required under Applicable Law to collect or pay such Transfer Taxes, the Purchaser shall pay such Transfer Taxes, including all applicable provincial sales taxes, directly to the appropriate Governmental Authority or other entity within the required time period and shall file all necessary documentation with respect to such Transfer Taxes when due, and the Vendor will do and cause to be done such things as are reasonably requested to enable the Purchaser to comply with such obligation in a timely manner; and
- (d) the Purchaser shall indemnify the Vendor for, from and against any Transfer Taxes (including any interest or penalties imposed by a Governmental Authority) that the Vendor may pay or for which the Vendor may become liable as a result of any failure by the Purchaser to pay or remit such Transfer Taxes.

### **3.6 Property Taxes**

The Parties agree that, conditional upon the Closing occurring:

- (a) Other than with respect to the single Owned Real Property located in Rio Vista, Texas, the Purchase Price is exclusive of all ad valorem property taxes and other personal property taxes or assessments levied or owed with respect to the Purchased Assets, Vendor shall be fully liable for and shall pay any and all such ad valorem property taxes (including those arising pursuant to the Leased Real Property) or other personal property taxes pertaining to the Purchased Assets to and including the Effective Time, regardless of when such property taxes may have been billed; and
- (b) With respect to the single Owned Real Property located in Rio Vista, Texas, the Purchaser shall pay such ad valorem property taxes and other personal property taxes or assessments to be due and owing for the fiscal year 2020 directly to the appropriate Governmental Authority or other entity within the required time period.

### **3.7 GST/HST**

- (a) To the extent such election is applicable to the Transaction or any portion of the Purchased Assets, Vendor and Purchaser shall execute jointly an election under section 167 of the GST/HST Legislation to have the sale of the Purchased Assets take place on a GST/HST-free basis and Purchaser shall file such election no later than the filing date for its GST/HST return for the reporting period in which the sale of the Purchased Assets takes place. The Parties agree that, as between Vendor and Purchaser, Purchaser shall be solely liable for, and as a separate and independent covenant, Purchaser shall indemnify, defend and save harmless Vendor from, any GST/HST or any penalty, interest or other amounts with respect thereto (including any costs incurred by Vendor in collecting such amount from Purchaser), which may be payable by or assessed against Vendor under the

GST/HST Legislation as a result of the Transactions not being eligible for such election or Purchaser's failure to file such election as required by the GST/HST Legislation.

- (b) Subject to Section 9.2 above, Purchaser shall self-assess any applicable GST/HST on the portion of the Purchase Price attributable to a supply of real property located in Canada to the extent required by subsections 221(2) and 228(4) of the GST/HST Legislation and Vendor shall not collect GST/HST on such amounts, provided that Purchaser delivers to Vendor a GST/HST certificate and indemnity in form agreeable to Vendor.
- (c) If any payment made by Vendor or Purchaser as the result of a breach, modification or termination of this Agreement is deemed by GST/HST Legislation to include GST/HST, or is deemed by any applicable provincial or territorial legislation to include a similar value-added or multi-staged tax, the amount of such payment shall be increased accordingly; provided, however, that in the event there is a breach of this Agreement by the Purchaser resulting in the forfeiture of the Deposit to the Vendor, the Purchaser shall have no obligation to increase or pay any additional amounts and the Deposit amount shall be forfeited as an amount inclusive of any and all such Taxes.

### **3.8 Deferred Revenue Election**

If applicable and if beneficial to either the Vendor or the Purchaser (without detriment to the other Party), the Purchaser and the Vendor shall elect jointly in the prescribed manner under subsection 20(24) of the Income Tax Act and the corresponding provisions of any other applicable Tax statute in respect of the deferred revenue of the Debtors' business for an amount of such deferred revenue that is being transferred to the Purchaser in consideration for the Purchaser undertaking future obligations in connection with such deferred revenue. In this regard, the Vendor and the Purchaser acknowledge that if such election is made, a portion of the Purchased Assets having a value equal to the elected amount under subsection 20(24) is being transferred to the Purchaser as a payment for the assumption of such future obligations by the Purchaser.

## **ARTICLE 4 ADJUSTMENTS**

### **4.1 Adjustments**

- (a) All costs and revenues incurred, accruing, payable, paid, received or receivable in respect of the Purchased Assets, including maintenance, capital and operating costs, advances, and payments with respect to Permitted Encumbrances (but specifically excluding those Transfer Taxes, ad valorem and property taxes addressed in Section 3.5, Section 3.6 and Section 3.7 of this Agreement) shall, subject to the provisions of this Agreement, be apportioned on an accrual basis between the Vendor and the Purchaser as of the Effective Time, on and subject to the following:
  - (i) except as otherwise provided in this Article 4, costs and revenues shall accrue in accordance with GAAP;

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- (ii) all such costs accruing up to the Effective Time shall be for the Vendor's account and all costs and revenues accruing after the Effective Time shall be for the Purchaser's account;
  - (iii) all such costs pertaining to work performed or goods or services provided with respect to the Purchased Assets prior to the Effective Time shall be borne by and for the account of the Vendor, notwithstanding that such costs may be payable in whole or in part after the Effective Time and all such costs pertaining to work performed or goods or services provided with respect to the Purchased Assets after the Effective Time shall be borne by and for the account of the Purchaser notwithstanding that such costs may have been paid in whole or in part prior to the Effective Time; a
  - (iv) all such revenues up to the Effective Time shall be for the Vendor's account, and all such revenues received after the Effective Time shall be for the Purchaser's account, regardless of whether such revenues are accrued prior to or after the Effective Time, and Vendor shall hold in trust for, on behalf of and pay to the Purchaser, in accordance with Section 6.9, any such revenues received by the Vendor;
  - (v) all rentals and other periodic payments shall be apportioned between the Vendor and the Purchaser on a per diem basis as of the Effective Time with all rentals and other periodic payments accrued to the Effective Time for the Vendor's account and all rentals and other periodic payments accrued after the Effective Time for the Purchaser's account.
- (b) The effective time for income tax purposes shall be the Effective Time.
  - (c) All adjustments to be made pursuant to this Section 4.1 shall be allocated at or prior to the Closing Date to intangible assets comprising the Purchased Assets in the case of any adjustment made under Section 4.1(a).

#### **4.2 Equipment, Capital Spares and Inventory**

- (a) The Vendor and the Purchaser (or its designated Representative) will jointly conduct an on-site physical count of the Equipment, Capital Spares and Inventory to be completed not more than fifteen (15) Business Days before Closing, and shall use commercially reasonable efforts to agree upon a written statement describing the adjustments to the Closing Payment out in this Section 4.2.
- (b) If any major individual components that are generally accepted in the industry as forming a part of an item of Equipment included in the Purchased Assets as described in Schedule 1.1(nn) or any Capital Spares included in the Purchased Assets as described in Schedule 1.1(nn) (whether broken or fixed) are not accounted for or if any such item is not reasonably capable of being delivered into the Purchaser's possession or control at the Closing with good and exclusive title, free and clear of any Encumbrances, other than the US Leased Vehicles which will be assigned to the Purchaser pursuant to the terms of Section 2.5, then the Closing Payment shall be reduced by an amount equal to (i) the Net Book Value of such item of Equipment multiplied by (ii) the Adjustment Ratio; and each such item of Equipment shall constitute an Excluded Asset for the purposes of this Agreement.

- (c) Notwithstanding anything else contained in this Article 4, no adjustments shall be made pursuant to this Section 4.2 until such adjustments, in the aggregate, exceed five percent (5%) of the Base Price (the "**De Minimus Threshold**") and then only by the amount that the adjustment amount exceeds the De Minimus Threshold.

#### **4.3 US Leased Vehicle Price Adjustment**

The Vendor and the Purchaser acknowledge and agree that the US Leased Vehicle Price is calculated on the basis of the Closing occurring on or prior to August 31, 2020. Should the Closing occur on a date following August 31, 2020, the US Leased Vehicle Price shall be adjusted to equal the amount of the outstanding balance under the US Vehicle Lease as of the Closing Date plus the amount of any payout fees associated with the US Leased Vehicles as at the Closing.

#### **4.4 Statement of Adjustments**

- (a) The Vendor shall carry out an interim accounting and adjustment and prepare and deliver to the Purchaser at least three (3) Business Days prior to the Closing Date a statement setting forth the Vendor's good faith estimate of all adjustments (the "**Interim Statement of Adjustments**") to be made for the transactions contemplated herein. The Vendor shall make available to the Purchaser all information reasonably necessary for Purchaser to understand and confirm the calculations in that statement.
- (b) Within sixty (60) days following the Closing Date, the Purchaser shall prepare and deliver, and the Vendor shall cooperate in preparing, a final statement of all adjustments and payments ("**Final Statement of Adjustments**"), on the basis of the information available within that period, to be made for the transactions contemplated herein, including any settlement payment required to be made by either Party as a result of differences between the Final Statement of Adjustments and the Interim Statement of Adjustments.
- (c) In the event the Parties are unable to agree on the Final Statement of Adjustments within fifteen (15) days of delivery of such Final Statements of Adjustments, the Parties will immediately proceed with appointing an independent Third Party auditor (so qualified by skill and experience to determine the dispute) selected by the mutual agreement of the Parties to review the Parties' submissions on the Final Statement of Adjustments, which shall be binding on the Parties. There shall be no ex parte communications between either Vendor or Purchaser, on the one hand, and the independent Third Party auditor, on the other hand, relating to those matters in dispute, other than the initial written submission by Vendor and Purchaser of their respective positions on the matters in dispute and written answers by Vendor and Purchaser to written questions from the independent Third Party auditor. The independent Third Party auditor shall be authorized to select only the position as to each line item in dispute as set forth in the Final Statement of Adjustments and as presented by either Vendor (on the one hand) or Purchaser (on the other hand), it being acknowledged and agreed that the independent Third Party auditor may agree with Vendor on certain matters and Purchaser on other matters. Subject to the following sentence, the independent Third-Party auditor shall have no power to reach any other result and shall select the amount for each matter in dispute that, in its judgment, is the closest to being in conformity with this Agreement. For the avoidance of doubt, the independent Third Party auditor (i)

shall not review any line items or make any determination with respect to any matter other than those line items in the Final Statement of Adjustments that remain in dispute, and (ii) may consider each line item that is disputed in the Final Statement of Adjustments separately. The costs of the Third-Party auditor shall be borne by the Parties in inverse proportion as they may prevail on matters resolved by the independent Third-Party auditor, which proportionate allocations shall also be determined by the independent Third Party auditor at the time the determination of the independent Third Party auditor is rendered on the merits of the matters submitted. The Parties agree to cooperate in good faith and use commercially reasonable efforts to assist such Third-Party auditor in determining the final Statement of Adjustments as soon as reasonably practical following the appraiser's appointment.

- (d) All adjustments shall be settled by the prompt payment by any Party obliged to make payment pursuant to this Agreement. Interest at the Prime Rate plus one percent (1%) per annum shall be paid on any settlement payment which remains unpaid by one Party to the other Party when due, with such interest accruing from the date such amount is due to the date payment is made.
- (e) Subject only to this Section 4.3, the Final Statement of Adjustments shall constitute the final accounting between the Parties in respect of costs and revenues accruing, payable, paid, received or receivable in respect of the Purchased Assets, shall be binding on the Parties and shall not be subject to dispute. For certainty, notwithstanding any other provision in this Agreement, save pursuant to the Final Statement of Adjustments, there shall be no further adjustments made between the Parties in respect of any costs or revenues accruing, payable, paid, received or receivable in respect of the Purchased Assets, including rentals, maintenance, development, capital and operating costs, advances, and payments with respect to Permitted Encumbrances, including, but not limited to, any costs or revenues that are disclosed or adjusted as a consequence of any subsequent joint venture audits, royalty adjustments or similar audit or adjustment procedures pursuant to the Assumed Contracts or Applicable Law.
- (f) The Purchaser and the Vendor will each bear their own fees and expenses, including the fees and expenses of their respective accountants and auditors, in preparing or reviewing, as the case may be, the Final Statement of Adjustments.

## **ARTICLE 5 REPRESENTATIONS AND WARRANTIES**

### **5.1 Vendor's Representations and Warranties**

The Vendor hereby represents and warrants to and in favour of the Purchaser that:

- (a) the Vendor has been appointed by the Alberta Court as receiver and manager of the property of the Debtors pursuant to the Receivership Order, and such appointment is valid and subsisting as not been varied or amended;
- (b) provided that Court Approval is obtained, the consents, approvals or waivers that are required in connection with the assignment of the Assumed Contracts or other than as provided in this Agreement, the execution, delivery and performance of

this Agreement and all the documents contemplated in Section 8.2 hereof by the Vendor does not and will not (i) require any filing with, or the obtaining of any Permit, consent, approval, authorization or other order of, action by, filing with or notification to, any Governmental Authority, except where failure to obtain such consent, approval, authorization or action, or to make such filing or notification, would not prevent or materially delay the consummation by the Vendor of the Transaction or have a material adverse effect on the Business, or (ii) to the knowledge of the Vendor, violate any Governmental Order or any Law applicable to the Debtors;

- (c) neither the Vendor nor the Debtors has incurred any obligation or liability, contingent or otherwise, for broker's or finder's fees in respect of the Transaction for which the Purchaser shall have any obligations or liability;
- (d) neither the Vendor nor the Debtors have, as at the date hereof, received notice of any Claims in existence, contemplated, pending or threatened against them seeking to prevent the consummation of the Transaction;
- (e) the Purchased Assets owned by Canadian Debtors are all or substantially all of the assets necessary for the Purchaser to carry on the business carried on by such Debtor;
- (f) to the Vendor's knowledge, the Vendor is not a non-resident of Canada for purposes of the Income Tax Act;
- (g) none of the Canadian Debtors is a non-resident of Canada for the purposes of the Income Tax Act;
- (h) to the Vendor's knowledge, none of the Purchased Assets owned by the non-Canadian Debtors constitutes taxable Canadian property for the purposes of section 116 of the Income Tax Act;
- (i) The Debtors with Purchased Assets in Canada are registered for GST/HST purposes under the GST/HST Legislation and their registration number(s) are as follows:
  - (i) BOS Solutions Ltd.: 87133 8513 RT0002;
- (j) provided that Court Approval is obtained, this Agreement has been duly executed and delivered by the Vendor and constitutes a legal, valid and binding obligation of the Vendor and is enforceable against the Vendor in accordance with its terms, except as enforceability may be limited by applicable bankruptcy, insolvency, reorganization or similar Applicable Laws relating to creditors' rights generally and subject to general principles of equity; and
- (k) the Receivership Proceedings were recognized by the US Court as a foreign main proceeding pursuant to 11 USC. § 1517, the Receivership Order was granted comity, the terms of the Receivership Order were given full force and effect in the US, and the Vendor, as foreign representative on behalf of the Debtors, was granted all of the relief afforded under 11 USC. § 1520, all pursuant to the US

Recognition Order, and the Sale Process Procedures are recognized and given effect through the US Sale Process Order.

## **5.2 Purchaser's Representations and Warranties**

The Purchaser hereby represents and warrants to and in favour of the Vendor that:

- (a) S3S is a Texas limited liability company duly formed and validly subsisting under the laws of the jurisdiction of its formation and has the requisite power and authority to enter into this Agreement and to complete the Transaction and once formed, Canada S3S will be duly formed and validly subsisting under the laws of the jurisdiction of its formation and will have the requisite power and authority to complete the Transaction;
- (b) the Purchaser has taken all necessary corporate action to authorize the entering into and performance by it of this Agreement;
- (c) execution, delivery and performance of this Agreement by the Purchaser does not and will not require any consent, approval, authorization or other order of, action by, filing with or notification to, any Governmental Authority, except where failure to obtain such consent, approval, authorization or action, or to make such filing or notification, would not prevent or materially delay the consummation by the Purchaser of the Transaction;
- (d) it has not incurred any obligation or liability, contingent or otherwise, for broker's or finder's fees in respect of the Transaction for which the Vendor or the Debtors shall have any obligations or liability;
- (e) it has not received notice of any Claims in existence, contemplated, pending or threatened against it seeking to prevent the consummation of the Transaction;
- (f) this Agreement has been duly executed and delivered by the Purchaser and, subject to Court Approval, constitutes a legal, valid and binding obligation of the Purchaser and is enforceable against the Purchaser in accordance with its terms, except as enforceability may be limited by applicable bankruptcy, insolvency, reorganization or similar Applicable Laws relating to creditors' rights generally and subject to general principles of equity;
- (g) it has sufficient funds available to it to enable it to pay in full the Purchase Price to the Vendor as herein provided and otherwise to fully perform its obligations under this Agreement;
- (h) other than a customary post-closing notification under the Investment Canada Act, there is no requirement for the Purchaser to make any filing with, give any notice to, or obtain any authorization of, any Governmental Authority pursuant to the Competition Act (Canada), Investment Canada Act or the Hart-Scott-Rodino Antitrust Improvements Act of 1976 (US) as a result of, in connection with, or as a condition to the lawful completion of the Transaction; and
- (i) Canada S3S will be registered for GST/HST purposes under the GST/HST Legislation prior to Closing.

### **5.3 Enforcement of Representations and Warranties**

- (a) Other than the representations and warranties set forth in Section 5.4 (which shall survive the Closing), the representations and warranties of each Party contained in this Agreement shall survive until Closing and shall thereafter be of no further force and effect. Effective upon the occurrence of Closing, each Party hereby releases and forever discharges each other Party from any breach of any representations and warranties set forth in this Agreement.
- (b) The representations and warranties of the Vendor made herein or pursuant hereto are made for the exclusive benefit of the Purchaser, and the representations and warranties of the Purchaser made herein or pursuant hereto are made for the exclusive benefit of the Vendor, as the case may be, and are not transferable and may not be made the subject of any right of subrogation in favour of any other Person.
- (c) The Parties expressly acknowledge and agree that the provisions of this Section 5.3 and the limit on each Party's liability set out in this Section 5.3 are intended by the Parties as a limitation of liability that represents a fair and equitable allocation of the risks and liabilities that each Party has agreed to assume in connection with the subject matter hereof and is not an agreement within the provision of subsection 7(2) of the Limitations Act (Alberta).

### **5.4 No Additional Representations and Warranties**

- (a) The Purchaser acknowledges and agrees that it is acquiring the Purchased Assets on an "as is, where is" and "without recourse" basis, and that neither the Vendor nor any of its Representatives make any representations or warranties of any kind whatsoever, express or implied, except as explicitly set forth in Section 5.1, and in particular, and without limiting the generality of the foregoing, the Vendor expressly negates and disclaims, and neither the Vendor nor any of its Representatives shall be liable for, any representation or warranty (except as expressly set forth in Section 5.1) which may have been made or alleged to be made in any instrument or document related hereto, or in any statement or information made or communicated (in writing or orally) to the Purchaser or its Representatives in any manner including any opinion, information, or advice which may have been provided to the Purchaser by the Vendor or any of its Representatives in connection with the Purchased Assets, Assumed Liabilities or in relation to the Transaction. For greater certainty, except as expressly set forth in Section 5.1, neither the Vendor nor any of its Representatives make any condition, representation or warranty whatsoever, express or implied, with respect to:
  - (i) the merchantability, physical or financial condition, description, fitness for a particular purpose, suitability for development, title, description, use or zoning, Environmental condition, existence of latent defects, quality, quantity or any other thing affecting any of the Purchased Assets;
  - (ii) the Data Room Information or any other data or written (including electronically) or oral information, including any projections, forecasts, estimates, appraisals, statements, promises, advice, data or information, supplied by the Vendor or any of its Representatives in connection with the

Business, Purchased Assets, and Assumed Liabilities, including by way of management presentations, site visits and diligence meetings or telephone calls or otherwise;

- (iii) the validity or enforceability of the Assumed Contracts or Intellectual Property;
- (iv) the value of any of the Purchased Assets or the future cash flow therefrom;
- (v) any regulatory approvals, Permits and licenses, consents or authorizations that may be needed to complete the Transaction contemplated by this Agreement or to operate or carry on the Business or any portion thereof; or
- (vi) the quality, condition, description, fitness for purpose, suitability, serviceability or merchantability of the Equipment or Inventory or any other tangible, depreciable equipment or property forming part of the Purchased Assets.

Notwithstanding the "as is, where is" and "without recourse" nature of the Transaction, nothing set forth in this Section 5.4(a) shall relieve the Purchaser of its right to an adjustment to the Purchase Price in respect of damaged or missing Equipment or Inventory.

- (b) The Purchaser hereby acknowledges and confirms that it is satisfied with its due diligence investigations with respect to the Purchased Assets, Business and Assumed Liabilities and hereby acknowledges and confirms that it is relying solely on the Vendor's representation and warranties in Section 5.1 and its own investigations concerning the Purchased Assets, Business and Assumed Liabilities, and it has not relied on any advice from the Vendor or any of its Representatives with respect thereto, including with respect to the matters specifically enumerated in Section 5.4(a) in connection with the purchase of the Purchased Assets and the Business and the assumption of the Assumed Liabilities pursuant hereto.
- (c) Except for the Vendor's representations and warranties in Section 5.1, any information regarding or describing the Business, Purchased Assets or the Assumed Liabilities in this Agreement (including the Schedules hereto), or in any other agreement or instrument contemplated hereby, is for identification purposes only, is not relied upon by the Purchaser, and except for the Vendor's representations and warranties in Section 5.1, no representation, warranty or condition, express or implied, has or will be given by the Vendor or any its Representatives, or any other Person concerning the completeness or accuracy of such information or descriptions.
- (d) Except for its express rights under this Agreement, the Purchaser hereby waives all rights and remedies (whether now existing or hereinafter arising and including all common law, tort, contractual and statutory rights and remedies) against the Vendor and its Representatives in respect of the Business, Purchased Assets, the Transaction and any representations or statements made or information or data furnished to the Purchaser or its Representatives in connection herewith (whether made or furnished orally or by electronic, faxed, written or other means). Such

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waiver is absolute, unlimited, and includes, but is not limited to, waiver of express warranties, implied warranties, any warranties contained in the Sale of Goods Act (Alberta) (or similar applicable statutes), warranties of fitness for a particular use, warranties of merchantability, warranties of occupancy, strict liability and claims of every kind and type, including claims regarding defects, whether or not discoverable or latent, product liability claims, or similar claims, and all other claims that may be later created or conceived in strict liability or as strict liability type claims and rights.

- (e) Other than those representation and warranties set out in this Section 5.4, none of representations and warranties contained in this Article 5 shall survive Closing and, other than in the case of fraud, the Purchaser's sole recourse for any material breach of representation or warranty in this Article 5 shall be for the Purchaser to not complete the Transaction in accordance with Sections 7.1 and 7.2 of this Agreement.

## **ARTICLE 6 COVENANTS**

### **6.1 Maintenance of Business Until Closing**

Until the Effective Time, subject to the Receivership Order, the Sale Process Order and the US Sale Process Order, the Vendor shall, and shall cause the Debtors' employees to:

- (a) conduct the Business in accordance with generally accepted industry practices having due regard to the interests of the Purchaser under this Agreement;
- (b) cause the Equipment and Leased Equipment to be maintained in accordance with generally accepted industry practices;
- (c) not, directly or indirectly, do or permit to occur any of the following without the prior written consent of the Purchaser:
  - (i) other than the US Leased Vehicles, acquire any assets (excluding Inventory in the ordinary course) having an acquisition cost of more than fifty thousand dollars (\$50,000) individually or in the aggregate;
  - (ii) sell, lease, assign, transfer, abandon or otherwise dispose of any of the Purchased Assets, excluding Inventory in the ordinary course of business;
  - (iii) make or commit to make any capital expenditures of more than fifty thousand dollars (\$50,000) individually or in the aggregate;
  - (iv) agree to assume any new obligation or commitment respecting the Purchased Assets, other than entered into from time to time in the ordinary course of business with pricing and margins consistent with practice in effect since May 4, 2020, in no event to exceed fifty thousand dollars (\$50,000);
  - (v) encumber, pledge, grant or create a security interest over the Purchased Assets;

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- (vi) amend or agree to amend or terminate any of the Assumed Contracts or enter into an agreement in respect of the Purchased Assets, other than work orders entered into from time to time in the ordinary course of business under the Assumed Contracts;
  - (vii) recognize any labor organization as representative of any employees of any of the Debtors, enter into any collective bargaining agreement or other contract with any labor organization relating to any employees of any of the Debtors;
  - (viii) implement any employee layoffs, plant closures or other employment-termination events that could require notice under the WARN Act;
  - (ix) agree to, authorize, approve, accept, propose or acquiesce to any release, waiver, surrender, cancellation, relinquishment or restriction of any material right or entitlement relating to the Purchased Assets or the Business, whether under contract or otherwise; or
  - (x) transfer or consent to the transfer of any material right or entitlement that may be exercised against Vendor or any of the Debtors, which relates to the Purchased Assets or the Business;
- (d) preserve intact the Business and the Purchased Assets and use reasonable commercial efforts in the circumstances to preserve for Purchaser the goodwill of suppliers, customers and others having business relations with the Business;
  - (e) use reasonable commercial efforts to perform and comply with the covenants contained in the Assumed Contracts to be performed or complied with by the Vendor or any of the Debtors prior to Closing.
  - (f) promptly provide the Purchaser with:
    - (i) any material communication, notice, report, schedule or other document delivered, filed or received by the Vendor in connection with the Business or Purchased Assets or any filings under Applicable Law relating to the Business or Purchased Assets; and
    - (ii) full particulars of any Claim or any proceeding against, involving or affecting Vendor, the Business or Purchased Assets or any current or former employee, agent or other Representative of Vendor of which the Vendor shall receive notice or otherwise become aware, including copies of any documentation relating thereto;
  - (g) use reasonable commercial efforts to maintain any Permits currently in effect related to the Business until Closing, including preparation and submission of any renewal applications;
  - (h) maintain any insurance currently in effect respecting the Purchased Assets until Closing; and

- (i) use reasonable commercial efforts to pay and discharge all liabilities or obligations of the Vendor in the ordinary and usual course of the Business consistent with industry standards, except for such liabilities or obligations: (i) as may be contested by the Vendor in good faith; or (ii) that existed prior to the date of the Receivership Order (except as otherwise set forth in such Receivership Order).

## **6.2 Access**

- (a) Until the Closing Date, the Vendor shall provide the Purchaser and its Representatives with reasonable access during normal business hours to the Purchased Assets (including the Owned Real Property), the Leased Real Property, the Debtor's yards, corporate offices, laboratories or other places where any of the Purchased Assets (including the Books and Records) are located, and personnel of the Vendor reasonably required by the Purchaser in order to allow for and assist the Purchaser with the inspection of, and the integration and transition of, the Purchased Assets into the Purchaser's overall operations and business and in order to allow for an orderly passing of the Purchased Assets to the Purchaser following Closing in accordance herewith. Without limiting the foregoing, at the Purchaser's request, the Vendor will cooperate in all reasonable respects, at the Purchaser's cost, to introduce Purchaser to the landlords and lessors under the leases for the Leased Real Property and the Leased Equipment so that the Purchaser may negotiate directly with such parties, provided that Vendor shall be copied on all such correspondence, and provided further that nothing in this Section 6.2(a) shall result in additional conditions to Closing or have any impact on the Closing.
- (b) Until the Closing Date, the Purchaser may conduct Phase I environmental site assessments (or Phase II if so recommended pursuant to the Phase I report), environmental compliance investigations, or non-intrusive environmental sampling, testing or investigation of the Owned Real Property and the Leased Real Property during normal business hours without prior Vendor approval; provided, further, the Purchaser may conduct any Phase II or other intrusive environmental sampling, testing or investigation of the Owned Real Property and the Leased Real Property, upon the prior written consent of the Vendor (such consent not to be unreasonably withheld, conditioned or delayed). The Closing Date shall not be conditioned or delayed as a result of any testing contemplated by this Section 6.2(b) not having been completed.
- (c) Notwithstanding Section 6.2(a) or Section 6.2(b), the Purchaser acknowledges that the Vendor will be continuing to operate the Purchased Assets until Closing and, accordingly, that the Purchaser's access to the Purchased Assets, the Owned Real Property and the Leased Real Property before Closing will only be allowed on reasonable notice to the Vendor and on the condition that such access does not unreasonably interfere with or interrupt the operation of the Purchased Assets or the Business and is consistent with Applicable Law.
- (d) The access to the Purchased Assets, the Owned Real Property and the Leased Real Property to be afforded to the Purchaser and its Representatives pursuant to this Section 6.2 will be subject to the Assumed Contracts or the contracts for the Leased Real Property, as applicable, all of the Vendor's health, safety and Environmental rules, policies and procedures and any and all restrictions imposed

by a Governmental Authority. Further, the Purchaser acknowledges and agrees that it shall:

- (i) be solely liable and responsible for any and all Losses and Liabilities which the Vendor or its Representatives may suffer, sustain, pay or incur in; and
- (ii) as a separate covenant, indemnify and save harmless the Vendor and its Representatives harmless from any and all Claims or Losses and Liabilities whatsoever which may be brought against, suffered by or incurred by the Vendor or its Representatives;

in each case, arising out of, resulting from, attributable to or in any way connected with any access provided to the Purchaser or its Representatives pursuant to this Section 6.2(d).

- (e) The Vendor (i) shall not, without the prior written consent of the Purchaser, reject any lease with respect to the Leased Real Property, the Debtor's yards, corporate offices, laboratories or other places where any of the Purchased Assets (including any Books and Records) are located and (ii) shall provide Purchaser with reasonable access during normal business hours to such Leased Real Property, the Debtor's yards, corporate offices, laboratories or other places where any of the Purchased Assets (including any Books and Records) are located, in each case, until sixty (60) days after the Closing Date in order to assist and allow the Purchaser to take possession of the Purchased Assets.

### 6.3 Possession of Purchased Assets and Expenses for Removal

- (a) If the Closing occurs, the Purchaser shall be responsible for and shall take possession of the Purchased Assets within sixty (60) days at the delivery location(s) specified in Schedule 1.1(nn) (the "**Delivery Locations**") or such other location(s) as the Parties may agree in writing. In addition, Purchaser shall be responsible and pay as and when required:
  - (i) any and all costs of dismantling or removing Purchased Assets from the applicable Delivery Location(s) and/or transporting them to a new location; and
  - (ii) the cost of repairing any damage caused by dismantling or removal of any of the Purchased Assets from the applicable Delivery Location(s) and/or transporting to a new location.
- (b) The Purchaser shall be liable for any and all Claims, Losses and Liabilities whatsoever caused by or in any way arising out of any dismantling or removal of any Purchased Assets from the designated Delivery Locations or any failure to dismantle or remove any Purchased Assets from the designated Delivery Locations. The Purchaser shall indemnify and save harmless the Vendor, its Representatives and their respective officers, directors, employees or other Representatives in respect of and from any and all Claims, Losses and Liabilities that any of them may incur or suffer by reason of any dismantling or removal of any Purchased Assets from the designated Delivery Location(s), or any failure to dismantle or remove any Purchased Assets from the designated Delivery

Location(s). Notwithstanding the foregoing to the contrary, except as expressly assumed under this Agreement, Purchaser shall not be responsible for the payment of any Claims, Losses and Liabilities arising, occurring or relating to the period prior to the Closing Date related to the storage, repair, service, operation or maintenance of the Purchased Assets at such Delivery Location.

#### **6.4 Personal Information**

The Vendor and the Purchaser shall at all times:

- (a) use and disclose the Personal Information that forms part of the Purchased Assets, under their or its control solely for the purposes for which the Personal Information was collected or such additional purposes as are permitted or authorized by Applicable Law;
- (b) protect the Personal Information using security safeguards that meet or exceed industry standards, taking into account the sensitivity of the Personal Information; and
- (c) give effect to any withdrawal of consent by the individual to whom the Personal Information relates where the Personal Information was collected with consent.

#### **6.5 Employee Matters**

- (a) The Vendor will timely provide to the Purchaser such information, including Personal Employee Information, with respect to the relevant Employees being considered as potential Transferred Employees as may be reasonably required for the Purchaser to comply with its obligations under this Section 6.5.
- (b) The Vendor agrees that, during the period between execution of this Agreement and the Effective Time, the Purchaser shall have the right, but not the obligation, to meet with and engage in discussions with Employees, consultants and contractors regarding potential employment and contracting opportunities with the Purchaser following the Effective Time. If the Purchaser elects to meet with any of the Employees, consultants or contractors, the Vendor will provide to the Purchaser any necessary information in the Vendor's possession, including Personal Employee Information, as the Purchaser may reasonably request relating to the relevant Employees, consultants or contractors, subject to compliance with Applicable Laws.
- (c) At least ten (10) days prior to the Effective Time, the Purchaser shall deliver to the Vendor a list of the Employees to whom it will make offers of employment, which must be at least the minimum number to avoid creating any obligation under the WARN Act on the part of the Vendor, and Purchaser shall continue to employ at least the minimum number of Employees for the minimum duration necessary to avoid creating any obligations under the WARN Act on the part of the Vendor. At least ten (10) days prior to the Effective Time, and subject to Section 6.5(d), the Purchaser shall make written offers of employment to such Employees, which shall: (i) not recognize the length of service of any Employee with any of the Debtors except as may be required, and then only to the minimum extent required, by Applicable Laws or as required by the terms of any labour agreements that are

Assumed Contracts, (ii) be conditional upon Closing, and (iii) be effective as of the Effective Time.

- (d) The Purchaser agrees to provide the Vendor with the proposed forms of written offers of employment to be made to the selected Employees and referenced in Section 6.5(c) at least five (5) days prior to providing such written offers of employment and agrees to act reasonably in considering any comments provided by the Vendor in respect of such offers.
- (e) At least five (5) days prior to the Effective Time, the Purchaser shall deliver to the Vendor a list of those selected Employees who have accepted the written offers of employment pursuant to Section 6.5(b). Those Employees who accept such offers and actually commence employment with Purchaser or one of its Affiliates immediately following the Effective Time are referred to herein as the "**Transferred Employees.**"
- (f) Except as set forth in Section 6.5(g), the Vendor shall be responsible for all Losses and Liabilities, Claims, penalties and assessments relating to the employment or termination thereof of all Employees howsoever and whenever arising, including claims for severance or wrongful termination related to their employment with any of the Debtors prior to the Effective Time.
- (g) The Purchaser shall be responsible for and indemnify the Vendor in respect of all Losses and Liabilities, Claims, penalties and assessments relating to the employment of the Transferred Employees by the Purchaser on and after the Effective Time or the termination of employment of such Transferred Employees by the Purchaser, including claims for severance or wrongful termination arising with respect to such Transferred Employees after the Effective Time.

## 6.6 Privacy Laws

- (a) Each Party shall, and shall ensure that its Representatives shall, comply with Applicable Privacy Law in the course of their collection, use and disclosure of Transaction Personal Information pursuant to this Agreement.
- (b) Each Party agrees that the collection, use and disclosure of Transaction Personal Information is necessary for the purposes of determining if the Parties will proceed with the Transaction and completing the Transaction.
- (c) The Purchaser shall, and shall ensure that its Representatives shall, not use Transaction Personal Information for any purposes other than those related to evaluation of the Transaction and/or the completion of the Transaction.
- (d) If the Transaction proceeds, neither the Purchaser nor any of its Representatives shall, after Closing, without the consent of the individuals to whom such Personal Information relates, or as otherwise permitted or required by Applicable Law, use or disclose Transaction Personal Information for purposes other than those for which such Transaction Personal Information was originally collected prior to Closing.

- (e) In the event of the successful completion of the Transaction, the Purchaser, if and only to the extent required by Applicable Privacy Law that governs the Personal Information of individuals whose Personal Information has become Transaction Personal Information, shall notify such individuals that a business transaction has taken place and that their Personal Information was disclosed by the Vendor to the Purchaser for the purposes of this Agreement.
- (f) If this Agreement is terminated as provided herein, the Purchaser shall promptly destroy all Transaction Personal Information in its possession or in the possession of its Representatives, including all copies, reproductions, summaries or extracts thereof.
- (g) The Purchaser shall use commercially reasonable efforts to protect and safeguard the Transaction Personal Information including to protect the Transaction Personal Information from loss or theft, or unauthorized access disclosure, copying, use, modification, disposal or destruction and promptly advise the Vendor should any such loss, theft or unauthorized activity occur prior to the completion of the Transaction.

## **6.7 Intellectual Property**

Within ten (10) Business Days of entering into this Agreement, the Vendor shall provide the Purchaser with a report of the current status of all applications, filings and proceedings, if any, to protect or preserve the Vendor's interest in the Intellectual Property.

## **6.8 Books and Records**

- (a) From and after the Effective Time, the Purchaser shall provide the Debtors, the Vendor and their respective Representatives with (a) reasonable access to the Books and Records and personnel of the Purchaser reasonably required by the Debtors, the Vendor and their respective Representatives, as applicable, in order to allow for an orderly passing of the Purchased Assets to the Purchaser following Closing in accordance herewith, and (b) copies of any Books and Records that the Vendor or the Debtors are required by Applicable Law to retain in its or their possession.
- (b) From and after the date hereof, the Vendor shall not, and shall cause the Employees, consultants or advisors of any of the Debtors' or Vendor to not, without the prior written consent of the Purchaser, remove any Books and Records from their current location, except to deliver such Books and Records to the Vendor as receiver and manager of the property of the Debtors.

## **6.9 Misdirected Payments**

From and after the Closing, in the event any the Vendor or the Debtors receive any payments on account of any Purchased Asset, or credits or refunds that the Vendor is otherwise entitled to pursuant to this Agreement, the Vendor or the Debtors, as applicable, will promptly notify the Purchaser and remit the same over to the Purchaser within five (5) Business Days of receipt of such payments.

## **6.10 Transition Services Agreement**

At the request of the Purchaser prior to the Closing Date, the Parties shall enter into a transition services agreement, in form and substance satisfactory to the Parties, acting reasonably, to provide for the transition of the Purchased Assets into the Purchaser's overall operations and business and to allow for an orderly passing of the Purchased Assets to the Purchaser following Closing; provided, that the term of such transition services agreement shall end on the date that is thirty (30) days following Closing, unless otherwise agreed to by the Parties in writing.

#### **6.11 Title Certificates for US Leased Vehicles**

As soon as reasonably practicable following the effective transfer or assignment of all right, title and interest in and to each of the US Leased Vehicles to the Purchaser, the Vendor shall deliver or shall cause to be delivered to the Purchaser a Certificate of Title for each such US Leased Vehicle.

### **ARTICLE 7 CONDITIONS OF CLOSING**

#### **7.1 Mutual Conditions**

The respective obligations of the Parties to complete the Transaction are subject to the following conditions being fulfilled or performed at or prior to the Closing Time:

- (a) the Courts have granted the Approval and Vesting Orders, and each shall be a Final Order;
- (b) all necessary waivers, consents and/or approvals of Governmental Authority, if any, for completion of the Transaction has been obtained;
- (c) no Governmental Authority shall have enacted, issued or promulgated any final or non-appealable order or law which has the effect of: (i) making the Transaction contemplated by this Agreement illegal; or (ii) otherwise prohibiting, preventing or restraining the consummation the Transaction; and
- (d) the Closing is not otherwise prohibited by Applicable Law.

The foregoing conditions are for the mutual benefit of the Vendor and the Purchaser and may be asserted by the Vendor or the Purchaser regardless of the circumstances and may be waived only with the written agreement of both the Vendor and the Purchaser.

#### **7.2 Conditions for the Benefit of the Purchaser**

The obligation of the Purchaser to complete the Transaction is subject to the following conditions being fulfilled or performed as at or prior to the Closing Time:

- (a) all representations and warranties of the Vendor contained in this Agreement shall be true and correct in all material respects as at the Closing Time with the same force and effect as if made at and as of such time;
- (b) the Vendor has complied with and performed, in all material respects, all of its covenants and obligations contained in this Agreement that are contemplated to be performed at or prior to the Closing;

- (c) the Vendor shall have executed and delivered or caused to have been executed and delivered to the Purchaser at the Closing all the documents contemplated in Section 8.2 hereof; and
- (d) the US Approval and Vesting Order shall authorize the Vendor to assign to Purchaser, and Purchaser to assume, the Assumed Contracts (other than Unassignable Contracts) pursuant to Section 365 of the US Bankruptcy Code and shall bar counterparties to the Assumed Contracts (other than Unassignable Contracts) from asserting any objection to the assignment to and assumption by Purchaser of the Assumed Contracts from and after the Effective Time.

The foregoing conditions are for the exclusive benefit of the Purchaser and may be waived by it in its sole discretion, in whole or in part, at any time and from time to time without prejudice to any other rights which the Purchaser may have. If any of the said conditions have not been complied with or waived by the Purchaser at or before the Closing Time, the Purchaser may terminate this Agreement by written notice to the Vendor and promptly receive a full refund of the Deposit together with all interest accrued thereon to such date.

### **7.3 Conditions for the Benefit of the Vendor**

The obligation of the Vendor to complete the Transaction is subject to the following conditions being fulfilled or performed as at or prior to the Closing Time:

- (a) all representations and warranties of the Purchaser contained in this Agreement shall be true and correct in all material respects as at the Closing Time with the same force and effect as if made at and as of such time, and the Purchaser shall have delivered to the Vendor a certificate to that effect in form and substance satisfactory to the Parties, acting reasonably;
- (b) the Purchaser has complied with and performed in all material respects all of its covenants and obligations contained in this Agreement; and
- (c) the Purchaser shall have executed and delivered or caused to have been executed and delivered to the Vendor at the Closing all the documents contemplated in Section 8.3 hereof.

The foregoing conditions are for the exclusive benefit of the Vendor and may be waived by it in its sole discretion, in whole or in part, at any time and from time to time without prejudice to any other rights which the Vendor may have. If any of the said conditions have not been complied with or waived by the Vendor at or before the Closing Time, the Vendor may terminate this Agreement by written notice to the Purchaser.

### **7.4 Satisfaction of Conditions**

Each of the Parties shall proceed diligently and in good faith and use all commercially reasonable efforts to fulfil and assist in the fulfillment of the conditions set forth in Sections 7.1, 7.2 and 7.3. In addition, each of the Parties agrees not take any action that could reasonably be expected to preclude, delay or have an adverse effect on the Transaction or would render, or may reasonably be expected to render, any representation or warranty made by it in this Agreement untrue in any material respect.

## **7.5 Co-operation in Filing of Tax Returns**

The Purchaser agrees to provide to the Vendor all commercially reasonable cooperation following the Closing Date in connection with the filing of Tax Returns of the Vendor in respect of which the Books and Records delivered to the Purchaser pursuant to this Agreement are relevant.

## **ARTICLE 8 CLOSING**

### **8.1 Closing Date and Place of Closing**

Subject to the conditions set out in this Agreement, the Transaction shall close and be completed on the Closing Date. The completion of the Transaction shall take place upon the exchange of signatures electronically or otherwise at the Closing Time or at such other time as the Parties may agree in writing.

### **8.2 Deliveries on Closing by the Vendor**

The Vendor shall deliver or cause to be delivered to the Purchaser at the Closing Time:

- (a) a certified copy of the Approval and Vesting Orders;
- (b) the Assignment and Assumption Agreement, duly executed by the Vendor;
- (c) the General Conveyance, duly executed by the Vendor;
- (d) any Specific Conveyances, requested by the Purchaser, acting reasonably, each in form and substance satisfactory to the Parties, acting reasonably, as executed by the Vendor, including without limitation, a Special Warranty Deed with respect to the Owned Real Property duly executed by the Debtor or Vendor to the extent authorized in recordable form by the Vesting Orders;
- (e) the Transition Services Agreement, duly executed by the Vendor, if applicable;
- (f) the Books and Records (including the Personal Employee Information for the Transferred Employees) in the possession of the Vendor (wheresoever located);
- (g) the Receiver's Certificate, duly executed by the Vendor;
- (h) a certificate prepared in accordance with Treasury Regulations Section 1.1445-2(b) certifying that each Debtor that holds an interest in real property located in the US is not a foreign Person within the meaning of Section 1445 of the Code, duly executed by each such Debtor;
- (i) forms of release for the liens and security interests set forth in Schedule 8.2(i), duly executed by the Vendor;
- (j) Personal Employee Information for the Transferred Employees; and
- (k) such further and other documents as is referred to in this Agreement or as the Purchaser may reasonably require to give effect to this Agreement, including any documents required under the Applicable Laws of the State of Texas.

### **8.3 Deliveries on Closing by the Purchaser**

The Purchaser shall deliver to the Vendor at the Closing Time:

- (a) the Closing Payment as contemplated by Sections 3.3(a);
- (b) the Assignment and Assumption Agreement, duly executed by the Purchaser;
- (c) the General Conveyance, duly executed by the Purchaser;
- (d) the Transition Services Agreement, duly executed by the Purchaser, if applicable;
- (e) the certificate of the Purchaser referred to in Section 7.3(a);
- (f) any Specific Conveyances, requested by the Vendor, acting reasonably, each in form and substance satisfactory to the Parties, acting reasonably, duly executed by the Purchaser; and
- (g) such further and other documents as is referred to in this Agreement or as the Vendor may reasonably require to give effect to this Agreement.

### **8.4 Risk and Insurance**

The risk of loss of the Purchased Assets shall remain with the Vendor until the Closing Time. Upon Closing, all title and risk in respect to Purchased Assets shall pass to the Purchaser effective as of the Effective Time. Any property, liability and other insurance maintained by the Vendor shall not be transferred upon Closing but shall remain the responsibility of the Vendor until the Closing Time. The Purchaser shall be responsible for placing its own property, liability and other insurance coverage with respect to the Purchased Assets in respect of the period from and after the Closing Time.

## **ARTICLE 9 INDEMNITY AND HOLDBACK**

### **9.1 Indemnification Given by Purchaser**

If Closing occurs, the Purchaser shall:

- (a) be liable to the Vendor for; and
- (b) as a separate covenant, indemnify the Vendor and its Representatives from and against;

the Assumed Liabilities and all Losses and Liabilities suffered, sustained, paid or incurred by any of them to the extent first arising or accruing on or after the Effective Time and which relate to the Purchased Assets, including all Losses and Liabilities attributable to the ownership, operation, use, construction or maintenance of the Purchased Assets first arising or accruing on or after the Effective Time. The Purchaser's indemnity obligation set forth in this Section 9.1 shall survive the Closing Date for a period of two (2) years following the Closing Date.

### **9.2 Holdback Against Vendor**

- (a) If Closing occurs, the Vendor shall be liable to the Purchaser for, and as a separate covenant, cause the estate of the Debtors to holdback up to an amount equal to \$1,000,000.00 from and against all Losses and Liabilities suffered, sustained, paid or incurred by the Purchaser and which relate to:
  - (i) the Excluded Assets and the Excluded Liabilities, including all Losses and Liabilities attributable to the ownership, operation, use, construction or maintenance of the Excluded Assets; and
  - (ii) any breach by the Vendor of its covenants in Section 6.1 or its agreement in Section 2.1 to sell, assign and transfer the Purchased Assets free and clear of all Encumbrances and Claims (other than Permitted Encumbrances or Assumed Liabilities pursuant to this Agreement).
- (b) The holdback obligation set forth in this Section 9.2 shall survive for a period of ninety days (90) days following the Closing Date.

### 9.3 Limitation on the Estate of the Debtors' Liability

Notwithstanding anything to the contrary contained in this Agreement, the estate of the Debtors' shall not be required to holdback for claims by the Purchaser for aggregate Losses and Liabilities in excess of an amount equal to \$1,000,000.

### 9.4 Third Party Claims

- (a) If either Party (the "**Claiming Party**") receives notice of the commencement or assertion of any Third Party Claim for which the other Party (the "**Responding Party**") may be liable pursuant to this Agreement, the Claiming Party shall give the Responding Party reasonably prompt notice thereof, but in any event no later than ten (10) days after receipt of such notice of such Third Party Claim. Such notice to the Responding Party shall describe the Third Party Claim in reasonable detail and shall indicate, if reasonably practicable, the estimated amount (or the method of computation of the amount) of the Losses and Liabilities that has been or may be sustained by the Claiming Party, and a reference to the provisions of this Agreement upon which such Third Party Claim is based.
- (b) The Responding Party may participate in the defence of any Third Party Claim by giving notice to that effect to the Claiming Party not later than ten (10) days after receiving notice of that Third Party Claim so long as: (i) the Responding Party first acknowledges to the Claiming Party, in writing, that the outcome of such Third Party Claim does not alter or diminish the Responding Party's obligation to indemnify the Claiming Party pursuant to this Agreement, subject to the Responding Party's right to contest in good faith the Third Party Claim; and (ii) the Responding Party participates in the defence of the Third Party Claim actively and diligently. The Responding Party's right to do so shall be subject to the rights of any insurer or other Third Party who has potential liability in respect of that Third-Party Claim. The Responding Party shall pay all of its own expenses of participating in or assuming such defence. The Claiming Party shall cooperate in good faith in the defence of each Third-Party Claim and may participate in such defence assisted by counsel of its own choice at its own expense.

- (c) If the Claiming Party has not received notice within the notice period that the Responding Party has elected to participate in the defence of such Third Party Claim, or if the Responding Party has given such notice but thereafter fails to conduct such defence of such Third Party Claim, the Claiming Party may, at its option, elect to settle or compromise the third Party Claim on terms of its choosing, or assume such defence assisted by counsel of its own choosing, and the Responding Party shall be liable for all reasonable costs and expenses paid or incurred in connection therewith and any Losses and Liabilities suffered or incurred by the Claiming Party with respect to such Third Party Claim.

## **9.5 Exclusive Remedy**

From and after Closing, each of the Parties acknowledges and agrees that, except for actual fraud, its sole and exclusive remedy with respect to any and all Losses and Liabilities pursuant to or in connection with this Agreement, the purchase of the Purchased Assets and the sale of the Purchased Assets by the Vendor or otherwise in connection with the transactions contemplated hereby and the Purchased Assets shall be limited to Section 2.4, Section 3.2, Section 3.5, Section 3.7, Section 6.2, Section 6.3, Section 6.5 and Article 9.

## **9.6 No Merger**

There shall not be any merger of any liability or indemnity hereunder in any assignment, conveyance, transfer or document delivered pursuant hereto notwithstanding any rule of law, equity or statute to the contrary and all such rules are hereby waived.

## **9.7 Indemnification Payments**

All indemnification payments shall constitute adjustments to the Purchase Price for all Tax purposes, shall be applied against or to the Purchased Assets to which such indemnification payment most closely relates and the Vendor and Purchaser shall not take a position inconsistent with such allocation.

# **ARTICLE 10 TERMINATION**

## **10.1 Termination**

This Agreement may be terminated at any time prior to Closing:

- (a) by the mutual written consent of the Parties hereto;
- (b) by the Purchaser upon written notice to the Vendor, if the Vendor breaches any of the material obligations, covenants, representations and warranties under this Agreement, and such breach not having been cured within five (5) Business Days of written notice of such material breach being given by the Purchaser to the Vendor;
- (c) by the Vendor upon written notice to the Purchaser, if the Purchaser breaches any of the material obligations, covenants, representations and warranties under this Agreement, and such breach not having been cured within five (5) Business Days

of written notice of such material breach being given by the Vendor to the Purchaser;

- (d) by the Purchaser upon written notice to the Vendor if the conditions for the benefit of the Purchaser pursuant to the provisions of Section 7.2 are not satisfied or waived by or on the Closing Date;
- (e) by the Vendor upon written notice to the Purchaser if the conditions for the benefit of the Vendor pursuant to the provisions of Section 7.3 are not satisfied or waived by or on the Closing Date; and
- (f) by either the Vendor or Purchaser upon written notice if Closing does not occur on or before September 15, 2020 (the "**Outside Date**"),

provided that a Party shall not be permitted to exercise of purport to exercise any right of termination pursuant to this Section 10.1 if the event or circumstances giving rise to that right is due to a breach of this Agreement by that Party.

## **10.2 Effect of Termination**

Notwithstanding any termination of this Agreement by the Vendor or the Purchaser as permitted under Section 10.1, the provisions of Sections 1.1, 1.2, 3.2, 5.4, 6.4, 6.6, 9.1, 9.2(a), 9.6, 10.1, 10.2, 11.1, 11.4, 11.5, 11.11, 11.14, 11.15 and 11.16 shall remain in full force and effect following any such permitted termination of this Agreement.

## **ARTICLE 11 MISCELLANEOUS**

### **11.1 Public Announcements**

- (a) Subject to Section 11.1(b) and 11.1(c), if a Party intends to issue a press release or other public disclosure of this Agreement, the terms hereof or the Transaction, the disclosing Party shall provide the other Party with an advance copy of any such press release or public disclosure with sufficient time to enable the other Party to review such press release or other public disclosure and provide any comments. The disclosing Party shall not issue such press release or other public disclosure without the prior written consent of the other Party, such consent not to be unreasonably withheld, delayed or conditioned.
- (b) Notwithstanding Section 11.1(a), this Agreement may be filed by the Vendor with the Alberta Court and/or the US Court and the Transaction may be disclosed by the Vendor to the Alberta Court and/or the US Court, subject to redacting confidential/sensitive information or sealing (as mutually determined by the Purchaser and the Vendor acting reasonably) as permitted by Applicable Law and rules. The Parties further agree that:
  - (i) the Vendor may prepare and file reports and other documents with the Alberta Court and/or the US Court, as applicable, containing references to the Transaction and the terms of such Transaction; and

- (ii) the Vendor and its Representatives may prepare and file such reports and other documents with the Alberta Court and/or the US Court containing references to the Transaction contemplated by this Agreement and the terms of such Transaction as may reasonably be necessary to obtain the Court Approvals and to complete the Transaction contemplated by this Agreement or to comply with their obligations to the Alberta Court and the US Court.
- (c) Notwithstanding Section 11.1(a), where public disclosure of this Agreement, the terms hereof or the Transaction is, in the opinion of such Party, required by Applicable Law or a Governmental Authority, except where compliance with Applicable Laws or stock exchange rules would not permit the Party required to make the disclosure to do so, the Party required to make the disclosure shall:
  - (i) use commercially reasonable efforts to provide the other Parties with a draft of any such proposed public, announcement or press release at least twenty-four (24) hours prior to the proposed release thereof; and
  - (ii) to the extent reasonably possible, incorporate any reasonable amendments to the proposed public announcement or press release that one or more of the other Parties request sufficiently prior to the release thereof in order for the Party making such public announcement or press release to review and evaluate such proposed amendments.

## **11.2 Specific Conveyances**

No Specific Conveyance shall confer or impose upon a Party any greater right or obligation than contemplated in this Agreement. The Purchaser may prepare Specific Conveyances which it reasonably wishes to have executed and shall provide same to the Vendor for its review and execution in a timely fashion prior to the Closing Time. The Purchaser shall, as applicable, register and/or distribute all Specific Conveyances and all costs and fees, including making all deposits and providing all assurances and security of every nature and kind required in connection with the distribution and registration of the Specific Conveyances and the conveyance, transfer and assignment of the Purchased Assets to the Purchaser and the recognition of the Purchaser as the holder thereof shall be for the account of the Purchaser.

## **11.3 Obligations to Survive**

With the exception of the representations and warranties of the Parties contained in Section 5.1 and 5.2 (which shall not survive the Closing of the purchase and sale of the Purchased Assets pursuant to this Agreement and shall expire and be terminated and extinguished upon Closing), notwithstanding the Closing contemplated hereunder or the delivery of documents pursuant to this Agreement, the obligations, covenants, representations and warranties of the Parties set out in this Agreement shall survive Closing, shall remain in full force and effect, shall not merge as a result of Closing and shall be binding on the Parties thereafter.

## **11.4 Governing Law**

- (a) This Agreement shall be governed by and construed in accordance with the laws of the Province of Alberta, and the federal laws of Canada applicable therein (excluding any conflict of law rule or principle of such laws that might refer such

interpretation or enforcement to the laws of another jurisdiction). Each Party irrevocably submits to the exclusive jurisdiction of the Alberta Court with respect to the resolution of any dispute arising from this Agreement.

- (b) Notwithstanding Section 11.4(a), any and all documents or orders that may be filed, made or entered in the Receivership Proceedings or Chapter 15 Proceedings, and the rights and obligations of the Parties thereunder, including all matters of construction, validity and performance thereunder, shall in all respects be governed by, and interpreted, construed and determined in accordance with the laws of the Province of Alberta or the US Bankruptcy Code, as applicable, without regard to the conflicts of law principles thereof. The Parties consent to the jurisdiction and venue of the Alberta Court or the US Court, as applicable, for the resolution of any such disputes, regardless of whether such disputes arose under this Agreement. Each Party agrees that service of process on such Party as provided in Section 11.12 shall be deemed effective service of process on such Party.

### **11.5 Consequential Damages**

Under no circumstance shall any of the Parties, their Representatives or their respective directors, officers, employees or agents be liable for any punitive, exemplary, consequential, incidental or indirect damages (including for greater certainty, any loss of profits) (collectively, "**Consequential Damages**") that may be alleged to result, in connection with, arising out of, or relating to this Agreement or the Transaction.

### **11.6 Further Assurances**

Each of the Parties hereto from and after the date hereof shall, from time to time, and at the request and expense of the Party requesting the same, do all such further acts and things and execute and deliver such further instruments, documents, matters, papers and assurances as may be reasonably requested to complete the Transaction and for more effectually carrying out the true intent and meaning of this Agreement.

### **11.7 No Assignment by Purchaser**

The Purchaser shall not, without the Vendor's prior written consent, assign any right or interest in this Agreement, which consent may be withheld in the Vendor's sole and absolute discretion, except that the Purchaser shall have the right to assign any or all of its rights, interests or obligations hereunder to one or more Affiliates of the Purchaser, provided that such Affiliate agrees to be bound by the terms of this Agreement and provided that the Purchaser shall remain liable hereunder for any breach of the terms of this Agreement by such Affiliate. The Vendor shall not assign any right or interest in this Agreement.

### **11.8 Waiver**

No failure on the part of any Party in exercising any right or remedy hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any such right or remedy preclude any other or further exercise thereof or the exercise of any right or remedy in law or in equity or by statute or otherwise conferred. No waiver by any Party of any breach (whether actual or anticipated) of any of the terms, conditions, representations or warranties contained herein shall take effect or be binding upon that Party unless the waiver is expressed in writing under the

authority of that Party. Any waiver so given shall extend only to the particular breach so waived and shall not limit or affect any rights with respect to any other or future breach.

### **11.9 Amendment**

This Agreement shall not be varied in its terms or amended by oral agreement or by representations or otherwise other than by an instrument in writing dated subsequent to the date hereof, executed by a duly authorized representative of each Party.

### **11.10 Time of the Essence**

Time is of the essence in this Agreement.

### **11.11 Costs and Expenses**

Each Party shall be responsible for all costs and expenses (including the fees and disbursements of legal counsel, bankers, investment bankers, accountants, brokers and other advisors) incurred by it in connection with this Agreement and the Transaction.

### **11.12 Notices**

Any notice, demand or other communication required or permitted to be given to any Party shall be given in writing and addressed as follows:

- (a) in the case of the Vendor:

Ernst & Young Inc.  
Calgary City Centre  
2200, 215 — 2nd Street S.W.  
Calgary, AB Canada T2P 1M4

Attention: Peter Chisholm, Partner and Senior Vice President  
Email: peter.chisholm@ca.ey.com

- (b) with a copy to:

Blake, Cassels & Graydon LLP  
Suite 3500, 855 – 2nd Street SW  
Calgary, AB T2P 4J8

Attention: Kelly J. Bourassa / Garrett Morin  
Email: kelly.bourassa@blakes.com / garrett.morin@blakes.com

- (c) In the case of the Purchaser:

Stage 3 Separation, LLC  
2000 Silber Road  
Houston, TX 77055

Attention: Frederick R. Lausen, Jr.  
Email: fred@s3s.com

(d) And with a further copy to the Purchaser's Solicitors:

King & Spalding LLP  
1100 Louisiana Street  
Suite 4000  
Houston, TX 77002

Attention: Carol M. Burke  
Email: cburke@kslaw.com

A notice is deemed to be given and received if: (i) sent by personal delivery or courier, on the date of delivery if it is a Business Day and the delivery was made prior to 5:00 p.m. (prevailing local time in place of receipt) and otherwise on the next Business Day; or (ii) sent by email, on the date of transmission if it is a Business Day and the transmission was made prior to 5:00 p.m. (prevailing local time in place of receipt), and otherwise on the next Business Day. A Party may change its address for service from time to time by providing a notice in accordance with the foregoing. Any subsequent notice must be sent to the Party at its changed address. Any element of a Party's address that is not specifically changed in a notice will be assumed not to be changed. Sending a copy of a notice to a Party's legal counsel as contemplated above is for information purposes only and does not constitute delivery of the notice to that Party. The failure to send a copy of a notice to legal counsel does not invalidate delivery of that notice to a Party.

#### **11.13 Enurement**

This Agreement shall be binding upon, and enure to the benefit of, the Parties and their respective successors and permitted assigns.

#### **11.14 Third Party Beneficiaries**

Except as otherwise provided for in Section 2.3 each Party intends that this Agreement shall not benefit or create any right or cause of action in or on behalf of any Person other than the Parties and their successors and permitted assigns.

#### **11.15 Severability**

If any provision of this Agreement or any document delivered in connection with this Agreement is partially or completely invalid or unenforceable, the invalidity or unenforceability of that provision shall not affect the validity or enforceability of any other provision of this Agreement, all of which shall be construed and enforced as if that invalid or unenforceable provision were omitted. The invalidity or unenforceability of any provision in one jurisdiction shall not affect such provision validity or enforceability in any other jurisdiction.

#### **11.16 Entire Agreement**

This Agreement and the documents contemplated in Section 8.2 and Section 8.3 hereof constitute the entire agreement between the Parties with respect to the subject matter hereof and supersede all prior agreements, understandings, negotiations and discussions, whether oral or written, between the Parties with respect to the subject matter hereof. There are no conditions, covenants, agreements, representations, warranties or other provisions, whether oral or written, express or implied, collateral, statutory or otherwise, relating to the subject matter hereof other than those contained in this Agreement and the documents contemplated in Section 8.2 and Section 8.3

hereof. In the event of a conflict between this Agreement and any of the documents contemplated in Section 8.2 and Section 8.3 hereof, the terms of this Agreement shall prevail.

#### **11.17 Counterparts**

This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original and all of which shall constitute one and the same agreement. Transmission by facsimile or other electronic means (such as an email exchange of .pdf, .tif or similar files) of an executed counterpart of this Agreement shall be deemed to constitute due and sufficient delivery of such counterpart.

**[Remainder of page left blank intentionally. Signature page follows.]**

IN WITNESS WHEREOF this Agreement has been properly executed by the Parties as of the date first above written.

ERNST & YOUNG INC., IN ITS CAPACITY AS COURT APPOINTED RECEIVER AND MANAGER OF THE ASSETS, PROPERTIES AND UNDERTAKINGS OF BOS SOLUTIONS LTD., BOS SOLUTIONS INC., BOS LEASECO LLC, BOS SOLUTIONS REAL ESTATE INC. and BOS USHOLDCO INC. AND NOT IN ITS INDIVIDUAL OR CORPORATE CAPACITY

Per:



Name: *Peter Christman*

Title: *Senior Vice President*

STAGE 3 SEPARATION, LLC

Per:



Frederick R. Lausen, Jr.,  
President and Chief Executive Officer

**DISCLOSURE SCHEDULES**

**TO THE**

**ASSET PURCHASE AND SALE AGREEMENT**

**Executed as of August 10, 2020,**

**By and Among**

**ERNST & YOUNG INC.,**

**IN ITS CAPACITY AS COURT APPOINTED RECEIVER AND MANAGER OF THE  
ASSETS, PROPERTIES AND UNDERTAKINGS OF BOS SOLUTIONS LTD., BOS  
SOLUTIONS INC., BOS LEASECO LLC, BOS SOLUTIONS REAL ESTATE INC. and  
BOS USHOLDCO INC. AND NOT IN ITS INDIVIDUAL OR CORPORATE CAPACITY**

**and**

**STAGE 3 SEPARATION, LLC**

**Schedule 1.1(k)**

**Assumed Contracts**

**1. Environmental Solutions Division Customer Contracts:**

- a. All ES Contracts listed in Datasite Folder 3.3 (and its corresponding subfolders) as of Saturday, August 1, 2020.
- b. Order Sheet Environmental Solutions between Brintel and BOS Environmental Solutions, Order No. AP-BRIN01-001-OS, dated 2/1/2020, as more specifically set forth at Datasite Item 3.7.4 as of Saturday, August 1, 2020.
- c. Order Sheet Environmental Solutions between Brintel and BOS Environmental Solutions, Order No. AP-BRIN01-002-OS, dated 2/1/2020, as more specifically set forth at Datasite Item 3.7.5 as of Saturday, August 1, 2020.

**2. Oil & Gas Customer MSAs and Call Sheets:**

- a. All O&G Contracts, MSAs, and Call Sheets listed in Datasite Folder 3.2 (and its corresponding subfolders) as of Saturday, August 1, 2020.

3. Chesapeake Tunnel (in Datasite Folder 3.3.1.1).

4. Malcolm/Clearwater (in Datasite Folder 3.3.1.2).

5. Granite/Navy (in Datasite Folder 3.3.1.3).

6. Nahanni/Kitimat (in Datasite Folder 3.3.2.8).

7. Project Labor Agreement (at Datasite Item 2.2.6) applicable to the Joint Water Pollution Control Plant Effluent Outfall Tunnel Project in Los Angeles (and any of the applicable Master Labor Agreements thereunder) (at Datasite Items 3.3.1.2.5 and 3.3.1.2.8).

8. Employment Agreement between BOS Solutions Inc. and Rick L. Garland, dated May 31, 2013.

- a. Amendment to Executive Agreement between BOS Solutions Inc. and Rick L. Garland, dated March 7, 2017.
- b. Amendment to Executive Agreement between BOS Solutions Inc. and Rick L. Garland, dated June 26, 2017.
- c. Amendment to Executive Agreement between BOS Solutions Inc. and Rick L. Garland, dated September 21, 2017.
- d. Amendment to Executive Agreement between BOS Solutions Inc. and Rick L. Garland, dated May 1, 2018.
- e. Amendment to Executive Agreement between BOS Solutions Inc. and Rick L. Garland, dated March 9, 2019.
- f. Temporary Amendment to Executive Agreement between BOS Solutions Inc. and Rick L. Garland, dated April 1, 2020.

**9. Vehicle Lease Agreements:**

- a. Diversified Services Agreement No 5524 by and between Element Fleet Management Inc. and BOS Solutions Ltd. dated January 21, 2016.
  - b. Motor Vehicle Open-End Lease Agreement No 5524 by and between Element Fleet Management Inc. and BOS Solutions Ltd. dated January 21, 2016, as modified by that certain Fixed Rate Supplement dated January 21, 2016.
  - c. Vehicle Lease Agreement, by and between Emkay Canada Leasing Corp. and BOS Solutions Ltd. dated as of March 4, 2014.
10. **All Assumed Contracts that comprise Assumed Liabilities, as incorporated by reference Schedule 2.3.**

**Schedule 1.1(nn)****Equipment, Capital Spares, and Delivery Locations****Equipment:**

All the Equipment set forth in Datasite Folder Item 5.1.6 as of Saturday, August 1, 2020, including but not limited to the vehicles listed below:

District Name	Last confirmed physical location	Asset Status	Asset ID	Asset description	Asset Class ID	Original in service date
BOS Inc	Houston	AVAILABLE	USA-756	2018 CHEVROLET SILVERADO 2500 4WD, VIN: 1GCUYDE08KZ105312	VEHICLES	4/1/2019
BOS Inc	Midland Yard	AVAILABLE	PA LOADER-22	LOADERS-TXANDLAND	LOADERS	7/1/2014
BOS Inc	Midland Yard	AVAILABLE	USA-323	2013 CHEVROLET SILVERADO 1500 4WD, VIN: 3GCPKSE73CG135790	VEHICLES	12/1/2011
BOS Inc	Midland Yard	AVAILABLE	USA-328	2012 GMC SIERRA 2500HD SLE, VIN: 1GT22003XGZ123615	VEHICLES	2/1/2012
BOS Inc	Midland Yard	AVAILABLE	USA-590	2013 CHEVROLET SILVERADO 2500, VIN: 1GCUYVC04NDZ35358	VEHICLES	4/1/2014
BOS Inc	Midland Yard	AVAILABLE	USA-599	2015 CHEVROLET SILVERADO 2500 4WD, VIN: 1GCUYUE06FZ101421	VEHICLES	9/1/2014
BOS Inc	Midland Yard	AVAILABLE	USA-610	2014 CHEVROLET SILVERADO 1500, VIN: 3GCUKRE04E0518411	VEHICLES	9/1/2014
BOS Inc	Midland Yard	AVAILABLE	USA-612	2014 GMC SIERRA 1500 4WD CREW CAB, VIN: 3GTL2VNE053413088	VEHICLES	9/1/2014
BOS Inc	Midland Yard	AVAILABLE	USA-619	2015 CHEVROLET SILVERADO 2500 HD, VIN: 1GCUYVE04FZ104718	VEHICLES	8/1/2014
BOS Inc	Midland Yard	AVAILABLE	USA-625	2016 CHEVROLET SILVERADO 2500 4WD, VIN: 1GCUYUE06FZ122124	VEHICLES	9/1/2014
BOS Inc	Midland Yard	AVAILABLE	USA-635	2014 GMC SIERRA 1500 4WD CREW CAB, VIN: 3GTU2UE06G0437731	VEHICLES	9/1/2014
BOS Inc	Midland Yard	AVAILABLE	USA-631	2015 CHEVROLET SILVERADO 2500 CREW, VIN: 1GCUYUE06FZ101421	VEHICLES	9/1/2014
BOS Inc	Midland Yard	AVAILABLE	USA-633	2013 CHEVROLET SILVERADO 2500 EXT, VIN: 1GCUYVCG1DZ381233	VEHICLES	5/1/2013
BOS Inc	Midland Yard	AVAILABLE	USA-638	2015 GMC SIERRA 2500HD, VIN: 1GT22YEG0FZ133255	VEHICLES	9/1/2014
BOS Inc	Midland Yard	AVAILABLE	USA-639	2015 GMC SIERRA 2500HD, VIN: 1GT22YEG0FZ133252	VEHICLES	9/1/2014
BOS Inc	Midland Yard	AVAILABLE	USA-640	2015 GMC SIERRA 2500HD, VIN: 1GT22YEG0FZ133585	VEHICLES	9/1/2014
BOS Inc	Midland Yard	AVAILABLE	USA-641	2015 GMC SIERRA 2500HD, VIN: 1GT22YEG0FZ133388	VEHICLES	9/1/2014
BOS Inc	Midland Yard	AVAILABLE	USA-653	2013 CHEVROLET SILVERADO 2500 EXT, VIN: 1GCUYVCG1DZ381709	VEHICLES	9/1/2014
BOS Inc	Midland Yard	AVAILABLE	USA-653	2013 CHEVROLET SILVERADO 2500 EXT, VIN: 1GCUYVCG1DZ381707	VEHICLES	9/1/2014
BOS Inc	Midland Yard	AVAILABLE	USA-654	2016 CHEVROLET SILVERADO 2500 HD, VIN: 1GCUYUE06FZ134467	VEHICLES	9/1/2014
BOS Inc	Midland Yard	AVAILABLE	USA-660	2015 GMC SIERRA 2500 4WD, VIN: 1GT22YEG0FZ1331555	VEHICLES	11/1/2014
BOS Inc	Midland Yard	AVAILABLE	USA-662	2015 GMC SIERRA 2500 4WD, VIN: 1GT22YEG0FZ133117	VEHICLES	11/1/2014
BOS Inc	Midland Yard	AVAILABLE	USA-667	2015 GMC SIERRA 2500 4WD, VIN: 1GT22YEG0FZ1331110	VEHICLES	11/1/2014
BOS Inc	Midland Yard	AVAILABLE	USA-668	2015 GMC SIERRA 2500 4WD, VIN: 1GT22YEG0FZ1331623	VEHICLES	11/1/2014
BOS Inc	Midland Yard	AVAILABLE	USA-670	2015 GMC SIERRA 2500 4WD, VIN: 1GT22YEG0FZ1331242	VEHICLES	11/1/2014
BOS Inc	Midland Yard	AVAILABLE	USA-673	2015 GMC SIERRA 2500 4WD, VIN: 1GT22YEG0FZ1330983	VEHICLES	11/1/2014
BOS Inc	Midland Yard	AVAILABLE	USA-674	2015 GMC SIERRA 2500 4WD, VIN: 1GT22YEG0FZ1331153	VEHICLES	11/1/2014
BOS Inc	Midland Yard	AVAILABLE	USA-675	2015 GMC SIERRA 2500 4WD, VIN: 1GT22YEG0FZ1331755	VEHICLES	11/1/2014
BOS Inc	Midland Yard	AVAILABLE	USA-676	2015 GMC SIERRA 2500 4WD, VIN: 1GT22YEG0FZ1331405	VEHICLES	11/1/2014
BOS Inc	Midland Yard	AVAILABLE	USA-677	2015 GMC SIERRA 2500 4WD, VIN: 1GT22YEG0FZ1331545	VEHICLES	11/1/2014
BOS Inc	Midland Yard	AVAILABLE	USA-679	2015 GMC SIERRA 2500 4WD, VIN: 1GT22YEG0FZ1331825	VEHICLES	11/1/2014
BOS Inc	Midland Yard	AVAILABLE	USA-680	2015 GMC SIERRA 2500 4WD, VIN: 1GT22YEG0FZ1331745	VEHICLES	11/1/2014
BOS Inc	Midland Yard	AVAILABLE	USA-681	2015 GMC SIERRA 2500 4WD, VIN: 1GT22YEG0FZ1331923	VEHICLES	11/1/2014
BOS Inc	Midland Yard	AVAILABLE	USA-684	2015 GMC SIERRA 2500 4WD, VIN: 1GT22YEG0FZ1331255	VEHICLES	11/1/2014
BOS Inc	Midland Yard	AVAILABLE	USA-685	2017 CHEVROLET SILVERADO 2500 4WD, VIN: 1GCUYUE06G0437731	VEHICLES	3/1/2017
BOS Inc	Midland Yard	AVAILABLE	USA-686	2017 CHEVROLET SILVERADO 2500 4WD, VIN: 1GCUYUE06G0437731	VEHICLES	3/1/2017
BOS Inc	Midland Yard	AVAILABLE	USA-687	2017 CHEVROLET SILVERADO 2500 4WD, VIN: 1GCUYUE06G0437731	VEHICLES	3/1/2017
BOS Inc	Midland Yard	AVAILABLE	USA-688	2017 CHEVROLET SILVERADO 2500 4WD, VIN: 1GCUYUE06G0437731	VEHICLES	3/1/2017
BOS Inc	Midland Yard	AVAILABLE	USA-689	2017 CHEVROLET SILVERADO 2500 4WD, VIN: 1GCUYUE06G0437731	VEHICLES	3/1/2017
BOS Inc	Midland Yard	AVAILABLE	USA-690	2017 CHEVROLET SILVERADO 2500 4WD, VIN: 1GCUYUE06G0437731	VEHICLES	3/1/2017
BOS Inc	Midland Yard	AVAILABLE	USA-691	2017 CHEVROLET SILVERADO 2500 4WD, VIN: 1GCUYUE06G0437731	VEHICLES	3/1/2017
BOS Inc	Midland Yard	AVAILABLE	USA-692	2017 GMC SIERRA 2500 4WD, VIN: 1GT22YEG0FZ1331655	VEHICLES	3/1/2017
BOS Inc	Midland Yard	AVAILABLE	USA-696	2017 CHEVROLET SILVERADO 2500 4WD, VIN: 1GCUYUE06G0437731	VEHICLES	3/1/2017
BOS Inc	Midland Yard	AVAILABLE	USA-697	2017 CHEVROLET SILVERADO 2500 4WD, VIN: 1GCUYUE06G0437731	VEHICLES	3/1/2017
BOS Inc	Midland Yard	AVAILABLE	USA-701	2017 GMC SIERRA 2500HD 4WD DEL, VIN: 1GT22YEG0FZ1331235	VEHICLES	5/1/2017
BOS Inc	Midland Yard	AVAILABLE	USA-702	2017 CHEVROLET SILVERADO 2500 4WD, VIN: 1GCUYUE06G0437731	VEHICLES	5/1/2017
BOS Inc	Midland Yard	AVAILABLE	USA-703	2017 GMC SIERRA 2500HD 4WD DEL, VIN: 1GT22YEG0FZ1331314	VEHICLES	5/1/2017
BOS Inc	Midland Yard	AVAILABLE	USA-704	2017 GMC SIERRA 2500HD 4WD DEL, VIN: 1GT22YEG0FZ1331313	VEHICLES	5/1/2017
BOS Inc	Midland Yard	AVAILABLE	USA-715	2017 CHEVROLET SILVERADO 2500 4WD, VIN: 1GCUYUE06G0437731	VEHICLES	6/30/2017
BOS Inc	Midland Yard	AVAILABLE	USA-716	2017 CHEVROLET SILVERADO 2500 4WD, VIN: 1GCUYUE06G0437731	VEHICLES	6/30/2017
BOS Inc	Midland Yard	AVAILABLE	USA-717	2017 CHEVROLET SILVERADO 2500 4WD, VIN: 1GCUYUE06G0437731	VEHICLES	6/30/2017
BOS Inc	Midland Yard	AVAILABLE	USA-718	2017 CHEVROLET SILVERADO 2500 4WD, VIN: 1GCUYUE06G0437731	VEHICLES	6/30/2017

BOB Inc	Midland Yard	AVAILABLE	USA-719	2017 CHEVROLET SILVERADO 2500 4WD, VIN: 1GCKUEG3H42386549	VEHICLES	8/30/2017
BOB Inc	Midland Yard	AVAILABLE	USA-720	2017 CHEVROLET SILVERADO 2500 4WD, VIN: 1GCKUEG3H42386565	VEHICLES	8/30/2017
BOB Inc	Midland Yard	AVAILABLE	USA-721	2017 CHEVROLET SILVERADO 2500 4WD, VIN: 1GCKUEG3H42386585	VEHICLES	8/30/2017
BOB Inc	Midland Yard	AVAILABLE	USA-722	2017 CHEVROLET SILVERADO 2500 4WD, VIN: 1GCKUEG3H42386721	VEHICLES	8/30/2017
BOB Inc	Midland Yard	AVAILABLE	USA-733	2017 CHEVROLET SILVERADO 2500 EXT, VIN: 1GCKUEG3H42386749	VEHICLES	9/30/2017
BOB Inc	Midland Yard	AVAILABLE	USA-734	2017 CHEVROLET SILVERADO 2500 EXT, VIN: 1GCKUEG3H42386834	VEHICLES	9/30/2017
BOB Inc	Midland Yard	AVAILABLE	USA-735	2017 GMC SIERRA 2500HD 4WD DBL, VIN: 1GT22PE38H237927	VEHICLES	9/30/2017
BOB Inc	Midland Yard	AVAILABLE	USA-736	2017 GMC SIERRA 2500 4WD, VIN: 1GT22FEGH4238015	VEHICLES	9/30/2017
BOB Inc	Midland Yard	AVAILABLE	USA-737	2017 CHEVROLET SILVERADO 2500 4WD, VIN: 1GCKUEG3H42381921	VEHICLES	9/30/2017
BOB Inc	Midland Yard	AVAILABLE	USA-738	2017 CHEVROLET SILVERADO 2500 EXT, VIN: 1GCKUEG3H42382552	VEHICLES	9/30/2017
BOB Inc	Midland Yard	AVAILABLE	USA-739	2017 CHEVROLET SILVERADO 2500 EXT, VIN: 1GCKUEG3H42385415	VEHICLES	9/30/2017
BOB Inc	Midland Yard	AVAILABLE	USA-740	2017 CHEVROLET SILVERADO 2500 EXT, VIN: 1GCKUEG3H42385857	VEHICLES	9/30/2017
BOB Inc	Midland Yard	AVAILABLE	USA-741	2017 CHEVROLET SILVERADO 2500 4WD, VIN: 1GCKUEG3H42388358	VEHICLES	9/30/2017
BOB Inc	Midland Yard	AVAILABLE	USA-742	2017 CHEVROLET SILVERADO 2500 4WD, VIN: 1GCKUEG3H42385529	VEHICLES	9/30/2017
BOB Inc	Midland Yard	AVAILABLE	USA-752	2018 CHEVROLET SILVERADO 2500 4WD, VIN: 1GCKUEG3H42150157	VEHICLES	12/31/2017
BOB Inc	Midland Yard	AVAILABLE	USA-754	2018 CHEVROLET SILVERADO 2500 4WD, VIN: 1GCKUEG3H42150621	VEHICLES	12/31/2017
BOB Inc	ND SHOP	AVAILABLE	USA-162	2011 GMC SIERRA 2500 4WD, VIN: 1GT22C03762328471	VEHICLES	5/1/2011
BOB Inc	ND SHOP	AVAILABLE	USA-235	2011 GMC SIERRA 2500HD SLE, VIN: 1GT22C03482412223	VEHICLES	10/1/2011
BOB Inc	ND SHOP	AVAILABLE	USA-235	2011 GMC SIERRA 2500HD SLE, VIN: 1GT22C03482413133	VEHICLES	10/1/2011
BOB Inc	ND SHOP	AVAILABLE	USA-274	2011 GMC SIERRA 2500HD SLE, VIN: 1GT22C03682424883	VEHICLES	10/1/2011
BOB Inc	ND SHOP	AVAILABLE	USA-325	2012 GMC SIERRA 2500HD SLE, VIN: 1GT22C036C2125932	VEHICLES	2/1/2012
BOB Inc	ND SHOP	AVAILABLE	USA-335	2012 GMC SIERRA 2500HD SLE, VIN: 1GT22C036C2124593	VEHICLES	2/1/2012
BOB Inc	ND SHOP	AVAILABLE	USA-337	2012 GMC SIERRA 2500HD SLE, VIN: 1GT22C036C2124043	VEHICLES	2/1/2012
BOB Inc	ND SHOP	AVAILABLE	USA-338	2012 GMC SIERRA 2500HD SLE, VIN: 1GT22C036C2117155	VEHICLES	2/1/2012
BOB Inc	ND SHOP	AVAILABLE	USA-345	2012 GMC SIERRA 2500HD SLE, VIN: 1GT22C036C2121188	VEHICLES	2/1/2012
BOB Inc	ND SHOP	AVAILABLE	USA-375	2012 GMC SIERRA 2500HD SLE, VIN: 1GT22C036C2325472	VEHICLES	8/1/2012
BOB Inc	ND SHOP	AVAILABLE	USA-376	2012 GMC SIERRA 2500HD SLE, VIN: 1GT22C036C2318791	VEHICLES	8/1/2012
BOB Inc	ND SHOP	AVAILABLE	USA-377	2012 GMC SIERRA 2500HD SLE, VIN: 1GT22C036C2323488	VEHICLES	8/1/2012
BOB Inc	ND SHOP	AVAILABLE	USA-379	2012 GMC SIERRA 2500HD SLE, VIN: 1GT22C036C2323865	VEHICLES	8/1/2012
BOB Inc	ND SHOP	AVAILABLE	USA-383	2013 GMC SIERRA 2500HD SLE, VIN: 1GT22C036C2123952	VEHICLES	10/1/2012
BOB Inc	ND SHOP	AVAILABLE	USA-382	2013 GMC SIERRA 2500HD SLE, VIN: 1GT22C036C2123983	VEHICLES	10/1/2012
BOB Inc	ND SHOP	AVAILABLE	USA-443	2013 GMC SIERRA 2500HD SLE, VIN: 1GT22C036C2361917	VEHICLES	5/1/2013
BOB Inc	ND SHOP	AVAILABLE	USA-456	2013 GMC SIERRA 2500HD SLE, VIN: 1GT22C036C2363915	VEHICLES	5/1/2013
BOB Inc	ND SHOP	AVAILABLE	USA-460	2013 GMC SIERRA 2500HD SLE, VIN: 1GT22C036C2365983	VEHICLES	5/1/2013
BOB Inc	ND SHOP	AVAILABLE	USA-463	2013 GMC SIERRA 2500HD SLE, VIN: 1GT22C036C2367415	VEHICLES	5/1/2013
BOB Inc	ND SHOP	AVAILABLE	USA-470	2013 CHEVROLET SILVERADO 2500 EXT, VIN: 1GCKUEG3H42382556	VEHICLES	5/1/2013
BOB Inc	ND SHOP	AVAILABLE	USA-475	2013 GMC SIERRA 2500HD SLE, VIN: 1GT22C036C2367533	VEHICLES	5/1/2013
BOB Inc	ND SHOP	AVAILABLE	USA-485	2013 GMC SIERRA 2500HD SLE, VIN: 1GT22C036C2411749	VEHICLES	5/1/2013
BOB Inc	ND SHOP	AVAILABLE	USA-490	2013 GMC SIERRA 2500HD SLE, VIN: 1GT22C036C2405049	VEHICLES	5/1/2013
BOB Inc	ND SHOP	AVAILABLE	USA-491	2013 GMC SIERRA 2500HD SLE, VIN: 1GT22C036C2412869	VEHICLES	5/1/2013
BOB Inc	ND SHOP	AVAILABLE	USA-493	2013 GMC SIERRA 2500HD SLE, VIN: 1GT22C036C2412644	VEHICLES	5/1/2013
BOB Inc	ND SHOP	AVAILABLE	USA-501	2013 GMC SIERRA 1500 4WD CREW CAB, VIN: 3GTP2NE78D6321051	VEHICLES	10/1/2013
BOB Inc	ND SHOP	AVAILABLE	USA-555	2014 GMC SIERRA 1500 4WD CREW CAB, VIN: 3GTP2NE78D63212754	VEHICLES	10/1/2013
BOB Inc	ND SHOP	AVAILABLE	USA-560	2013 CHEVROLET SILVERADO 2500 HD 4WD, VIN: 1GCKUEG3H42386403	VEHICLES	1/1/2014
BOB Inc	ND SHOP	AVAILABLE	USA-561	2013 CHEVROLET SILVERADO 2500 HD, VIN: 1GCKUEG3H42386504	VEHICLES	1/1/2014
BOB Inc	ND SHOP	AVAILABLE	USA-562	2013 CHEVROLET SILVERADO 2500 HD 4WD, VIN: 1GCKUEG3H42386344	VEHICLES	1/1/2014
BOB Inc	ND SHOP	AVAILABLE	USA-564	2013 CHEVROLET SILVERADO 2500 HD 4WD, VIN: 1GCKUEG3H42385275	VEHICLES	1/1/2014
BOB Inc	ND SHOP	AVAILABLE	USA-566	2013 CHEVROLET SILVERADO 2500 HD 4WD, VIN: 1GCKUEG3H42387715	VEHICLES	2/1/2014
BOB Inc	ND SHOP	AVAILABLE	USA-568	2013 CHEVROLET SILVERADO 2500 HD 4WD, VIN: 1GCKUEG3H42383726	VEHICLES	2/1/2014
BOB Inc	ND SHOP	AVAILABLE	USA-591	2013 CHEVROLET SILVERADO 2500, VIN: 1GCKUEG3H42386513	VEHICLES	4/1/2014

BOS Inc	NO SHOP	AVAILABLE	USA-682	2013 CHEVROLET SILVERADO 2500, VIN: 1G02KVC6323408813	VEHICLES	4/1/2014
BOS Inc	NO SHOP	AVAILABLE	USA-684	2013 CHEVROLET SILVERADO 2500, VIN: 1G02KVC632340653	VEHICLES	4/1/2014
BOS Inc	NO SHOP	AVAILABLE	USA-636	2015 GMC SIERRA 2500HD, VIN: 1G1T2VE61F2129182	VEHICLES	9/1/2014
BOS Inc	NO SHOP	AVAILABLE	USA-637	2015 GMC SIERRA 2500HD, VIN: 1G1T2VE61F2128491	VEHICLES	9/1/2014
BOS Inc	NO SHOP	AVAILABLE	USA-642	2015 GMC SIERRA 2500HD, VIN: 1G1T2VE61F213673	VEHICLES	9/1/2014
BOS Inc	NO SHOP	AVAILABLE	USA-643	2013 CHEVROLET SILVERADO 2500 EXT, VIN: 1G02KVC6323403428	VEHICLES	9/1/2014
BOS Inc	NO SHOP	AVAILABLE	USA-673	2015 GMC SIERRA 2500 4WD, VIN: 1G1T2VE61F2501131	VEHICLES	11/1/2014
BOS Inc	NO SHOP	AVAILABLE	USA-666	2015 GMC SIERRA 2500 4WD, VIN: 1G1T2VE61F2500674	VEHICLES	11/1/2014
BOS Inc	NO SHOP	AVAILABLE	USA-672	2015 GMC SIERRA 2500 4WD, VIN: 1G1T2VE61F2501739	VEHICLES	11/1/2014
BOS Inc	NO SHOP	AVAILABLE	USA-682	2017 CHEVROLET SILVERADO 2500 4WD, VIN: 1G02KUE63H210471	VEHICLES	3/1/2017
BOS Inc	NO SHOP	AVAILABLE	USA-683	2017 CHEVROLET SILVERADO 2500 4WD, VIN: 1G02KUE63H2104713	VEHICLES	3/1/2017
BOS Inc	NO SHOP	AVAILABLE	USA-684	2017 GMC SIERRA 2500HD 4WD DBL, VIN: 1G1T2RE63H2255181	VEHICLES	3/1/2017
BOS Inc	NO SHOP	AVAILABLE	USA-706	2017 CHEVROLET SILVERADO 2500 4WD, VIN: 1G02KUE63H209485	VEHICLES	6/1/2017
BOS Inc	NO SHOP	AVAILABLE	USA-707	2017 CHEVROLET SILVERADO 2500 4WD, VIN: 1G02KUE63H209514	VEHICLES	6/1/2017
BOS Inc	NO SHOP	AVAILABLE	USA-708	2017 CHEVROLET SILVERADO 2500 4WD, VIN: 1G02KUE63H209468	VEHICLES	6/1/2017
BOS Inc	NO SHOP	AVAILABLE	USA-709	2017 CHEVROLET SILVERADO 2500 4WD, VIN: 1G02KUE63H209530	VEHICLES	6/1/2017
BOS Inc	NO SHOP	AVAILABLE	USA-710	2017 CHEVROLET SILVERADO 2500 4WD, VIN: 1G02KUE63H209465	VEHICLES	6/1/2017
BOS Inc	NO SHOP	AVAILABLE	USA-711	2017 CHEVROLET SILVERADO 2500 4WD, VIN: 1G02KUE63H209575	VEHICLES	6/1/2017
BOS Inc	NO SHOP	AVAILABLE	USA-712	2017 CHEVROLET SILVERADO 2500 4WD, VIN: 1G02KUE63H2095131	VEHICLES	6/1/2017
BOS Inc	NO SHOP	AVAILABLE	USA-713	2017 CHEVROLET SILVERADO 2500 4WD, VIN: 1G02KUE63H209508	VEHICLES	6/1/2017
BOS Inc	NO SHOP	AVAILABLE	USA-714	2017 CHEVROLET SILVERADO 2500 4WD, VIN: 1G02KUE63H2095283	VEHICLES	6/1/2017
BOS Inc	PA Yard	AVAILABLE	USA-408	2012 GMC SIERRA 2500HD SLE, VIN: 1G1T2SC66C232883	VEHICLES	12/1/2012
BOS Inc	PA Yard	AVAILABLE	USA-415	2013 GMC SIERRA 2500HD SLE, VIN: 1G1T2SC66C2131044	VEHICLES	10/1/2012
BOS Inc	PA Yard	AVAILABLE	USA-417	2013 GMC SIERRA 2500HD SLE, VIN: 1G1T2SC66C2131054	VEHICLES	10/1/2012
BOS Inc	PA Yard	AVAILABLE	USA-457	2014 CHEVROLET SILVERADO 1500, VIN: 3GCUK9EC3EG126134	VEHICLES	2/1/2013
BOS Inc	PA Yard	AVAILABLE	USA-474	2013 GMC SIERRA 2500HD SLE, VIN: 1G1T2SC66C2308014	VEHICLES	2/1/2013
BOS Inc	PA Yard	AVAILABLE	USA-498	2013 GMC SIERRA 2500HD SLE, VIN: 1G1T2SC66C2409367	VEHICLES	2/1/2013
BOS Inc	PA Yard	AVAILABLE	USA-499	2013 GMC SIERRA 2500HD SLE, VIN: 1G1T2SC66C2412167	VEHICLES	2/1/2013
BOS Inc	PA Yard	AVAILABLE	USA-533	2014 CHEVROLET SILVERADO 1500, VIN: 3GCUK9EC3EG126134	VEHICLES	1/1/2014
BOS Inc	PA Yard	AVAILABLE	USA-553	2014 GMC SIERRA 1500 4WD CREW CAB, VIN: 3G1T2UE63EG122231	VEHICLES	12/1/2013
BOS Inc	PA Yard	AVAILABLE	USA-559	2014 CHEVROLET SILVERADO 1500 4WD, VIN: 3GCUK9EC3EG126134	VEHICLES	1/1/2014
BOS Inc	PA Yard	AVAILABLE	USA-557	2014 CHEVROLET SILVERADO 1500, VIN: 3GCUK9EC3EG126134	VEHICLES	1/1/2014
BOS Inc	PA Yard	AVAILABLE	USA-615	2015 CHEVROLET SILVERADO 2500 HD, VIN: 1G02KUE63F212154	VEHICLES	3/1/2014
BOS Inc	PA Yard	AVAILABLE	USA-616	2015 CHEVROLET SILVERADO 2500 EXT, VIN: 1G02KUE63F2121967	VEHICLES	3/1/2014
BOS Inc	PA Yard	AVAILABLE	USA-623	2015 GMC SIERRA 2500HD, VIN: 1G1T2VE63F2127760	VEHICLES	9/1/2014
BOS Inc	PA Yard	AVAILABLE	USA-626	2015 GMC SIERRA 2500HD, VIN: 1G1T2VE63F2127031	VEHICLES	9/1/2014
BOS Inc	PA Yard	AVAILABLE	USA-627	2015 GMC SIERRA 2500HD, VIN: 1G1T2VE63F2121242	VEHICLES	9/1/2014
BOS Inc	PA Yard	AVAILABLE	USA-634	2013 CHEVROLET SILVERADO 3500 EXT, VIN: 1G02KVC6323405866	VEHICLES	9/1/2014
BOS Inc	PA Yard	AVAILABLE	USA-635	2014 GMC SIERRA 1500 4WD CREW CAB, VIN: 3G1T2UE63EG122231	VEHICLES	9/1/2014
BOS Inc	PA Yard	AVAILABLE	USA-645	2015 CHEVROLET SILVERADO 2500 EXT, VIN: 1G02KUE63F2123852	VEHICLES	3/1/2014
BOS Inc	PA Yard	AVAILABLE	USA-655	2015 CHEVROLET SILVERADO 2500 HD, VIN: 1G02KUE63F2109127	VEHICLES	9/1/2014
BOS Inc	PA Yard	AVAILABLE	USA-656	2015 GMC SIERRA 2500, VIN: 1G1T2VE63F2137589	VEHICLES	9/1/2014
BOS Inc	PA Yard	AVAILABLE	USA-688	2015 CHEVROLET SILVERADO 2500 4WD, VIN: 1G02KUE63F2151136	VEHICLES	3/1/2017
BOS Inc	PA Yard	AVAILABLE	USA-689	2016 CHEVROLET SILVERADO 2500 4WD, VIN: 1G02KUE63F2150931	VEHICLES	3/1/2017
BOS Inc	PA Yard	AVAILABLE	USA-700	2016 CHEVROLET SILVERADO 2500 4WD, VIN: 1G02KUE63F215053	VEHICLES	3/1/2017
BOS Inc	PA Yard	AVAILABLE	USA-748	2017 CHEVROLET SILVERADO 2500 4WD, VIN: 1G02KUE63H2095170	VEHICLES	12/1/2017
BOS Inc	PA Yard	AVAILABLE	USA-744	2018 CHEVROLET SILVERADO 2500 4WD, VIN: 1G02KUE63H2106106	VEHICLES	12/1/2017
BOS Inc	PA Yard	AVAILABLE	USA-745	2017 CHEVROLET SILVERADO 2500 4WD, VIN: 1G02KUE63H209465	VEHICLES	12/1/2017
BOS Inc	PA Yard	AVAILABLE	USA-746	2017 CHEVROLET SILVERADO 2500 4WD, VIN: 1G02KUE63H209490	VEHICLES	12/1/2017
BOS Inc	PA Yard	AVAILABLE	USA-747	2018 CHEVROLET SILVERADO 2500 4WD, VIN: 1G02KUE63H2103983	VEHICLES	12/1/2017
BOS Inc	PA Yard	AVAILABLE	USA-748	2018 CHEVROLET SILVERADO 2500 4WD, VIN: 1G02KUE63H2103265	VEHICLES	12/1/2017
BOS Inc	PA Yard	AVAILABLE	USA-749	2017 GMC SIERRA 2500HD 4WD DBL, VIN: 1G1T2RE63H2108574	VEHICLES	12/1/2017

BOS Inc	RV Shop	AVAILABLE	USA-550	2014 CHEVROLET SILVERADO 2500 HD LT, VIN: 1GC1KVC04E1189454	VEHICLES	3/1/2014
BOS Inc	RV Shop	AVAILABLE	USA-504	2014 GMC SIERRA 1500 4WD CREW CAB, VIN: 3GTU2UEG7E0516675	VEHICLES	3/1/2014
BOS Inc	RV Shop	AVAILABLE	USA-511	2015 GMC SIERRA 2500, VIN: 1GT22UEG9F2121880	VEHICLES	5/1/2014
BOS Inc	RV Shop	AVAILABLE	USA-571	2015 GMC SIERRA 2500 4WD, VIN: 1GT22UEG31F2301848	VEHICLES	11/1/2014
BOS Inc	RV Shop	AVAILABLE	USA-595	2017 GMC SIERRA 2500HD 4WD DEL, VIN: 1G122UEG3H2161859	VEHICLES	3/1/2017
BOS Inc	RV Shop	AVAILABLE	USA-595	2017 CHEVROLET SILVERADO 2500 4WD, VIN: 1GC2KUEG0H2151787	VEHICLES	3/1/2017
BOS Inc	RV Shop	AVAILABLE	USA-725	2017 CHEVROLET SILVERADO 2500 4WD, VIN: 1GC2KUEG3H2310300	VEHICLES	5/1/2017
BOS Inc	RV Shop	AVAILABLE	USA-725	2017 CHEVROLET SILVERADO 2500 4WD, VIN: 1GC2KUEG0H2310303	VEHICLES	5/1/2017
BOS Inc	RV Shop	AVAILABLE	USA-724	2017 CHEVROLET SILVERADO 2500 4WD, VIN: 1GC2KUEG3H2309785	VEHICLES	5/1/2017
BOS Inc	RV Shop	AVAILABLE	USA-725	2017 CHEVROLET SILVERADO 2500 4WD, VIN: 1GC2KUEG4H2311132	VEHICLES	5/1/2017
BOS Inc	RV Shop	AVAILABLE	USA-725	2017 CHEVROLET SILVERADO 2500 EXT, VIN: 1GC2KUEG3H2310301	VEHICLES	5/1/2017
BOS Inc	RV Shop	AVAILABLE	USA-727	2017 CHEVROLET SILVERADO 2500 EXT, VIN: 1GC2KUEG3H2310300	VEHICLES	5/1/2017
BOS Inc	RV Shop	AVAILABLE	USA-728	2017 CHEVROLET SILVERADO 2500HD EXT, VIN: 1GC2KUEG3H2302757	VEHICLES	5/1/2017
BOS Inc	RV Shop	AVAILABLE	USA-729	2017 CHEVROLET SILVERADO 2500 EXT, VIN: 1GC2KUEG3H2303022	VEHICLES	5/1/2017
BOS Inc	RV Shop	AVAILABLE	USA-730	2017 CHEVROLET SILVERADO 2500 EXT, VIN: 1GC2KUEG4H2305113	VEHICLES	5/1/2017
BOS Inc	RV Shop	AVAILABLE	USA-731	2017 CHEVROLET SILVERADO 2500 EXT, VIN: 1GC2KUEG4H2305064	VEHICLES	5/1/2017
BOS Inc	RV Shop	AVAILABLE	USA-732	2017 CHEVROLET SILVERADO 2500 EXT, VIN: 1GC2KUEG3H2305065	VEHICLES	5/1/2017
BOS Inc	RV Shop	AVAILABLE	USA-750	2018 CHEVROLET SILVERADO 2500 4WD, VIN: 1GC2KUEG7J2151537	VEHICLES	12/1/2017
BOS Inc	RV Shop	AVAILABLE	USA-751	2018 CHEVROLET SILVERADO 2500 4WD, VIN: 1GC2KUEG6J2150453	VEHICLES	12/1/2017
BOS Inc	RV Shop	AVAILABLE	USA-753	2018 CHEVROLET SILVERADO 2500 4WD, VIN: 1GC2KUEG1J2171272	VEHICLES	12/1/2017
BOS Inc	RV Shop	AVAILABLE	USA-755	2018 CHEVROLET SILVERADO 2500 4WD, VIN: 1GC2KUEG6J2155080	VEHICLES	12/1/2017
BOS Inc	Texas	AVAILABLE	USA-310	2013 CHEVROLET SILVERADO 1500 4WD, VIN: 1GCPNBE7X0F110428	VEHICLES	1/1/2012
BOS Inc	Texas	AVAILABLE	USA-357	2012 GMC SIERRA 2500HD SLE, VIN: 1GT220G1G2319182	VEHICLES	3/1/2012
BOS Inc	Texas	AVAILABLE	USA-425	2013 GMC SIERRA 2500HD SLE, VIN: 1GT220G1G2319347	VEHICLES	11/1/2012
BOS Inc	Texas	AVAILABLE	USA-432	2013 CHEVROLET SILVERADO 1500 4WD, VIN: 3GCPKTE78G0297955	VEHICLES	4/1/2013
BOS Inc	Texas	AVAILABLE	USA-455	2013 GMC SIERRA 2500HD SLE, VIN: 1GT220G1G2319347	VEHICLES	7/1/2013
BOS Inc	Texas	AVAILABLE	USA-494	2014 GMC SIERRA 1500 4WD CREW CAB, VIN: 3GTU2UEG7E0516675	VEHICLES	3/1/2013
BOS Inc	Texas	AVAILABLE	USA-504	2014 GMC SIERRA 1500 4WD CREW CAB, VIN: 3GTU2UEG7E0516675	VEHICLES	10/1/2013
BOS Inc	Texas	AVAILABLE	USA-525	2014 GMC SIERRA 1500 4WD CREW CAB, VIN: 3GTU2UEG7E0516675	VEHICLES	3/1/2014
BOS Inc	Texas	AVAILABLE	USA-534	2014 CHEVROLET SILVERADO 2500 CREW, VIN: 1GC1KVC04E1189454	VEHICLES	3/1/2014
BOS Inc	Texas	AVAILABLE	USA-538	2014 CHEVROLET SILVERADO 2500 CREW, VIN: 1GC1KVC04E1189454	VEHICLES	3/1/2014
BOS Inc	Texas	AVAILABLE	USA-557	2014 CHEVROLET SILVERADO 1500 4WD, VIN: 3GCUK5E0E3125855	VEHICLES	1/1/2014
BOS Inc	Texas	AVAILABLE	USA-575	2014 GMC SIERRA 1500, VIN: 3GTU2UEG7E0516675	VEHICLES	2/1/2014
BOS Inc	Texas	AVAILABLE	USA-578	2014 GMC SIERRA 1500 4WD CREW CAB, VIN: 3GTU2UEG7E0516675	VEHICLES	3/1/2014
BOS Inc	Texas	AVAILABLE	USA-580	2014 GMC SIERRA 2500 CREW, VIN: 1GT220G1G2319347	VEHICLES	3/1/2014
BOS Inc	Texas	AVAILABLE	USA-584	2013 CHEVROLET SILVERADO 2500 HD 4WD, VIN: 1GC2KUEG3H2310300	VEHICLES	2/1/2014

**Capital Spares:**

All the Capital Spares set forth in Datasite Folder Item 4.9.1 as of Saturday, August 1, 2020.

**Delivery Locations:**

1. Equipment: "Last Confirmed Physical Location" noted at Datasite Item 5.1.6 as updated at Closing.
2. Capital Spares: "District" noted at Datasite Item 4.9.1 as updated at Closing.
3. Capital Leases:
  - a. All Capital Leases related Emkay Canada Leasing Corp. and Element Fleet Management will be delivered at LeDuc or at a jobsite as specified at Closing
  - b. The US Leased Vehicles related to the US Vehicle Lease will be delivered at the closest BOS yard or at a jobsite specified at Closing.

**Schedule 1.1(oo)**

**Excluded Assets**

**Excluded Assets:**

All leases relating to Leased Real Property including but not limited to those set forth at Datasite Items 7.3.1–7.3.9, 7.3.16–7.3.19, and 7.2 as of Saturday, August 1, 2020.

**Schedule 1.1(pp)**

**Excluded Contracts**

For the avoidance of doubt, all contracts not specifically set forth on Schedule 1.1(k) including but not limited to:

1. All existing employment agreements including but not limited to those in Datasite Folder 2.4 with exception of the Employment Agreements shown on Schedule 1.1(k) Item 9.
2. The Crocodile Lease at 3.7.1 and 3.7.3.
3. The Rotating Solutions contract at 3.7.2.
4. The contracts related to the Third Party Rental Equipment set forth in Datasite Item 4.11.
5. The US Vehicle Lease.

**Schedule 1.1(zz)**

**Intellectual Property**

The Patents set forth as follows:

1. Patent # CA 2558118 A1 2008/02/29 for “Apparatus and Method for Cleaning Solids from a Tank” filed with the Canadian Intellectual Property Office on 08/31/2006, issued on 2/29/2008.
2. Patent # CA 2549342 A1 2007/11/30 for “Apparatus for Separating Solids from Liquids” filed with the Canadian Intellectual Property Office on 05/31/2006, issued on 11/30/2007.
3. Patent # CA 2485875 A1 2006/04/22 for “Settling Tank and Method for Separating a Solids Containing Fluid” filed with the Canadian Intellectual Property Office on 10/22/2004, issued on 4/22/2006.
4. Patent # CA 2414321 C 2004/11/09 for “Shale Bin/Settling Tank/Centrifuge Combination Skid” filed with the Canadian Intellectual Property Office on 12/14/2002, issued on 11/09/2004.
5. Patent # US 7,144,516 B2 for “Settling Tank and Method for Separating A Solids Containing Material” filed with the USPTO on 10/22/2004, issued on 12/5/2006.
6. Patent # US 6,863,809 B2 for “Shale Bin/Settling Tank/Centrifuge Combination Skid” filed with the USPTO on 2/13/2003, issued on 3/8/2005.

The trademarks, tradenames, and any derivations of, including but not limited to, “BOS and “BOS Solutions” owned by or used by the Vendor or the Debtors.

**Schedule 1.1(ccc)**  
**Leased Equipment**

**United States:**

1. Union Leasing Inc. (Vehicles; Chicago, IL), as such Leased Equipment is more specifically set forth at Datasite Item 5.1.8.

**Canada:**

1. Emkay Canada Leasing Corp. (Vehicles; Toronto, ON).

BOS-Solutions, LTD - Emkay Rental Invoice							
CND							
BOS Unit #	Lease ID	Start Date	End Date	Lease Term	Year	Make/Model	VIN#
143	681793	08/01/13	12/31/15	29	2013	GMC K1500 CREW	3GTP2VE76DG344168
166	694333	10/05/17	02/29/20	29	2018	CHEVY K1500 CREW	3GCUKREC9JG131010
167	694344	10/03/17	07/31/21	45	2017	CHEVY K1500 CREW	3GCUKSEC9HG512471
168	697932	06/01/19	10/31/21	29	2019	CHEVY K1500 CREW	1GCUYDED6KZ244005
169	697933	06/01/19	10/31/21	29	2019	CHEVY K1500 CREW	1GCUYDED7KZ243557
170	697934	06/01/19	10/31/21	29	2019	CHEVY K1500 CREW	1GCUYDED2KZ245281

2. Element Fleet Management (Vehicles; Toronto, ON).

BOS-Solutions, LTD - Element Rental Invoice							
CND							
BOS Unit #	Lease ID	Start Date	End Date	Lease Term	Year	Make/Model	VIN#
155	00155	11/01/16	03/31/19	29	2016	Ford F-250 XLT 4X4 SD Crew Cab 8' box	1FT7W2B69GEC64759
156	00156	11/01/16	03/31/19	29	2016	Ford F-250 XLT 4X4 SD Crew Cab 8' box	1FT7W2B62GEC64764
157	00157	11/01/16	03/31/19	29	2016	Ford F-250 XLT 4X4 SD Crew Cab 8' box	1FT7W2B64GEC64765
158	00158	11/01/16	03/31/19	29	2016	Ford F-250 XLT 4X4 SD Crew Cab 8' box	1FT7W2B66GEC64766
159	00159	02/01/17	06/30/19	29	2017	Ford F-250 XLT 4X4 SD Crew Cab 8' box	1FT7W2B63HEB25647
160	00160	02/01/17	06/30/19	29	2017	Ford F-250 XLT 4X4 SD Crew Cab 8' box	1FT7W2B60HEB49937
161	00161	02/01/17	06/30/19	29	2017	Ford F-250 XLT 4X4 SD Crew Cab 8' box	1FT7W2B69HEB31601
162	00162	02/01/17	06/30/19	29	2017	Ford F-250 XLT 4X4 SD Crew Cab 8' box	1FT7W2B62HEB49938
163	00163	02/01/17	06/30/19	29	2017	Ford F-250 XLT 4X4 SD Crew Cab 8' box	1FT7W2B69HEC12081
164	00164	02/01/17	06/30/19	29	2017	Ford F-250 XLT 4X4 SD Crew Cab 8' box	1FT7W2B6XHEB87028
165	00165	02/01/17	06/30/19	29	2017	Ford F-250 XLT 4X4 SD Crew Cab 8' box	1FT7W2B67HEC12094

**Schedule 1.1(ddd)**

**Leased Real Property**

1. The Leases, including but not limited to, as set forth in Datasite Folder 7.3.1–7.3.9, 7.3.16–7.3.19 and Item 7.2 as of Saturday, August 1, 2020.
2. The Lease for the MagTech Equipment Yard in Kenai, AK as more specifically set forth at Datasite Item 7.6.
3. The Leases with CLC Lodging for the apartment properties as follows:
  - a. Foxwood Apartment #80, 4260 Palm Ave, San Diego, CA for the San Diego Naval Base Project.
  - b. Foxwood Apartment #58, 4260 Palm Ave, San Diego, CA for the San Diego Naval Base Project.
  - c. Maple Bay Apartment #309AM, 309 South Amsterdam Court – Unit 309AM, Virginia Beach, VA for the Chesapeake Bay Bridge Tunnel Project.
  - d. Maple Bay Apartment #309AM, 309 South Amsterdam Court – Unit 309AM, Virginia Beach, VA for the Chesapeake Bay Bridge Tunnel Project.
  - e. Solimar Apartment, 500 W Pacific Coast Hwy., Wilmington CA 90744 for the Clearwater Project.

**Schedule 1.1(iii)**

**Owned Real Property**

**United States:**

1701 County Road, Rio Vista TX 76093 (at Datasite Items 7.3.10–7.3.15).

**Schedule 1.1(kkk)**

**Permits**

Ontario Ministry of the Environment and Climate Change Environmental Compliance Approval Number 0927-AD3QE7 Issued September 7, 2016, as amended Reference Number 6059-B2XKH (at Datasite Items 1.8.1 and 1.8.2).

**Schedule 1.1(ppp)**

**Prepaid Expenses**

The Prepaid Expenses listed in Datasite Folder Item 4.5.2 as of Saturday, August 1, 2020.

**Schedule 2.3(a)(iii)**

**Assumed Liabilities**

1. All the Capital Leases set forth at Datasite Item 5.1.8 as of Saturday, August 1, 2020, excluding the Crocodile Lease at 3.7.1 and 3.7.3 and the US Vehicle Lease.
2. The real property taxes for the Rio Vista property as of January 1, 2020.
3. The tangible property taxes for the Rio Vista property as of January 1, 2020.

**Schedule 8.2(i)**

**Liens to be Released at Closing**

Evidence of release of liens, mortgages, and security interests on all Purchased Assets, including but not limited to:

**1. National Bank of Canada:**

- a. Patent # CA 2485875 A1 2006/04/22 for “Settling Tank and Method for Separating a Solids Containing Fluid” filed with the Canadian Intellectual Property Office on 10/22/2004, issued on 4/22/2006.
- b. Patent # CA 2414321 C 2004/11/09 for “Shale Bin/Settling Tank/Centrifuge Combination Skid” filed with the Canadian Intellectual Property Office on 12/14/2002, issued on 11/09/2004.
- c. Patent # US 7,144,516 B2 for “Settling Tank and Method for Separating A Solids Containing Material” filed with the USPTO on 10/22/2004, issued on 12/5/2006.
- d. Patent # US 6,863,809 B2 for “Shale Bin/Settling Tank/Centrifuge Combination Skid” filed with the USPTO on 2/13/2003, issued on 3/8/2005.

**2. Customer Liens:**

- a. Lien against Advanced Energy Partners, LLC pursuant to the Mineral Subcontractor’s Lien Notice Letter dated May 20, 2020, for the amount of \$26,202.89 (at Datasite Item 4.10.18).
- b. Lien against Chevron U.S.A., Inc. pursuant to the Mineral Subcontractor’s Lien Notice Letter dated May 19, 2020, for the amount of \$108,388.21 (at Datasite Item 4.10.15).
- c. Lien against ConocoPhillips Company pursuant to the Mineral Subcontractor’s Lien Notice Letter dated May 19, 2020, for the amount of \$77,979.55 (at Datasite Item 4.10.16).
- d. Lien against Crownquest Operating, LLC pursuant to the Mineral Subcontractor’s Lien Notice Letter dated May 19, 2020, for the amount of \$102,164.95 (at Datasite Item 4.10.19).
- e. Lien against Endeavor Energy Resources, LP pursuant to the Mineral Subcontractor’s Lien Notice Letter dated May 20, 2020, for the amount of \$25,614 (at Datasite Item 4.10.20).
- f. Lien against EOG Resources, Inc. pursuant to the Mineral Subcontractor’s Lien Notice Letter dated May 19, 2020, for the amount of \$66,656.77 (at Datasite Item 4.10.25).
- g. Lien against Oxy USA, Inc. pursuant to the Mineral Subcontractor’s Lien Notice Letter dated May 20, 2020, for the amount of \$47,022.78 (at Datasite Item 4.10.3).
- h. Lien against Parsley Energy Operations, LLC pursuant to the Mineral Subcontractor’s Lien Notice Letter dated May 20, 2020, for the amount of \$23,133.63 (at Datasite Item 4.10.4).

- i. Lien against Permian Deep Rock Oil Company, LLC pursuant to the Mineral Subcontractor's Lien Notice Letter dated May 20, 2020, for the amount of \$51,080.93 (at Datasite Item 4.10.5).
- j. Lien against Zavanna, LLC pursuant to the Mineral Subcontractor's Lien Notice Letter dated May 21, 2020, for the amount of \$3,672.72 (at Datasite Item 4.10.13).

**EXHIBIT A**

**FORM OF ASSIGNMENT AND ASSUMPTION AGREEMENT**

(see attached)

## ASSIGNMENT AND ASSUMPTION AGREEMENT

**THIS ASSIGNMENT AND ASSUMPTION AGREEMENT** dated this \_\_\_\_ day of \_\_\_\_\_, 2020 (this "**Agreement**") is made

### BETWEEN:

**ERNST & YOUNG INC.**, IN ITS CAPACITY AS COURT APPOINTED RECEIVER AND MANAGER OF THE ASSETS, PROPERTIES AND UNDERTAKINGS OF BOS SOLUTIONS LTD., BOS SOLUTIONS INC., BOS LEASECO LLC, BOS SOLUTIONS REAL ESTATE INC. and BOS USHOLDCO INC. AND NOT IN ITS INDIVIDUAL OR CORPORATE CAPACITY (the "**Assignor**")

- and -

**STAGE 3 SEPARATION, LLC**, a Texas limited liability company, and an entity to be formed under the laws of Canada or a province thereof (the "**Assignee**").

### WHEREAS:

- A. The applicable Debtor is a current party to the Assumed Contracts;
- B. Pursuant to that certain Asset Purchase and Sale Agreement dated [●] between Assignor and Assignee (the "**PSA**"), Assignor has agreed to sell, assign and transfer to Assignee all of the Assignor's and the Debtors' right, title and interest in, to and under the Assumed Contracts (the "**Assigned Interest**"); and
- C. Assignee has agreed to purchase, assume, accept and receive the Assigned Interest and to assume, pay, satisfy, discharge, perform and fulfill all of the Assumed Liabilities which relate to the Assumed Contracts (the "**Assumed Obligations**"), in each case in accordance with, and subject to, the terms and conditions contained in the PSA.

In consideration of the foregoing, the mutual agreements contained herein and other good and valuable consideration (the receipt and adequacy of which are acknowledged by the parties hereto), the parties hereto agree as follows:

#### 1. Definitions

All capitalized terms not defined herein shall have the same meaning as set out in the PSA.

#### 1. Assignment

Assignor hereby assigns, transfers, conveys and sets over to Assignee, effective as of the Effective Time, the Assigned Interest TO HAVE AND TO HOLD, together with all benefit and advantage to be derived therefrom, absolutely, subject to the terms of the PSA.

#### 2. Assumption

Assignee hereby accepts the assignment, transfer and conveyance of the Assigned Interest and covenants, acknowledges and agrees with Assignor that from and after the Effective Time, Assignee shall assume, be bound by and observe, perform and fulfill the Assumed Obligations on the part of the Debtors under the Assumed Contracts in the same manner and to the same extent as if Assignee had been originally named as a

party thereto in the place and stead of Debtors, subject to the terms of the PSA. For the avoidance of doubt, such assumption shall exclude all Contract Cure Amounts in connection with the Assumed Contracts.

**3. Subordinate Document**

This Agreement is executed and delivered by the parties hereto pursuant to the PSA for the purposes of the provisions of the PSA, and the terms hereof shall be read on conjunction with the terms of the PSA. If there is a conflict between the provisions of the PSA and this Agreement, the provisions of the PSA shall prevail to the extent of the conflict.

**4. Further Assurances**

Each party hereto shall, after the date of this Agreement, at the request and expense of the party hereto requesting the same, do all such further acts and things and execute and deliver all further instruments, documents, matters, papers and assurances which are reasonably required to perform and carry out the terms of this Agreement.

**5. Enurement**

This Agreement shall be binding upon and enure to the benefit of the parties hereto and their respective successors, receivers, receiver-managers, trustees and permitted assigns.

**6. Governing Law**

This Agreement shall be interpreted, construed and enforced in accordance with the laws of the Province of Alberta and the federal laws of Canada applicable therein, without giving effect to the principles of conflicts of laws thereof and the parties hereto hereby irrevocably submit and attorn to the exclusive jurisdiction of the Courts of the Province of Alberta in respect of any matter arising hereunder or in connection herewith.

**7. Amendment**

This Agreement shall not be varied in its terms or amended by oral agreement or by representations or otherwise other than by an instrument in writing dated subsequent to the date hereof, executed by a duly authorized representative of each party hereto.

**8. Severability**

If any provision of this Agreement is partially or completely invalid or unenforceable, the invalidity or unenforceability of that provision shall not affect the validity or enforceability of any other provision of this Agreement, all of which shall be construed and enforced as if that invalid or unenforceable provision were omitted. The invalidity or unenforceability of any provision in one jurisdiction shall not affect such provision validity or enforceability in any other jurisdiction.

**9. Counterparts**

This Agreement may be executed in one or more counterparts, each of which shall be considered an original but all of which together shall constitute one and the same instrument. In addition, facsimile and electronic copies of executed counterparts shall be conclusively regarded for all purposes as originally executed counterparts pending the delivery of the originals.

[Execution page to follow.]

**IN WITNESS WHEREOF** the parties hereto have executed and delivered this agreement as of the date first written above.

**ERNST & YOUNG INC.**, IN ITS CAPACITY AS COURT APPOINTED RECEIVER AND MANAGER OF THE ASSETS, PROPERTIES AND UNDERTAKINGS OF BOS SOLUTIONS LTD., BOS SOLUTIONS INC., BOS LEASECO LLC, BOS SOLUTIONS REAL ESTATE INC. and BOS USHOLDCO INC. AND NOT IN ITS INDIVIDUAL OR CORPORATE CAPACITY

**STAGE 3 SEPARATION, LLC**

Per: \_\_\_\_\_  
Name:  
Title:

Per: \_\_\_\_\_  
Name: Frederick R. Lausen, Jr.  
Title: President and Chief Executive Officer

**EXHIBIT B**  
**FORM OF GENERAL CONVEYANCE**

(see attached)

## GENERAL CONVEYANCE

This General Conveyance made this \_\_\_\_ day of \_\_\_\_\_, 2020.

### BETWEEN:

**ERNST & YOUNG INC.**, IN ITS CAPACITY AS COURT APPOINTED RECEIVER AND MANAGER OF THE ASSETS, PROPERTIES AND UNDERTAKINGS OF BOS SOLUTIONS LTD., BOS SOLUTIONS INC., BOS LEASECO LLC, BOS SOLUTIONS REAL ESTATE INC. and BOS USHOLDCO INC. AND NOT IN ITS INDIVIDUAL OR CORPORATE CAPACITY (the "**Vendor**")

- and -

**STAGE 3 SEPARATION, LLC**, a Texas limited liability company, and an entity to be formed under the laws of Canada or a province thereof (the "**Purchaser**" and together with the Vendor, the "**Parties**" and each a "**Party**").

**WHEREAS** the Vendor and the Purchaser entered into that certain Asset Purchase and Sale Agreement effective [INSERT DATE] (the "**Agreement**");

**AND WHEREAS** the Vendor has agreed to sell, assign and transfer to Purchaser all of the Vendor's and the Debtors' right, title and interest in, to and under the Purchased Assets and the Purchaser has agreed to purchase, assume, accept and receive the Purchased Assets and to assume, pay, satisfy, discharge, perform and fulfill the Assumed Liabilities, in each case in accordance with, and subject to, the terms and conditions contained in the Agreement.

**NOW THEREFORE** in consideration of the premises hereto and the covenants and agreements hereinafter set forth and contained, the Parties hereto covenant and agree as follows:

### 1. Definitions

All capitalized terms not defined herein shall have the same meaning as set out in the Agreement.

### 2. Conveyance and Assumption

The Vendor hereby sells, assigns, transfers and conveys all of the Vendor's and the Debtors' right, title and interest in, to and under the Purchased Assets (other than the Assumed Contracts and the Owned Real Property) to the Purchaser, its successors and assigns, and the Purchaser hereby accepts the assignment, transfer and conveyance of such interests from the Vendor and the Debtors, TO HAVE AND TO HOLD the same, absolutely, subject to the terms of the Agreement. Purchaser hereby accepts and assumes, and agrees to pay, satisfy, discharge, perform and fulfill, the Assumed Liabilities (other than the Assumed Liabilities under or in respect of the Assumed Contracts and the Owned Real Property).

### 3. Effective Time

This General Conveyance and the transfer of title to and possession of the Debtor's interest in and to the Purchased Assets (other than the Assumed Contracts and the Owned

Real Property) will, subject to the terms of the Agreement, be effective as of the Effective Time.

**4. Subordinate Document**

This General Conveyance is executed and delivered by the Parties pursuant to the Agreement for the purposes of the provisions of the Agreement, and the terms hereof shall be read on conjunction with the terms of the Agreement. If there is a conflict between the provisions of the Agreement and this General Conveyance, the provisions of the Agreement shall prevail to the extent of the conflict.

**5. Enurement**

This General Conveyance enures to the benefit of and is binding upon the Parties and their respective administrators, trustees, receivers, successors and permitted assigns.

**6. Further Assurances**

Each Party shall, after the date of this General Conveyance, at the request and expense of the Party requesting the same, do all such further acts and things and execute and deliver all further instruments, documents, matters, papers and assurances which are reasonably required to perform and carry out the terms of this General Conveyance.

**7. Governing Law**

This General Conveyance will be governed by and construed in accordance with the laws of the Province of Alberta, and the federal laws of Canada applicable therein (excluding any conflict of law rule or principle of such laws that might refer such interpretation or enforcement to the laws of another jurisdiction) and the Parties hereby irrevocably submit and attorn to the exclusive jurisdiction of the Courts of the Province of Alberta in respect of any matter arising hereunder or in connection herewith.

**8. Amendment**

This General Conveyance shall not be varied in its terms or amended by oral agreement or by representations or otherwise other than by an instrument in writing dated subsequent to the date hereof, executed by a duly authorized representative of each Party.

**9. Severability**

If any provision of this General Conveyance is partially or completely invalid or unenforceable, the invalidity or unenforceability of that provision shall not affect the validity or enforceability of any other provision of this General Conveyance, all of which shall be construed and enforced as if that invalid or unenforceable provision were omitted. The invalidity or unenforceability of any provision in one jurisdiction shall not affect such provision validity or enforceability in any other jurisdiction.

**10. Counterparts**

This General Conveyance may be executed in any number of counterparts, each of which shall be deemed to be an original and all of which shall constitute one and the same

agreement. Transmission by facsimile or other electronic means of an executed counterpart of this General Conveyance shall be deemed to constitute due and sufficient delivery of such counterpart.

**[Remainder of page left blank intentionally. Signature page follows.]**

**IN WITNESS WHEREOF** the Parties have duly executed this General Conveyance as of the date first above written.

**ERNST & YOUNG INC.**, IN ITS CAPACITY AS COURT APPOINTED RECEIVER AND MANAGER OF THE ASSETS, PROPERTIES AND UNDERTAKINGS OF BOS SOLUTIONS LTD., BOS SOLUTIONS INC., BOS LEASECO LLC, BOS SOLUTIONS REAL ESTATE INC. and BOS USHOLDCO INC. AND NOT IN ITS INDIVIDUAL OR CORPORATE CAPACITY

**STAGE 3 SEPARATION, LLC**

Per: \_\_\_\_\_  
Name:  
Title:

Per: \_\_\_\_\_  
Name: Frederick R. Lausen, Jr.  
Title: President and Chief Executive Officer

## AMENDING AGREEMENT

**THIS AMENDING AGREEMENT** is dated effective as of the 12<sup>th</sup> day of August 2020.

### BETWEEN:

**ERNST & YOUNG INC.**, in its capacity as court appointed receiver and manager of the assets, properties and undertakings of BOS Solutions Ltd., BOS Solutions Inc., BOS LeaseCo LLC, BOS Solutions Real Estate Inc. and BOS USHoldCo Inc. and not in its individual or corporate capacity ("**Vendor**")

- and -

**STAGE 3 SEPARATION, LLC**, a Texas limited liability company ("**S3S**"), and an entity to be formed under the laws of Canada or a province thereof ("**Canada S3S**", together with S3S hereinafter collectively referred to as the "**Purchaser**")

### WHEREAS:

- A. Vendor and Purchaser entered into an Asset Purchase Agreement dated effective August 10, 2020 (as amended, modified, or supplemented, the "**APA**") pursuant to which Vendor agreed to sell the Purchased Assets to Purchaser pursuant to the terms and conditions set out in the APA.
- B. Vendor and Purchaser desire to amend the APA on the terms and conditions herein contained.

**NOW THEREFORE**, in consideration of the recitals and the mutual covenants and agreements set forth in this Amending Agreement and for such other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the Parties agree as follows:

- 1 **Definitions.** Unless otherwise specified herein or the context otherwise requires, capitalized terms utilized herein, including the recitals hereof, will have the meanings given to them in the APA.
- 2 **Amendments to the APA.**
  - (a) Section 1.1 of the APA is hereby amended by adding thereto in the appropriate alphabetical order the following defined terms:
    - (i) "**Canadian Leased Vehicle Price**" has the meaning ascribed to that term in Section 3.1(a);
    - (ii) "**Canadian Leased Vehicles**" means, collectively, those vehicles leased by Debtors as of the date of this Agreement pursuant to the terms of the Canadian Vehicle Lease;
    - (iii) "**Canadian Vehicle Lease**" means that certain Motor Vehicle Open-End Lease Agreement no. 5524 by and between Element Fleet Management Inc. and BOS Solutions Ltd. dated January 21, 2016, as modified by that certain Fixed Rate Supplement dated January 21, 2016;
    - (iv) "**US Leased Vehicle Price**" has the meaning ascribed to that term in Section 3.1(a);

- (b) Article 2 of the APA is hereby amended by adding the following new Section 2.6:

**"2.6 Acquisition and Assignment of Canadian Leased Vehicles**

- (a) As soon as reasonably practicable following the date of this Agreement, Vendor shall take all necessary actions to acquire, on behalf of the Debtors, all right, title and interest in and to each of the Canadian Leased Vehicles.
- (b) Pending the effective transfer or assignment of all right, title and interest in and to each of the Canadian Leased Vehicles to the Purchaser, the Vendor shall hold such right, title and interest in and to, and all duties and obligations in respect of, such Canadian Leased Vehicles in trust for the exclusive benefit of the Purchaser as bare trustee and agent.
- (c) The Purchaser shall indemnify and save harmless the Vendor from and against all of the Vendor's Losses and Liabilities arising as a consequence of the provisions of this Section 2.6, except to the extent caused by the gross negligence or willful misconduct of the Vendor or Vendor's Representatives and except for Vendor's overhead and general administrative costs (to be determined in a manner consistent with past practices of Vendor).
- (d) The Vendor shall not, without the prior written consent of the Purchaser, reject the Canadian Vehicle Lease."
- (c) Section 3.1(a) of the APA is hereby deleted in its entirety and replaced with the following:
- "pay to the Vendor an aggregate amount in cash in immediately available funds equal to [REDACTED] (the "**Base Price**"), subject to adjustment as set forth in Section 3.3 and Article 4 hereof; plus an amount in cash in immediately available funds equal to [REDACTED] (the "**US Leased Vehicle Price**"), subject to adjustment as set forth in Section 4.3 hereof; plus an amount in cash in immediately available funds equal to [REDACTED] (the "**Canadian Leased Vehicle Price**"); and"
- (d) Section 3.4 of the APA is hereby amended by deleting the first sentence of Section 3.4 and replacing it with the following:
- "No later than ten (10) days prior to the Closing Date, the Purchaser shall deliver to the Vendor the Purchaser's proposed allocation of the consideration among the Purchased Assets."
- (e) Section 4.2(a) of the APA is hereby deleted in its entirety and replaced with the following:
- "The Vendor and the Purchaser (or its designated Representative) will jointly conduct an on-site physical count of the Equipment, Capital Spares and Inventory to be completed on or before three (3) days prior to Closing, and shall use commercially reasonable efforts to agree upon a written statement describing the adjustments to the Closing Payment set out in this Section 4.2."
- (f) Section 4.2(b) of the APA is hereby deleted in its entirety and replaced with the following:
- "If any major individual components that are generally accepted in the industry as forming a part of an item of Equipment included in the Purchased Assets as described in Schedule 1.1(nn) or any Capital Spares included in the Purchased Assets as described in Schedule 1.1(nn) (whether broken or fixed) are not accounted for or if any such item is not reasonably capable of being delivered into the Purchaser's possession or control at

the Closing with good and exclusive title, free and clear of any Encumbrances, other than the US Leased Vehicles which will be assigned to the Purchaser pursuant to the terms of Section 2.5, then the Closing Payment shall be reduced by an amount equal to the lesser of (i) the Net Book Value of such Equipment or Capital Spare multiplied by the Adjustment Ratio or (ii) the replacement cost (based on a third party estimate) of the major individual components of such item (Equipment or Capital Spare) needed to make the item complete."

(g) The "Disclosure Schedules" attached to the APA are deleted in their entirety and replaced with the "Disclosure Schedules" attached hereto as Schedule "A".

- 3 **Headings.** The headings used in this Amending Agreement are inserted for convenience of reference only and shall not affect the construction or interpretation of this Amending Agreement.
- 4 **Severability.** If any term or other provision of this Amending Agreement is invalid, illegal or incapable of being enforced under any applicable law, such provision shall be ineffective only to the extent of such invalidity, illegality or unenforceability and all other conditions and provisions of this Amending Agreement shall nevertheless remain in full force and effect so long as the economic or legal substance of the transactions contemplated hereby, taken as a whole, is not affected thereby in a materially adverse manner with respect to either party hereto.
- 5 **Amendment or Waiver.** This Amending Agreement may be amended, modified, supplemented, restated or discharged (and the provisions hereof may be waived) only by one or more instruments in writing signed by the Party against whom enforcement of the amendment, modification, supplement, restatement, discharge or waiver is sought.
- 6 **Further Assurances.** The Parties shall take such further reasonable actions and shall execute, acknowledge and deliver all such further documents that are reasonably necessary or appropriate to consummate the transactions contemplated hereby.
- 7 **Governing Law.** This Amending Agreement shall in all respects be subject to and be interpreted, construed and enforced in accordance with the laws in effect in the Province of Alberta and the federal laws of Canada applicable therein. The Parties irrevocably attorn and submit to the jurisdiction of the courts of the Province of Alberta and courts of appeal therefrom in respect of all matters arising out of this Agreement.
- 8 **Amendments and Supplements.** Any reference herein to this Amending Agreement shall be deemed to include reference to the same as it may be amended, modified and supplemented from time to time.
- 9 **Enurement.** This Amending Agreement shall be binding upon and enure to the benefit of the Parties and their respective successors and permitted assigns.
- 10 **Continuing Effect.** Each of the Parties acknowledges and agrees that the APA, as amended by this Amending Agreement, shall be and continue in full force and effect and is hereby confirmed, and the rights and obligations of the Parties thereunder shall not be affected or prejudiced in any manner except as specifically provided for herein.
- 11 **Counterpart Execution.** This Agreement may be executed and delivered in counterpart and transmitted by facsimile or other electronic means and all such executed counterparts, including electronically transmitted copies of such counterparts, shall together constitute one and the same agreement.

[Remainder of page intentionally left blank]

.....

**SCHEDULE "A"**  
**DISCLOSURE SCHEDULES**

(see attached)

**DISCLOSURE SCHEDULES**

**TO THE**

**ASSET PURCHASE AND SALE AGREEMENT**

**Executed as of August 10, 2020,**

**By and Among**

**ERNST & YOUNG INC.,**

**IN ITS CAPACITY AS COURT APPOINTED RECEIVER AND MANAGER OF THE  
ASSETS, PROPERTIES AND UNDERTAKINGS OF BOS SOLUTIONS LTD., BOS  
SOLUTIONS INC., BOS LEASECO LLC, BOS SOLUTIONS REAL ESTATE INC. and  
BOS USHOLDCO INC. AND NOT IN ITS INDIVIDUAL OR CORPORATE CAPACITY**

**and**

**STAGE 3 SEPARATION, LLC**

**Schedule 1.1(k)**

**Assumed Contracts**

**1. Environmental Solutions Division Customer Contracts:**

- a. All ES Contracts listed in Datasite Folder 3.3 (and its corresponding subfolders) as of Saturday, August 1, 2020.
- b. Order Sheet Environmental Solutions between Brintel and BOS Environmental Solutions, Order No. AP-BRIN01-001-OS, dated 2/1/2020, as more specifically set forth at Datasite Item 3.7.4 as of Saturday, August 1, 2020.
- c. Order Sheet Environmental Solutions between Brintel and BOS Environmental Solutions, Order No. AP-BRIN01-002-OS, dated 2/1/2020, as more specifically set forth at Datasite Item 3.7.5 as of Saturday, August 1, 2020.

**2. Oil & Gas Customer MSAs and Call Sheets:**

- a. All O&G Contracts, MSAs, and Call Sheets listed in Datasite Folder 3.2 (and its corresponding subfolders) as of Saturday, August 1, 2020.
3. Chesapeake Tunnel (in Datasite Folder 3.3.1.1).
  4. Malcolm/Clearwater (in Datasite Folder 3.3.1.2).
  5. Granite/Navy (in Datasite Folder 3.3.1.3).
  6. Nahanni/Kitimat (in Datasite Folder 3.3.2.8).
  7. Project Labor Agreement (at Datasite Item 2.2.6) applicable to the Joint Water Pollution Control Plant Effluent Outfall Tunnel Project in Los Angeles (and any of the applicable Master Labor Agreements thereunder) (at Datasite Items 3.3.1.2.5 and 3.3.1.2.8).
  8. Employment Agreement between BOS Solutions Inc. and Rick L. Garland dated May 31, 2013.
    - a. Amendment to Executive Agreement between BOS Solutions Inc. and Rick L. Garland, dated March 7, 2017.
    - b. Amendment to Executive Agreement between BOS Solutions Inc. and Rick L. Garland, dated June 26, 2017.
    - c. Amendment to Executive Agreement between BOS Solutions Inc. and Rick L. Garland, dated September 21, 2017.
    - d. Amendment to Executive Agreement between BOS Solutions Inc. and Rick L. Garland, dated May 1, 2018.
    - e. Amendment to Executive Agreement between BOS Solutions Inc. and Rick L. Garland, dated March 9, 2019.
    - f. Temporary Amendment to Executive Agreement between BOS Solutions Inc. and Rick L. Garland, dated April 1, 2020.
  9. All Assumed Contracts that comprise Assumed Liabilities, as incorporated by reference Schedule 2.3.

EOS Inc.	Midland Yard	AVAILABLE	USA-691	2017 CHEVROLET SILVERADO 2500 4WD, VIN: 1GCT2PE00H2160018	VEHICLES	5/1/2017
EOS Inc.	Midland Yard	AVAILABLE	USA-692	2017 GMC SIERRA 2500 4WD, VIN: 1GCT2PE00H2160019	VEHICLES	5/1/2017
EOS Inc.	Midland Yard	AVAILABLE	USA-697	2017 CHEVROLET SILVERADO 2500 4WD, VIN: 1GCT2PE00H2160045	VEHICLES	5/1/2017
EOS Inc.	Midland Yard	AVAILABLE	USA-701	2017 GMC SIERRA 2500 4WD DBL, VIN: 1GCT2PE03H2284236	VEHICLES	5/1/2017
EOS Inc.	Midland Yard	AVAILABLE	USA-702	2017 CHEVROLET SILVERADO 2500 4WD, VIN: 1GCT2PE00H2160114	VEHICLES	5/1/2017
EOS Inc.	Midland Yard	AVAILABLE	USA-703	2017 GMC SIERRA 2500 4WD DBL, VIN: 1GCT2PE03H2283814	VEHICLES	5/1/2017
EOS Inc.	Midland Yard	AVAILABLE	USA-704	2017 GMC SIERRA 2500 4WD DBL, VIN: 1GCT2PE00H2160013	VEHICLES	5/1/2017
EOS Inc.	Midland Yard	AVAILABLE	USA-715	2017 CHEVROLET SILVERADO 2500 4WD, VIN: 1GCT2PE00H2160070	VEHICLES	5/1/2017
EOS Inc.	Midland Yard	AVAILABLE	USA-716	2017 CHEVROLET SILVERADO 2500 4WD, VIN: 1GCT2PE00H2160037	VEHICLES	5/1/2017
EOS Inc.	Midland Yard	AVAILABLE	USA-717	2017 CHEVROLET SILVERADO 2500 4WD, VIN: 1GCT2PE00H2160041	VEHICLES	5/1/2017
EOS Inc.	Midland Yard	AVAILABLE	USA-718	2017 CHEVROLET SILVERADO 2500 4WD, VIN: 1GCT2PE00H2160036	VEHICLES	5/1/2017







**Schedule 1.1(oo)**

**Excluded Assets**

**Excluded Assets:**

All leases relating to Leased Real Property including but not limited to those set forth at Datasite Items 7.3.1–7.3.9, 7.3.16–7.3.19, and 7.2 as of Saturday, August 1, 2020.

**Schedule 1.1(pp)**

**Excluded Contracts**

For the avoidance of doubt, all contracts not specifically set forth on Schedule 1.1(k) including but not limited to:

1. All existing employment agreements including but not limited to those in Datasite Folder 2.4 with exception of the Employment Agreements shown on Schedule 1.1(k) Item 9.
2. The Crocodile Lease at 3.7.1 and 3.7.3.
3. The Rotating Solutions contract at 3.7.2.
4. The contracts related to the Third Party Rental Equipment set forth in Datasite Item 4.11.
5. The US Vehicle Lease.
6. The Canadian Vehicle Lease.

**Schedule 1.1(zz)**

**Intellectual Property**

The Patents set forth as follows:

1. Patent # CA 2558118 A1 2008/02/29 for “Apparatus and Method for Cleaning Solids from a Tank” filed with the Canadian Intellectual Property Office on 08/31/2006, issued on 2/29/2008.
2. Patent # CA 2549342 A1 2007/11/30 for “Apparatus for Separating Solids from Liquids” filed with the Canadian Intellectual Property Office on 05/31/2006, issued on 11/30/2007.
3. Patent # CA 2485875 A1 2006/04/22 for “Settling Tank and Method for Separating a Solids Containing Fluid” filed with the Canadian Intellectual Property Office on 10/22/2004, issued on 4/22/2006.
4. Patent # CA 2414321 C 2004/11/09 for “Shale Bin/Settling Tank/Centrifuge Combination Skid” filed with the Canadian Intellectual Property Office on 12/14/2002, issued on 11/09/2004.
5. Patent # US 7,144,516 B2 for “Settling Tank and Method for Separating A Solids Containing Material” filed with the USPTO on 10/22/2004, issued on 12/5/2006.
6. Patent # US 6,863,809 B2 for “Shale Bin/Settling Tank/Centrifuge Combination Skid” filed with the USPTO on 2/13/2003, issued on 3/8/2005.

The trademarks, tradenames, and any derivations of, including but not limited to, “BOS and “BOS Solutions” owned by or used by the Vendor or the Debtors.

**Schedule 1.1(ccc)****Leased Equipment****United States:**

1. Union Leasing Inc. (Vehicles; Chicago, IL), as such Leased Equipment is more specifically set forth at Datasite Item 5.1.8.

**Canada:**

1. Element Fleet Management (Vehicles; Toronto, ON).

BOS Unit #	Lease ID	Start Date	End Date	Lease Term	Year	Make/Model	VIN#
155	00155	11/01/16	03/31/19	29	2016	Ford F-250 XLT 4X4 SD Crew Cab 8' box	1FT7W2B69GEC64759
156	00156	11/01/16	03/31/19	29	2016	Ford F-250 XLT 4X4 SD Crew Cab 8' box	1FT7W2B62GEC64764
157	00157	11/01/16	03/31/19	29	2016	Ford F-250 XLT 4X4 SD Crew Cab 8' box	1FT7W2B64GEC64765
158	00158	11/01/16	03/31/19	29	2016	Ford F-250 XLT 4X4 SD Crew Cab 8' box	1FT7W2B66GEC64766
159	00159	02/01/17	06/30/19	29	2017	Ford F-250 XLT 4X4 SD Crew Cab 8' box	1FT7W2B63HEB25647
160	00160	02/01/17	06/30/19	29	2017	Ford F-250 XLT 4X4 SD Crew Cab 8' box	1FT7W2B60HEB49937
161	00161	02/01/17	06/30/19	29	2017	Ford F-250 XLT 4X4 SD Crew Cab 8' box	1FT7W2B69HEB31601
162	00162	02/01/17	06/30/19	29	2017	Ford F-250 XLT 4X4 SD Crew Cab 8' box	1FT7W2B62HEB49938
163	00163	02/01/17	06/30/19	29	2017	Ford F-250 XLT 4X4 SD Crew Cab 8' box	1FT7W2B69HEC12081
164	00164	02/01/17	06/30/19	29	2017	Ford F-250 XLT 4X4 SD Crew Cab 8' box	1FT7W2B6XHEB87028
165	00165	02/01/17	06/30/19	29	2017	Ford F-250 XLT 4X4 SD Crew Cab 8' box	1FT7W2B67HEC12094

**Schedule 1.1(ddd)**

**Leased Real Property**

1. The Leases, including but not limited to, as set forth in Datasite Folder 7.3.1–7.3.9, 7.3.16–7.3.19 and Item 7.2 as of Saturday, August 1, 2020.
2. The Lease for the MagTech Equipment Yard in Kenai, AK as more specifically set forth at Datasite Item 7.6.
3. The Leases with CLC Lodging for the apartment properties as follows:
  - a. Foxwood Apartment #80, 4260 Palm Ave, San Diego, CA for the San Diego Naval Base Project.
  - b. Foxwood Apartment #58, 4260 Palm Ave, San Diego, CA for the San Diego Naval Base Project.
  - c. Maple Bay Apartment #309AM, 309 South Amsterdam Court – Unit 309AM, Virginia Beach, VA for the Chesapeake Bay Bridge Tunnel Project.
  - d. Maple Bay Apartment #309AM, 309 South Amsterdam Court – Unit 309AM, Virginia Beach, VA for the Chesapeake Bay Bridge Tunnel Project.
  - e. Solimar Apartment, 500 W Pacific Coast Hwy., Wilmington CA 90744 for the Clearwater Project.

**Schedule 1.1(iii)**

**Owned Real Property**

**United States:**

1701 County Road, Rio Vista TX 76093 (at Datasite Items 7.3.10–7.3.15).

**Schedule 1.1(kkk)**

**Permits**

Ontario Ministry of the Environment and Climate Change Environmental Compliance Approval Number 0927-AD3QE7 Issued September 7, 2016, as amended Reference Number 6059-B2XKH (at Datasite Items 1.8.1 and 1.8.2).

**Schedule 1.1(ppp)**

**Prepaid Expenses**

The Prepaid Expenses listed in Datasite Folder Item 4.5.2 as of Saturday, August 1, 2020.

**Schedule 2.3(a)(iii)**

**Assumed Liabilities**

1. All the Capital Leases set forth at Datasite Item 5.1.8 as of Saturday, August 1, 2020, excluding the Crocodile Lease at 3.7.1 and 3.7.3, the US Vehicle Lease and the Canadian Vehicle Lease.
2. The real property taxes for the Rio Vista property as of January 1, 2020.
3. The tangible property taxes for the Rio Vista property as of January 1, 2020.

**Schedule 8.2(i)**

**Liens to be Released at Closing**

Evidence of release of liens, mortgages, and security interests on all Purchased Assets, including but not limited to:

**1. National Bank of Canada:**

- a. Patent # CA 2485875 A1 2006/04/22 for “Settling Tank and Method for Separating a Solids Containing Fluid” filed with the Canadian Intellectual Property Office on 10/22/2004, issued on 4/22/2006.
- b. Patent # CA 2414321 C 2004/11/09 for “Shale Bin/Settling Tank/Centrifuge Combination Skid” filed with the Canadian Intellectual Property Office on 12/14/2002, issued on 11/09/2004.
- c. Patent # US 7,144,516 B2 for “Settling Tank and Method for Separating A Solids Containing Material” filed with the USPTO on 10/22/2004, issued on 12/5/2006.
- d. Patent # US 6,863,809 B2 for “Shale Bin/Settling Tank/Centrifuge Combination Skid” filed with the USPTO on 2/13/2003, issued on 3/8/2005.

**2. Customer Liens:**

- a. Lien against Advanced Energy Partners, LLC pursuant to the Mineral Subcontractor’s Lien Notice Letter dated May 20, 2020, for the amount of \$26,202.89 (at Datasite Item 4.10.18).
- b. Lien against Chevron U.S.A., Inc. pursuant to the Mineral Subcontractor’s Lien Notice Letter dated May 19, 2020, for the amount of \$108,388.21 (at Datasite Item 4.10.15).
- c. Lien against ConocoPhillips Company pursuant to the Mineral Subcontractor’s Lien Notice Letter dated May 19, 2020, for the amount of \$77,979.55 (at Datasite Item 4.10.16).
- d. Lien against Crownquest Operating, LLC pursuant to the Mineral Subcontractor’s Lien Notice Letter dated May 19, 2020, for the amount of \$102,164.95 (at Datasite Item 4.10.19).
- e. Lien against Endeavor Energy Resources, LP pursuant to the Mineral Subcontractor’s Lien Notice Letter dated May 20, 2020, for the amount of \$25,614 (at Datasite Item 4.10.20).
- f. Lien against EOG Resources, Inc. pursuant to the Mineral Subcontractor’s Lien Notice Letter dated May 19, 2020, for the amount of \$66,656.77 (at Datasite Item 4.10.25).
- g. Lien against Oxy USA, Inc. pursuant to the Mineral Subcontractor’s Lien Notice Letter dated May 20, 2020, for the amount of \$47,022.78 (at Datasite Item 4.10.3).

- h. Lien against Parsley Energy Operations, LLC pursuant to the Mineral Subcontractor's Lien Notice Letter dated May 20, 2020, for the amount of \$23,133.63 (at Datasite Item 4.10.4).
- i. Lien against Permian Deep Rock Oil Company, LLC pursuant to the Mineral Subcontractor's Lien Notice Letter dated May 20, 2020, for the amount of \$51,080.93 (at Datasite Item 4.10.5).
- j. Lien against Zavanna, LLC pursuant to the Mineral Subcontractor's Lien Notice Letter dated May 21, 2020, for the amount of \$3,672.72 (at Datasite Item 4.10.13).