

## TRADEMARK ASSIGNMENT

Electronic Version v1.1

Stylesheet Version v1.1

SUBMISSION TYPE:	NEW ASSIGNMENT		
NATURE OF CONVEYANCE:	Bankruptcy Court Order with Exhibit A Asset Purchase and Sale Agreement		
CONVEYING PARTY DATA			
Name	Formerly	Execution Date	Entity Type
Waco International Incorporated		11/16/2011	CORPORATION: OHIO
RECEIVING PARTY DATA			
Name:	Safway Services, LLC		
Street Address:	N19 W24200 Riverwood Dr		
City:	Waukesha		
State/Country:	WISCONSIN		
Postal Code:	53188		
Entity Type:	LIMITED LIABILITY COMPANY: DELAWARE		
PROPERTY NUMBERS Total: 1			
Property Type	Number	Word Mark	
Registration Number:	3780692	WEDGELOK	
CORRESPONDENCE DATA			
Fax Number:	4142235000		
<i>Correspondence will be sent to the e-mail address first; if that is unsuccessful, it will be sent via US Mail.</i>			
Phone:	4149785562		
Email:	ptomailbox@whdlaw.com		
Correspondent Name:	Whyte Hirschboeck Dudek S.C.		
Address Line 1:	555 E Wells St, Ste 1900		
Address Line 2:	Attn: Suzanne Plagemann		
Address Line 4:	Milwaukee, WISCONSIN 53202		
ATTORNEY DOCKET NUMBER:	SSP-14691		
NAME OF SUBMITTER:	Suzanne Plagemann		
Signature:	/Suzanne Plagemann/		

Date:

08/13/2012

**Total Attachments: 42**

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The court incorporates by reference in this paragraph and adopts as the findings and orders of this court the document set forth below. This document was signed electronically on November 16, 2011, which may be different from its entry on the record.

IT IS SO ORDERED.

Dated: November 16, 2011



  
ARTHUR I. HARRIS  
UNITED STATES BANKRUPTCY JUDGE

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION

-----X	
In re	: Chapter 11
	:
WACO HOLDINGS INC., <i>et al.</i> ,	: Case No. 11-17843
	: (Jointly Administered)
	:
Debtors.	: Judge Arthur I. Harris
-----X	

**ORDER PURSUANT TO SECTIONS 105(A), 363 AND 365 OF THE BANKRUPTCY CODE AND BANKRUPTCY RULES 6004, 6006 AND 9014 (I) AUTHORIZING THE SALE OF SUBSTANTIALLY ALL OF THE DEBTOR'S ASSETS, FREE AND CLEAR OF LIENS, CLAIMS, ENCUMBRANCES AND OTHER INTERESTS; (II) APPROVING ASSET PURCHASE AGREEMENT; (III) AUTHORIZING THE ASSUMPTION AND ASSIGNMENT OF CERTAIN EXECUTORY CONTRACTS AND UNEXPIRED LEASES AND (IV) GRANTING RELATED RELIEF**

The Court has considered the motion (the "Motion") of Waco Holdings Inc. ("Holdings") and its affiliated debtors and debtors in possession, Waco International Corporation ("WIC"), Waco Common Paymaster, Inc. ("Paymaster"), Waco International (West), Inc. ("WIW"), Arise Scaffolding & Equipment, Inc. ("Arise"), Waco International Incorporated ("WII") and Waco Equipment Co. ("Equipment", together with Holdings, WIC, Paymaster, WIW, Arise and WII,

the "Debtors" and each individually, a "Debtor") dated September 14, 2011, pursuant to sections 105(a), 363 and 365 of title 11 of the United States Code (the "Bankruptcy Code") and Rules 2002, 6004, 6006 and 9014 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"), seeking entry of an order, among other things, (I) authorizing and approving the asset purchase agreement in substantially the form attached hereto as Exhibit A (the "Purchase Agreement") between the Debtors and Safway Services LLC, as the successful bidder at the Auction (as defined below) (the "Purchaser"), (II) authorizing the Sale of the Purchased Assets (as defined in the Purchase Agreement) free and clear of all liens (as defined in Section 101(37) of the Bankruptcy Code), claims (as defined in Section 101(5) of the Bankruptcy Code), encumbrances and other interests against any of the Debtors or Purchased Assets (collectively, the "Interests"); (III) authorizing the assumption and assignment of certain executory contracts and unexpired leases in connection therewith, and (IV) granting related relief;

The Court entered the order approving the Bid Procedures Motion on October 4, 2011 (the "Bid Procedures Order");

An auction was scheduled for, and conducted on, November 10, 2011 (the "Auction") in accordance with the Bid Procedures Order;

On or before October 13, 2011, the Debtors served notice of the Sale Approval Hearing (as defined below) upon each party required to receive such materials, in accordance with the Bid Procedures Order;

On or before October 13, 2011, the Debtors served the notices required by the order of the Court concerning the assignment and assumption of executory contracts and unexpired leases (collectively, the "Assumption and Assignment Notices") setting forth the proposed cure amount

(the "Cure Amount") with respect to each such executory contract and unexpired lease on each applicable non-Debtor counterparty thereto which the Debtors may seek to assume and assign;

At the Auction, the Debtors determined that the bid of the Purchaser pursuant to the Purchase Agreement for the Purchased Assets constitutes the highest and best bid for the Purchased Assets;

A hearing was held on November 14, 2011 (the "Sale Approval Hearing") to consider, among other things: (i) approval of the Sale of the Purchased Assets to Purchaser, free and clear of all Interests, with such Interests to transfer, affix and attach to the Purchase Price (as defined in the Purchase Agreement) and to all other amounts to be received by the Debtors under the Purchase Agreement (collectively, the "Sale Proceeds") with the same priority, force and effect, all as more fully set forth herein, and, (ii) authorizing the assumption and assignment of the Assigned Agreements (as defined in the Purchase Agreement) to Purchaser pursuant to and as provided for in the Purchase Agreement;

The Court has jurisdiction to consider the Motion and the relief requested therein in accordance with 28 U.S.C. §§ 157 and 1334;

Consideration of the Motion and the relief requested therein being a core proceeding pursuant to 28 U.S.C. § 157(b);

Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409;

Due and proper notice of the Motion having been provided to (i) the Office of the United States Trustee (the "U.S. Trustee"); (ii) counsel for the Committee; (iii) all entities (or counsel therefor) known to have asserted any lien, claim, encumbrance, right of refusal, or other interest in or upon the Purchased Assets; (iv) federal, state, and local regulatory or taxing authorities or recording offices or any other governmental authorities that, as a result of the Sale of the

Purchased Assets, may have claims, contingent or otherwise, in connection with the Debtors' ownership of the Purchased Assets or have any reasonably known interest in the relief requested by the Motion; (v) all parties, if any, who are known to claim interests in any of the Debtors' executory contracts and unexpired leases pursuant to section 365 of the Bankruptcy Code; (vi) the Internal Revenue Service; and (vii) all parties who have requested notice pursuant to Bankruptcy Rule 2002 as of the date of the entry of the Bid Procedures Order (collectively, the "Notice Parties"); and no other or further notice need be provided;

The Court has considered the Motion and the Purchase Agreement, the evidence offered by the parties, the statements of counsel, the testimony and offers of proof as to the testimony on the record at the Sale Approval Hearing, and the governing legal authorities; and,

The Court has found and determined that the relief sought in the Motion is in the best interests of the Debtors, their estates and creditors, and all parties in interest and that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein:

NOW, THEREFORE, upon the entire record of the Sale Approval Hearing and this case; and after due deliberation thereon; and good cause appearing therefor,

IT IS HEREBY FOUND AND DETERMINED THAT:

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

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

C. Capitalized terms used herein and not otherwise defined herein shall have the meanings ascribed thereto in the Motion or the Purchase Agreement, as the case may be.

D. The Court has jurisdiction over the Motion and the proposed Sale pursuant to 28 U.S.C. §§ 157 and 1334, and this matter is a core proceeding pursuant to 28 U.S.C. § 157(b). Venue of this case and the Motion in this district is proper under 28 U.S.C. §§ 1408 and 1409.

E. The statutory predicates for the relief sought in the Motion are sections 105, 363 and 365 of the Bankruptcy Code, and Rules 2002, 6004, 6006 and 9014 of the Bankruptcy Rules.

F. Based upon the record at the Sale Approval Hearing and affidavits of service previously filed with the Court (i) due, proper, timely, adequate and sufficient notice of the Motion, the Auction, the Sale Approval Hearing, and the proposed Sale (including without limitation the assumption, assignment and sale of the Assigned Agreements (as defined in the Purchase Agreement) and a reasonable opportunity to object thereto), has been provided to all persons entitled thereto in accordance with sections 102(1), 363 and 365 of the Bankruptcy Code, Bankruptcy Rules 2002, 6004, 6006 and 9014, and any applicable orders of this Court, (ii) such notice was good and sufficient, and appropriate under the particular circumstances, and (iii) no other or further notice of the Motion, the Sale Approval Hearing, or the proposed Sale is or shall be required.

G. In accordance with the procedures set forth in the Bid Procedures Order, on or about October 13, 2011, the Debtors filed and served all necessary notices upon each non-Debtor counterparty to the Debtors' executory contracts and unexpired leases that the Debtors may seek to assume and assign in connection with the Sale. The service of such Assumption and

Assignment Notices was good, sufficient, and appropriate under the circumstances and no further notice need be given in respect of the proposed assumption and assignment of the Assigned Agreements. Non-Debtor counterparties to such Assigned Agreements have had a reasonable opportunity to object to the proposed Cure Amounts and the assumption and assignment of such contracts.

H. As demonstrated by (i) the testimony and other evidence proffered or adduced at the Sale Approval Hearing and (ii) the representations on the record at the Sale Approval Hearing, the Debtors have marketed the Purchased Assets and conducted the sale process in compliance with the Bid Procedures Order, fairly, and with adequate opportunity for interested parties to submit bids.

I. After giving effect to the provisions of the Bankruptcy Code and this Order, the Debtors: (i) have full corporate power and authority to execute the Purchase Agreement and all other documents contemplated thereby, and the Sale by the Debtors has been duly and validly authorized by all necessary corporate action of the Debtors, (ii) have all of the corporate power and authority necessary to consummate the transactions contemplated by the Purchase Agreement, (iii) have taken all corporate action necessary to authorize and approve the Purchase Agreement and the consummation by the Debtors of the Sale and all other transactions contemplated thereby, and (iv) require no consents or approvals, other than those expressly provided for in the Purchase Agreement, to consummate the Sale.

J. Sound business reasons exist for the Debtors' Sale of the Purchased Assets pursuant to the Purchase Agreement. Entry into the Purchase Agreement and consummation of the Sale constitute the exercise by the Debtors of sound business judgment and such acts are in the best interests of the Debtors, their estates and creditors. The Court finds that the Debtors



have articulated good and sufficient business reasons justifying the Sale pursuant to sections 105, 363 and 365 of the Bankruptcy Code. Such business reasons include, but are not limited to, the facts that: (a) there is substantial risk of deterioration of the value of the Purchased Assets if the Sale is not consummated; (b) the Sale Proceeds constitute the highest or best offer for the Purchased Assets; (c) the Purchase Agreement and the closing thereon will present the best opportunity for the Debtors to maximize value; and (d) unless the Sale is concluded as provided for in the Purchase Agreement, creditors' recoveries will be diminished.

K. The Auction was conducted in accordance with the Bid Procedures Order, at which the Purchaser was declared the highest and best bidder, and the Auction was conducted in a non-collusive manner and in good faith within the meaning of section 363(m) of the Bankruptcy Code. The sales procedures established in the Bid Procedures Order afforded a full, fair and reasonable opportunity for any person or entity to make a higher or otherwise better offer for the Purchased Assets. The Purchaser has proceeded in good faith in all respects in connection with this proceeding in that: (a) the Purchaser recognized that the Debtors were free to deal with any other party interested in acquiring the Purchased Assets; (b) the Purchaser complied with the provisions in the Bid Procedures Order; (c) the Purchaser agreed to subject its bid to the competitive bidding procedures set forth in the Bid Procedures Order; and (d) all payments to be made by the Purchaser and other agreements or arrangements that have been or may be entered into by the Purchaser in connection with the Sale have been disclosed. The Debtors' determination that the Purchase Agreement constitutes the highest and best offer for the Purchased Assets is a valid and sound exercise of the Debtors' business judgment. As a result of the foregoing, the Debtors and the Purchaser are entitled to the protections of Bankruptcy Code section 363(m).

L. The Debtors conducted the Auction in accordance with, and have otherwise complied in all respects with, the Bid Procedures Order. The Auction was duly noticed and conducted in a non-collusive, fair and good faith manner and a reasonable opportunity was given to any interested party to make a higher and better offer for the Purchased Assets. The Purchase Agreement constitutes the highest and best offer for the Purchased Assets and will provide a greater recovery for the Debtors' estates than would be provided by any other available alternative.

M. Neither the Debtors nor the Purchaser have violated section 363(n) of the Bankruptcy Code by any action or inaction or engaged in any conduct that would cause or permit any of the Purchase Agreement or the Sale to be avoided pursuant thereto. Specifically, the Purchaser has not acted in a collusive manner with any person and the purchase price was not controlled by any agreement among bidders. The Purchaser is not an "Insider" of the Debtors as defined in Bankruptcy Code section 101(31).

N. The Purchase Agreement represents a fair and reasonable offer to purchase the Purchased Assets under the circumstances of the Debtors' chapter 11 cases. No other person or entity has offered to purchase the Purchased Assets for greater economic value to the Debtors' estates than the Purchaser. The Purchase Price for the Purchased Assets constitutes (i) reasonably equivalent value under the Bankruptcy Code and the Uniform Fraudulent Transfer Act, (ii) fair consideration under the Uniform Fraudulent Conveyance Act and (iii) reasonably equivalent value, fair consideration and fair value under any applicable laws of the United States, any state, territory or possession or the District of Columbia, for the Purchased Assets.

O. The Debtors are the sole and lawful owner of the Purchased Assets. The transfer of the Purchased Assets pursuant to the Sale to the Purchaser will be a legal, valid, and

effective transfer of the Purchased Assets, and will vest the Purchaser with all right, title, and interest of the Debtors to the Purchased Assets (including any claims and causes of action of the estates being transferred pursuant to the Purchase Agreement) free and clear of any and all "Interests," which defined term shall include, without limitation, all liens (as defined in Section 101(37) of the Bankruptcy Code), claims (as defined in Section 101(5) of the Bankruptcy Code), debts (as defined in Section 101(12) of the Bankruptcy Code), encumbrances and other interests against any of the Debtors or any of the Purchased Assets, including, but not limited to, any (A) that purport to give to any party a right or option to effect any forfeiture, modification, right of first offer or refusal, or termination of the Debtors' or the Purchaser's interest in the Purchased Assets, or any similar rights, (B) relating to any taxes arising under or out of, in connection with, or in any way relating to the Purchased Assets prior to the Closing (as defined in the Purchase Agreement), (C) arising under or in connection with any and all mortgages, deeds of trust, security interests, conditional sale or other title retention agreements, pledges, liens, judgments, demands, encumbrances, rights of use, hypothecations, easements, servitudes, restrictive covenants, leases, subleases, covenants, rights of way, options, restrictions, encroachments, encumbrances or charges of any kind or nature, if any, including, but not limited to, any restriction on the use, voting, transfer, receipt of income or other exercise of any attributes of ownership, (D) arising under or in connection with any and all employment or labor agreements, consulting agreements, severance or change in control agreements or any pension, welfare, compensation or other employee benefit plans, agreements, practices and programs to which any Debtor is or was a party, and (E) debts, claims (each as defined in the Bankruptcy Code), obligations, liabilities, demands, rights of recoupment, set-offs, environmental claims, causes of action, warranties, guaranties, options, rights, contractual or other commitments, restrictions and

matters of any kind and nature, including, without limitation, claims arising in any way in connection with any agreements, acts, or failures to act, of any of the Debtors or any of the Debtors' predecessors or affiliates, with respect to the operation of the Business or the manufacturing of any defective products or materials, in all cases, whether known or unknown, contingent or otherwise, liquidated or unliquidated, whether arising prior to or subsequent to the commencement of these cases pursuant to chapter 11 of the Bankruptcy Code, and whether imposed by agreement, understanding, law, equity or otherwise, including but not limited to claims and debts otherwise arising under doctrines of successor liability, product liability, vicarious liability or similar theory.

P. Except as expressly set forth in the Purchase Agreement, the Purchaser shall have no liability or obligations for any Interest, or other obligation of or against the Debtors, related to the Purchased Assets or the operation of the Business prior to the Closing Date. The Purchaser shall not be deemed, as a result of any action taken in connection with the purchase of the Purchased Assets, to: (1) be a successor (or other such similarly situated party) to any of the Debtors (other than with respect to the Assumed Liabilities); or (2) have, de facto or otherwise, merged with or into any of the Debtors or be a continuation of any of the Debtors. The Purchaser is not acquiring or assuming any liability, warranty or other obligation of or Interest against any of the Debtors or any of the Purchased Assets, except as expressly set forth in the Purchase Agreement with respect to the Assumed Liabilities.

Q. The Purchaser would not have entered into the Purchase Agreement and would not consummate the transactions contemplated thereby if the Sale of the Purchased Assets to the Purchaser, and the assumption and assignment and sale of the Assigned Agreements to the Purchaser, were not free and clear of all Interests of any kind or nature whatsoever (except the

Assumed Liabilities), or if the Purchaser would, or in the future could, be liable for any of such Interests.

R. The Debtors may sell the Purchased Assets free and clear of all Interests of any kind or nature whatsoever because, in each case, one or more of the standards set forth in section 363(f)(1)-(5) of the Bankruptcy Code has been satisfied. Those holders of Interests in any Purchased Asset which did not object, or which withdrew their objections, to the Sale or the Motion are deemed to have consented pursuant to section 363(f)(2) of the Bankruptcy Code. Those holders of Interests in any Purchased Asset 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 Interests, if any, attach to the Sale Proceeds ultimately attributable to the property against or in which they claim an Interest.

S. The Debtors have demonstrated that it is an exercise of their sound business judgment to assume and assign the Assigned Agreements in connection with the consummation of the Sale, and the assumption, assignment and sale of the Assigned Agreements is in the best interests of the Debtors, their estates, and their creditors. The Assigned Agreements being assigned to the Purchaser or its designee, and the Assumed Liabilities being assumed by the Purchaser, are an integral part of Purchased Assets being purchased under the Purchase Agreement and, accordingly, such assumption, assignment and sale of Assigned Agreements and Assumed Liabilities are reasonable, enhance the value of the Debtors' estates, and do not constitute unfair discrimination.

T. Upon payment of the Cure Amounts or reservation of any "Claimed Cure Amount" (as used herein as defined in the *Notice of Cure Amount Process and Possible Assumption and Assignment of Executory Contracts and Unexpired Leases in Connection with*

*Sale of Substantially All of the Debtors' Business and Assets* [D.I. 121]), the Debtors and Purchaser, as applicable, shall have (i) to the extent necessary, cured or provided adequate assurance of cure, of any default existing prior to the date hereof with respect to the Assigned Agreements, within the meaning of 11 U.S.C. §§ 365(b)(1)(A) and 365(f)(2)(A), and (ii) to the extent necessary, provided compensation or adequate assurance of compensation to any party for any actual pecuniary loss to such party resulting from a default prior to the date hereof with respect to the Assigned Agreements, within the meaning of 11 U.S.C. § 365(b)(1)(B) and 365(f)(2)(A). The Purchaser has demonstrated adequate assurance of future performance within the meaning of 11 U.S.C. §§ 365(b)(1)(C), 365(b)(3) (to the extent applicable) and 365(f)(2)(B).

U. The Sale constitutes the sale of substantially all of the Debtors' assets to the Purchaser. Any license or other contract that by its terms permits assignment of the contract without the non-Debtor counterparty's consent in connection with the sale of substantially all of the Debtors' assets, therefore, is assignable to Purchaser in connection with the Sale. The consummation of the Sale is legal, valid and properly authorized under all applicable provisions of the Bankruptcy Code, including, without limitation, sections 105, 363 and 365, and all of the applicable requirements of such sections have been complied with in respect of the Sale. The Sale does not constitute a de facto plan of reorganization or liquidation.

Based on the foregoing findings and the conclusions, and upon the record made before this Court at the hearing on the Motion, and good and sufficient cause appearing therefor,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED THAT:

General Provisions

1. The Motion is granted and the sale of the Purchased Assets to Purchaser hereby is approved, as further described herein. All objections to the Motion or the relief

requested therein that have not been withdrawn, waived, or settled as announced to this Court at the Sale Approval Hearing or by stipulation filed with this Court, and all reservations of rights included therein, are hereby overruled on the merits or the interests of such objections have been otherwise satisfied or adequately provided for herein.

Approval of the Purchase Agreement

2. The Purchase Agreement, in substantially the form annexed hereto as Exhibit A, and all other ancillary documents, and all of the terms and conditions thereof, are approved. Pursuant to section 363(b) of the Bankruptcy Code, the Debtors are authorized and directed to perform their obligations under and comply with the terms of the Purchase Agreement, and consummate the Sale, pursuant to and in accordance with the terms and conditions of the Purchase Agreement.

3. The Debtors are authorized and directed to execute and deliver, and empowered to perform under, consummate and implement, the Purchase Agreement, together with all additional instruments and documents that may be reasonably necessary or desirable to implement the Purchase Agreement, and to take all further actions as may be reasonably requested by the Purchaser for the purpose of assigning, transferring, granting, conveying and conferring to the Purchaser or reducing to possession, the Purchased Assets, or as may be necessary or appropriate to the performance of the obligations as contemplated by the Purchase Agreement.

Transfer of Purchased Assets

4. Except as expressly provided for in the Purchase Agreement or this Order, upon the Closing, pursuant to sections 105(a) and 363(f) of the Bankruptcy Code, the Purchased Assets shall be transferred to the Purchaser, and shall be free and clear of all Interests of any kind

or nature whatsoever with all such Interests of any kind or nature whatsoever to attach solely to the Sale Proceeds in the order of their priority, and with the same validity, force and effect which they now have as against the Purchased Assets, subject to any claims and defenses the Debtors may possess with respect thereto. All persons and entities are prohibited and enjoined from taking any action that would adversely affect or interfere with the ability of the Debtors to sell and transfer the Purchased Assets to the Purchaser in accordance with the terms of the Purchase Agreement and this Order. In accordance with the Final DIP Order,<sup>1</sup> the Debtors shall distribute the Sale Proceeds on the Closing Date to the DIP Lender (as defined therein) or the Pre-Petition Lender (as defined therein), as applicable, for application against the obligations owed by the Debtors to such party.

5. Following the Closing, the Debtors or the Purchaser are authorized and directed to execute and file a certified copy of this Order, which, once filed, registered or otherwise recorded, shall constitute conclusive evidence of the release of all Interests in the Purchased Assets of any kind or nature whatsoever. On the Closing Date, this Order shall be construed and shall constitute for any and all purposes a full and complete general assignment, conveyance and transfer of the Debtors' interests in the Purchased Assets. Each and every federal, state, and local governmental agency or department is hereby directed to accept any and all documents and instruments necessary and appropriate to consummate the transactions contemplated by the Purchase Agreement. If any person or entity which has filed statements or other documents or agreements evidencing Interests on or against all or any portion of the Purchased Assets shall not have delivered to the Debtors prior to the Closing, in proper form for

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<sup>1</sup> The term "Final DIP Order" means that certain *Agreed Final Order (I) Authorizing Use of Cash Collateral and Granting Adequate Protection; (II) Authorizing Debtors to Incur Post-Petition Secured Indebtedness Pursuant to Sections 105(A), 363, 364(C) and 364(D) of the Bankruptcy Code; And (III) Modifying the Automatic Stay to the Extent Necessary*, entered by the Bankruptcy Court as of October 6, 2011 [D.I. 103].



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 such Interests, the Purchaser is hereby authorized to execute and file such statements, instruments, releases and other documents on behalf of such person or entity with respect to the Purchased Assets.

Assumption, Assignment and Sale of Assigned Agreements

6. Pursuant to sections 105(a), 363 and 365 of the Bankruptcy Code, and subject to and conditioned upon the Closing, the Debtors' assumption, assignment and sale to the Purchaser, and the Purchaser's assumption on the terms set forth in the Purchase Agreement, of the Assigned Agreements is hereby approved, and the requirements of sections 365(b)(1), 365(b)(3) (to the extent applicable) and 365(f)(2) of the Bankruptcy Code with respect thereto are deemed satisfied. The provisions of Sections 8.04 and 8.05 of the Purchase Agreement with respect to the disposition of Designated Remaining Leases and the post-Closing assignment of Contracts are hereby approved.

7. In connection with the Closing, the Debtors are hereby authorized, in accordance with sections 105(a), 363, 365(b)(1), 365(b)(3) (to the extent applicable) and 365(f)(2) of the Bankruptcy Code, to: (A) assume the Assigned Agreements; (B) sell, assign and transfer to the Purchaser each of the executory contracts and unexpired leases constituting the Assigned Agreements under the Purchase Agreement, in each case free and clear of all Interests of any kind or nature whatsoever; and (C) execute and deliver to the Purchaser such assignment documents as may be necessary to sell, assign and transfer the Assigned Agreement; provided, however, that the Purchaser shall pay the Cure Amounts required in accordance with Article II, Section 2.05(b) of the Purchase Agreement. The fact that any objection to the determination of a

Cure Amount is not resolved shall not prevent, delay or otherwise impair the assumption and assignment of any Assigned Agreements, and the objector's sole recourse after the relevant date of assumption or the assumption and assignment, as the case may be, shall be against the Debtor; provided, however, that at the election of the Purchaser, any executory contract or unexpired lease shall not constitute an Assigned Agreement if the Cure Amount has not as of the time of such election been paid by the Debtors, until such time as it is paid.

8. To the extent any license or permit that is necessary for the operation of the Business is determined not to be an executory contract assumable and assignable under section 365 of the Bankruptcy Code, the Purchaser may apply for and obtain any necessary license or permit promptly after the Closing and such licenses or permits of the Debtors shall remain in place for the Purchaser's benefit until new licenses and permits are obtained.

9. The payment of the applicable Cure Amounts (if any) or the reservation of any Claimed Cure Amount by the Debtors or the Purchaser, as applicable, shall (a) effect a cure of all monetary and non-monetary defaults existing under the Assigned Agreements as of the date of assumption and assignment, (b) compensate for any actual pecuniary loss to such non-debtors resulting from such default, and (c) together with the assumption of the Assigned Agreements by the Debtors, constitute adequate assurance of future performance thereof.

10. Purchaser has demonstrated adequate assurance of future performance with respect to the Assigned Agreements and has satisfied the requirements of the Bankruptcy Code, including, without limitation, sections 365(b)(1) and (3) and 365(f)(2)(B) to the extent applicable.

11. Pursuant to sections 105(a), 363 and 365 of the Bankruptcy Code, all parties to the Assigned Agreements are forever enjoined from raising or asserting against the

Purchaser any rent accelerations, assignment fees, increases or any other fees, default, breach, claim or pecuniary loss, or condition to assignment arising under or related to the Assigned Agreements existing as of the Closing Date or arising by reason of the Closing. The failure of the Debtors or the Purchaser to enforce at any time one or more terms or conditions of any Assigned Agreement shall not be a waiver of such terms or conditions, or of the Debtors' and Purchaser's rights to enforce every term and condition of the Assigned Agreements.

12. The Purchaser does not constitute a successor to any of the Debtors or any of their estates for any purpose whatsoever, including, without limitation, for purposes of any federal, state, local or foreign statute, law, rule or regulation. The Sale does not constitute a consolidation, merger or de facto merger of the Purchaser and any of the Debtors or any of their estates for any purpose whatsoever. The Purchaser is not merely a continuation of any of the Debtors or any of their estates for any purpose whatsoever, there is not substantial continuity between the Purchaser and any of the Debtors and there is no continuity of enterprise between the Purchaser and any of the Debtors.

13. Any provisions in any Assigned Agreements that restrict, prohibit or condition the assignment of such Assigned Agreements or allow the non-Debtor party to such Assigned Agreements to terminate, recapture, impose any penalty, condition on renewal or extension or modify any term or condition upon the assignment of such Assigned Agreement, constitute unenforceable anti-assignment provisions that are void and of no force and effect. Upon the Closing, in accordance with sections 363 and 365 of the Bankruptcy Code, the Purchaser shall be fully vested with all right, title and interest of the Debtors under the Assigned Agreements.

Additional Provisions

14. Each and every federal, state, and local governmental agency or department is directed to accept any and all documents and instruments necessary and appropriate to consummate the transactions contemplated by the Purchase Agreement.

15. This Court retains exclusive jurisdiction with regard to all matters, claims, rights, issues or disputes arising from or related to the implementation of this Order and the relief provided for herein and to enforce and implement the terms and provisions of the Purchase Agreement, all amendments thereto, any waivers and consents thereunder, and of each other agreement related thereto or executed in connection therewith.

16. Effective upon the Closing Date and except as otherwise provided by this Order or the Purchase Agreement, all persons and entities are prohibited and permanently enjoined from (i) commencing or continuing in any manner any action or other proceeding, whether in law or equity, in any judicial, administrative, arbitral or other proceeding, against the Purchaser, its successors and assigns, or any of the Purchased Assets, with respect to any Interest (other than an Assumed Liability) arising under, out of, in connection with or in any way relating to the Debtors or the operation of the Business prior to the Closing and (ii) taking any action to create, perfect or enforce any lien or other Interest (other than an Assumed Liability) against the Purchaser, its successors and assigns, or any of the Purchased Assets.

17. The transactions contemplated by the Purchase Agreement are undertaken by the Purchaser without collusion and in good faith, as that term is used in section 363(m) of the Bankruptcy Code, and, accordingly, the reversal or modification on appeal of the authorization provided herein to consummate the Sale shall not affect the validity of the sale of the Purchased Assets to the Purchaser (including the assumption, assignment and sale of any of the Assigned

Agreements). In the absence of any person or entity obtaining a stay pending appeal, the Debtors, on the one hand, and the Purchaser, on the other hand, are authorized to perform under the Purchase Agreement and to consummate the Sale at any time, subject to the terms of the Purchase Agreement. The Purchaser is purchasing the Purchased Assets in good faith. Therefore, the Purchaser shall be afforded, and is hereby granted, the full protections of Bankruptcy Code section 363(m) as to all aspects of the transactions under and pursuant to the Purchase Agreement, if this Order or any authorization contained herein is reversed or modified on appeal.

18. The consideration provided by Purchaser for the Purchased Assets under the Purchase Agreement (i) is fair and reasonable and may not be avoided under Bankruptcy Code section 363(n), and (ii) constitutes reasonably equivalent value and fair consideration.

19. All entities that are presently, or on the Closing Date may be, in possession of some or all of the Purchased Assets in which the Debtors hold an interest hereby are directed to surrender possession of the Purchased Assets either to (i) the Debtors before the Closing Date, or (ii) to Purchaser on the Closing Date.

20. Nothing contained in any plan of reorganization or liquidation confirmed in the Debtors' chapter 11 cases or any order of this Court confirming such plans or in any other order in these chapter 11 cases (including any order entered after any conversion of this case to a case under chapter 7 of the Bankruptcy Code) shall alter, conflict with, or derogate from, the provisions of the Purchase Agreement or the terms of this Order. The provisions of this Order and the Purchase Agreement and any actions taken pursuant hereto or thereto shall survive entry of any order which may be entered confirming or consummating any plan of reorganization of the Debtors, or which may be entered converting any of the Debtors' cases from chapter 11 to

chapter 7 of the Bankruptcy Code, and the terms and provisions of the Purchase Agreement as well as the rights and interests granted pursuant to this Order and the Purchase Agreement shall continue in these or any superseding cases and shall be specifically performable and enforceable against and binding upon the Debtors, their estates and the Purchaser and their respective successors and permitted assigns, including any trustee, responsible officer or other fiduciary hereafter appointed as a legal representative of the Debtors under chapter 7 or chapter 11 of the Bankruptcy Code.

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

22. The failure specifically to include any particular provision of the Purchase Agreement in this Order shall not diminish or impair the effectiveness of such provision, it being the intent of this Court that the Purchase Agreement be authorized and approved in its entirety.

23. To the extent, if any, anything contained in this Order conflicts with a provision in the Purchase Agreement, this Order shall govern and control.

24. This Order shall be binding in all respects upon the Debtors, their estates, all creditors, all holders of equity interests in any Debtor, all holders of any claim(s) (whether known or unknown) against any Debtor, any holders of Interests against or on all or any portion of the Purchased Assets, all non-Debtor parties to the Debtors' executory contracts and unexpired leases, the Purchaser and all their respective successors and assigns, including any trustees, if any, subsequently appointed in the Debtors' chapter 11 cases or upon a conversion to

chapter 7 under the Bankruptcy Code of any of the Debtors' cases. The Purchase Agreement and the other Sale Documents shall be binding in all respects upon and shall inure to the benefit of the Debtors, the Purchaser and their respective successors and assigns, including any trustees, if any, subsequently appointed in the Debtors' chapter 11 cases or upon a conversion to chapter 7 under the Bankruptcy Code of any of the Debtors' cases.

25. All time periods set forth in this Order shall be calculated in accordance with Bankruptcy Rule 9006(a). No bulk sales law or any similar law of any state or other jurisdiction applies in any way to the Sale. There are no brokers involved in consummating the Sale and no brokers' commissions are due.

26. Nothing in this Order or the Purchase Agreement shall impair or limit any of the applicable rights of Waco Scaffold & Equipment Co. under Section 365(n) of the Bankruptcy Code or any of the applicable objections and defenses of all parties with respect thereto, all of which are hereby reserved.

27. Neither the Debtors nor the Purchaser will amend the Purchase Agreement in any material respect without either (i) the express written consent of the Committee, the DIP Lender and the Pre-Petition Lender (such consent not to be unreasonably withheld or delayed) or (ii) further order of this Court.

28. This Order shall be effective and enforceable immediately upon entry. Federal Rules of Bankruptcy Procedure 6004(h) and 6006(d) are waived, and no automatic stay

of execution pursuant to Rule 62(a) of the Federal Rules of Civil Procedure applies to this Order.  
No stay of execution shall be imposed unless the party requesting such stay has posted a bond  
satisfactory to the Court in an amount not less than the Purchase Price.

###

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**ASSET PURCHASE AND SALE AGREEMENT**

**dated as of**

**November 14, 2011,**

**among**

**Waco International Corporation,  
Waco International (West), Inc.,  
Arise Scaffolding & Equipment, Inc.,  
Waco International Incorporated, and  
Waco Equipment Co.,**

**as Sellers**

**and**

**Safway Services, LLC,**

**as Purchaser**

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Exhibit 1

Form of Sale Order

ASSET PURCHASE AND SALE AGREEMENT (this "Agreement"), dated as of November 14, 2011, among Waco International Corporation, a California corporation ("Waco International"), Waco International (West), Inc. a California corporation ("Waco West"), Arise Scaffolding & Equipment, Inc., a California corporation ("Arise"), Waco International Incorporated, an Ohio corporation ("Waco Ohio"), Waco Equipment Co., an Ohio corporation ("Waco Equipment") (collectively, "Waco" or the "Sellers") and Safway Services, LLC, a Delaware limited liability company (the "Purchaser").

## RECITALS

A. On September 9, 2011 (the "Petition Date"), Sellers commenced proceedings (the "Proceedings") in the United States Bankruptcy Court for the Northern District of Ohio (the "Bankruptcy Court") by filing voluntary petitions for relief under Title 11, Chapter 11 of the United States Code (the "Bankruptcy Code").

B. The Sellers own the Purchased Assets (as defined below).

C. On the terms and subject to the conditions set forth in this Agreement, the Purchaser desires to acquire from the Sellers, and the Sellers wish to sell to the Purchaser, the Purchased Assets, all as set forth herein and the Sale Order (as defined herein).

## AGREEMENT

In consideration of the premises and the mutual covenants and the agreements herein set forth, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto, intending to be legally bound, hereby agree as follows:

### ARTICLE I

#### Defined Terms

Section 1.01. Definitions. As used in this Agreement, the following terms have the meanings stated:

"Action" means an action, suit, litigation, arbitration, investigation, complaint, contest, hearing, inquiry, inquest, audit, examination or other proceeding, whether civil, criminal, administrative, investigative or appellate, in law or equity before any arbitrator or Governmental Body.

"Affiliate" shall have the meaning set forth in Section 101(2) of the Bankruptcy Code.

"Alternative Transaction" means any asset sale, stock sale, merger, debt for equity swap, joint venture, financing, reorganization, recapitalization or transfer (including the filing of a plan of reorganization with the Bankruptcy Court) of any debt, equity or warrants, the effect of which, individually or in the aggregate, is the direct or indirect transfer of any or all of the Purchased Assets or the direct or indirect transfer of

the ability to effectuate a change of control of the ownership of all or substantial portion of the Purchased Assets, or any similar transaction that does not involve, or delays or deters, a sale of the Purchased Assets to the Purchaser.

**"Assets"** means each of the Seller's respective properties and assets, tangible or intangible, including, without limitation, all Real Property, Leaseholds, Equipment, Fixtures, Inventory, Contract rights, Intellectual Property and personal property.

**"Assigned Agreements"** shall mean the Contracts set forth on Schedule 2.05(a), and shall include the Assigned Designated Remaining Leases on and after the Assignment Effective Date.

**"Assigned Designated Remaining Lease"** means any Designated Remaining Lease which the Purchaser notifies the Sellers to assume and assign to it pursuant to Section 8.04.

**"Assignment Effective Date"** means, with respect to any Designated Remaining Lease, the fifth Business Day after the date on which the Purchaser notifies Sellers in writing pursuant to Section 8.04 that Purchaser elects to have Sellers assume and assign to the Purchaser such Designated Remaining Lease (or, if later, the date the Bankruptcy Court enters an order approving the assignment of such Designated Remaining Lease to the Purchaser); provided, however, that the Assignment Effective Date may be no later than the applicable Section 365(d)(4) Deadline.

**"Assignment and Assumption Agreements"** has the meaning stated in Section 4.02(d).

**"Assumed Liabilities"** has the meaning stated in Section 2.03.

**"Auction"** means the auction for the sale of some or all of the Assets conducted in accordance with the provisions of the Bidding Procedures Order.

**"Backstop LC"** has the meaning stated in Section 8.06.

**"Benefit Plan"** means any employee pension benefit plan covered by Title IV of ERISA or subject to the minimum funding standards under Section 412 of the Code, and any bonus, pension, profit sharing, deferred compensation, incentive compensation, stock ownership, stock purchase, stock option, stock purchase, restricted stock, stock appreciation rights, phantom stock, retirement, supplemental retirement, severance, termination, death benefit, retiree medical benefits or other post-retirement benefits, in each case offered to any current or former employee, officer, director or shareholder of the Sellers.

**"Bidding Procedures Order"** has the meaning set forth in Section 7.03 of this Agreement.

**"Bill of Sale"** has the meaning stated in Section 4.03(c)(i).

**"Bodily Injury"** means the physical injury, sickness, disease, mental anguish, fear or emotional distress sustained or suffered by any person, including death resulting there from.

**"Business"** means the business and operations of Sellers as conducted by the Sellers on the date of this Agreement.

**"Business Day"** means any day that is not a Saturday, Sunday or a day on which banks are required or authorized by Law to be closed in New York City.

**"Cleanup"** means all actions required to (a) identify, investigate, contain, characterize, cleanup, monitor, remove, transport, treat or otherwise remediate Hazardous Materials present in the indoor or outdoor environment, (b) prevent, pursuant to Law, the Release of Hazardous Materials so that they do not enter the Environment, migrate, endanger or threaten to endanger public health or welfare or the Environment, (c) perform pre-remedial studies and investigations and post remedial monitoring and care, or (d) respond to any government directives, orders, requests for information or other documents in any way relating to cleanup, removal, treatment or remediation or potential cleanup, removal, treatment or remediation of Hazardous Materials in the Environment.

**"Cleanup Costs"** means all costs, liabilities, payments or obligations relating to a Cleanup.

**"Closing"** has the meaning stated in Section 4.01(a).

**"Closing Date"** has the meaning stated in Section 4.01(a).

**"Code"** means the Internal Revenue Code of 1986, as amended.

**"Competing Transaction"** means any (a) merger, consolidation, recapitalization, reorganization or other business combination involving any of the Sellers, (b) acquisition in any manner, directly or indirectly, of an interest in 50% or more of the Securities of any Seller or (c) acquisition in any manner, directly or indirectly, of all or a substantial portion of the Assets, other than the Transactions.

**"Consents"** means any approval, consent, authorization or order of, notice to or registration or filing with, or any other action by, any Governmental Body or other Person.

**"Contract"** means any agreement, contract, license, lease, instrument, document, note, bond, mortgage, indenture, guarantee, purchase order, letter of credit, undertaking, obligation, commitment, or other legally binding commitment or obligation, whether or not written, each as amended or modified from time to time.

**"Controlled Group"** for any Person at any date means all members of a controlled group of corporations and all trades or businesses (whether or not

incorporated) under common control which, together with the Person, are treated as a single employer under Sections 414(b) or 414(c) of the Code.

**"Cure Amounts"** has the meaning stated in Section 2.05(b).

**"Debt"** of a Person at any date means all "Debt" as defined in Section 101(12) of the Bankruptcy Code, including without limitation, (a) all obligations of the Person (i) for borrowed money, (ii) evidenced by bonds, debentures, notes or other similar instruments, (iii) conditional sale, title retention or other similar agreements or arrangements creating an obligation with respect to the payment of the deferred purchase price of property or services, (iv) as lessee under capitalized leases, (v) under letters of credit or guarantees issued for the account of the Person and (vi) arising under acceptance facilities, (b) all obligations of the type referred to in clause (a) above of others guaranteed by the Person, (c) all obligations of the type referred to in clause (a) above of others secured by a Lien on any asset of the Person whether or not such obligation is assumed by the Person, (d) interest rate, currency and total return swaps, hedges and similar arrangements relating to such Person, and (e) the aggregate Unfunded Vested Liabilities under each Benefit Plan of the Person.

**"Deposit Amount"** means \_\_\_\_\_

**"Designated Remaining Lease"** has the meaning stated in Section 8.04.

**"Designated Remaining Lease Obligations"** has the meaning stated in Section 8.04.

**"Dollars"** and **"\$"** refer to United States dollars and other lawful currency of the United States of America from time to time in effect.

**"Effective Time"** means 12:01 a.m. New York City time on the Closing Date.

**"Environmental Claim"** means a claim or demand by, or notice from, a third party, including any Governmental Authority or citizen group, seeking a remedy or alleging liability or responsibility for or with respect to any Environmental Condition or violation of or liability under Environmental Law or Environmental Permits, whether due to negligence, strict liability or otherwise. The term includes administrative investigations, hearings and proceedings, court actions, orders, notices of violation, notice of potential responsibility, claims, actions, demands and notices by third parties for or with respect to Bodily Injury, Environmental Property Damage, Cleanup, Cleanup Costs and violations of Environmental Laws.

**"Environmental Laws"** means all federal, state and local laws, common law, rules, regulations, statutes, codes, ordinances, directives, orders, judgments, standards and policies of Governmental Authority and permits, licenses, registrations or other authorizations issued by Governmental Authority which pertain to, regulate or impose liability or standards of conduct concerning the Environment, Hazardous Materials and/or the health and safety of persons (including employees) or which relate to the manufacture, processing, distribution, use, sale, treatment, storage, release, threatened



release, disposal, cleanup, transportation, management, labeling, distribution, testing, or handling of Hazardous Materials.

**"Environmental Condition"** means the intentional or unintentional presence, discharge, dispersal, emission, release, leaching, deposit, migration, leaking or escape of any Hazardous Materials at or into the Environment. The term includes the presence of abandoned or closed containers, tanks or receptacles that contain or formerly contained Hazardous Materials and exposure or alleged exposure of the Environment, persons, or property to Hazardous Materials.

**"Environmental Permits"** means any licenses, permits, registrations, plans or other authorizations and plans required by or issued pursuant to Environmental Laws.

**"Environmental Property Damage"** means physical damage, injury to or destruction of tangible real or personal property or the Environment.

**"Equipment"** means all tangible personal property of a Person, including, without limitation, all equipment, machinery, fixtures, fork trucks, office equipment, tools, motor vehicles, spare parts, supplies and trailers in all of its forms, wherever located, now or hereafter existing, including, without limitation, all accessions, additions, appurtenances and improvements to, parts, products and replacements of and documents and substitutes for the foregoing.

**"Equity Securities"** of a Person means (a) shares of capital stock, limited liability company membership interests, partnership interests, joint venture interests or other equity securities, stock or shares of any kind of such Person, (b) securities directly or indirectly convertible into or exercisable or exchangeable for any of the securities referred to in (a) above, (c) rights, warrants, options, calls, subscriptions or commitments of any kind or character relating to, or entitling any Person directly or indirectly to purchase or otherwise acquire, any of the securities or rights referred to in (a) or (b) above, and (d) equity equivalents, interests in the ownership or earnings of, or equity appreciation, phantom stock or other similar rights of, or with respect to, such Person.

**"ERISA"** means the Employee Retirement Income Security Act of 1974, as amended, and the related regulations and published interpretations.

**"Escrow Agent"** means Benesch, Friedlander, Coplan & Aronoff LLP or an alternate escrow agent reasonably acceptable to Sellers and Purchaser.

**"Escrow Agreement"** means the escrow agreement, dated as of November 9, 2011, by and among the Sellers, the Escrow Agent and the Buyer.

**"Excluded Assets"** has the meaning stated in Section 2.02.

**"Excluded Liabilities"** has the meaning stated in Section 2.04(a).

**"Existing LC"** has the meaning stated in Section 8.06.

**"Fees and Expenses"** has the meaning stated in Section 9.03(a).

**"Final Order"** means an order for which the time for appeal has passed and there are no further proceedings.

**"Fixtures"** means, to the extent not covered by the definition of Equipment, all fixtures appurtenant to Real Property or Leaseholds in all of their forms, wherever located, now or hereafter existing, including, without limitation, all accessions, additions, appurtenances and improvements to, parts, products and replacements of and documents and substitutes for the foregoing.

**"GAAP"** means generally accepted accounting principles in the United States as in effect from time to time, consistently applied throughout the periods to which reference is made.

**"Governmental Body"** means any government or any agency, bureau, commission, court, department, official, political subdivision, tribunal, board or other instrumentality of any administrative, judicial, legislative, executive, regulatory, police or taxing authority of any government, whether supranational, national, federal, state, regional, provincial, local, domestic or foreign.

**"Hazardous Materials"** means any hazardous or toxic substance, waste, contaminant, pollutant, gas, solid, liquid or material, including, without limitation, radioactive materials, oil, petroleum and petroleum products and constituents thereof, which are regulated under any Environmental Law, including, without limitation, any substance, waste or material which is (a) designated a "pollutant", "hazardous substance", "extremely hazardous substance" or "toxic chemical" under the Federal Water Pollution Control Act and/or the Comprehensive Environmental Response Compensation and Liability Act of 1980, as amended, and/or the Emergency Planning and Community Right To Know Act, as amended, (b) designated or classified as a "hazardous waste" or "regulated substance" pursuant to the Resource Conservation Recovery Act (a/k/a Solid Waste Disposal Act), (c) designated or classified as a "hazardous material" under the Hazardous Material Transportation Act, as amended, (d) designated or classified as a "toxic substance" under the Toxic Substances Control Act, or (e) regulated in any way under the Environmental Laws of any jurisdiction where the Sellers conduct the Business where any Real Property, Leasehold or Relevant Property is located.

**"Intellectual Property"** means all copyrights, uncopyrighted works, trademarks, trademark rights, trademark registrations, service marks, patents, including, without limitation, all reissues, divisions, continuations and extensions thereof, patent rights, unpatented inventions, computer software licenses, data (including all electronic mail of all employees of any Seller and all electronic mail systems of any Seller), software, permits, trade secrets, know-how, protected models, designs, methods, concepts, plans, specifications, schematics, formulas, inventions, technology, processes and intellectual property rights and other proprietary rights, whether or not subject to statutory registration, together with applications and licenses for, and the goodwill of the Business relating to, any of the foregoing.

**"Intellectual Property Assignment Agreement"** has the meaning stated in Section 4.03(c)(iii).

**"Inventory"** means all finished products, work in process, raw materials, goods in transit, goods at customer sites and other inventory or goods held for sale of a Person in all of its forms, wherever located, now or hereafter existing.

**"Knowledge of Sellers"** means the actual knowledge, after reasonable inquiry, of Sellers' officers and directors.

**"Law"** means each applicable treaty, statute, law, rule, regulation, order, guidance or recommendation (or any change in its interpretation or administration) by any Governmental Body, central bank or comparable agency and any request or directive (whether or not having the force of law) of any of those Persons and each judgment, injunction, order, writ, decree or award of any Governmental Body, arbitrator or other Person.

**"Leaseholds"** means all Real Property interests as lessee, together with all tenements, hereditaments, easements, rights of way, privileges and appurtenances to those and improvements on or to those interests.

**"Lien"** means any security interest, interest, lien (statutory or otherwise), claim (as defined in Section 101(5) of the Bankruptcy Code), pledge, mortgage, deed of trust, hypothecation, charge, easement, deposit arrangement, preference, priority, license, lease, conveyance of any right, option, right of first refusal or offer, Tax (including foreign, federal, state and local Tax), restriction or encumbrance of any kind, or nature, whether secured or unsecured, choate or inchoate, filed or unfiled, scheduled or unscheduled, noticed or unnoticed, recorded or unrecorded, contingent or non-contingent, material or non-material, known or unknown, and including, without limitation, any restriction on use, voting, transfer, receipt of income or exercise of any other attribute of ownership, and the filing of or agreement to give any financing statement under the uniform commercial code or comparable law of any jurisdiction to evidence any of the foregoing.

**"Material Adverse Effect"** means (a) a material adverse effect upon any or all of (i) the Business, the operations, the Assets, the Assumed Liabilities, condition (financial or otherwise), or prospects of the Sellers taken as a whole or (ii) the legality, validity or enforceability of the Sale Documents, or (b) a material adverse effect on the value of the Business or the Assets.

**"Material Contract"** means:

(i) Contracts under which any of the Sellers has, directly or indirectly, purchased or acquired any Securities or otherwise made any advance, loan, extension of credit or capital contribution to, or other investment in, any Person, joint venture, partnership and limited liability company;

(ii) Contracts under which any of the Sellers (A) is lessee of, or holds or operates, any Equipment, vehicle or other tangible personal property, or (B) has a Leasehold interest or (C) is the lessor or sublessor of Real Property;

(iii) Contracts (A) for the sale or Transfer by any of the Sellers or for the purchase or other acquisition by any of the Sellers, of assets, including, without limitation, purchase orders, goods, materials, supplies, machinery, capital assets or services or capital expenditures or research and development, (B) for the distribution or sale of any of the Sellers' Inventory or for the manufacturing of any of the Sellers' products or Inventory, (C) granting any Person any right of first refusal, right of first offer, buy sell or economically preferential right or other similar rights, to purchase any of the Assets, and (D) granting a warranty to any Person;

(iv) Contracts relating in whole or in part to the Required Intellectual Property;

(v) Contracts which (A) require any of the Sellers to deal on an exclusive basis with any Person, (B) restrict or purport to restrict any of the Sellers from doing any kind of business or from doing business with any Person or in any geographic area or from competing with any Person, (C) require any of the Sellers to maintain the confidentiality of any matter, and (D) require any of the Sellers to indemnify any Person;

(vi) (A) employment, retainer, severance, separation, non-competition, non-solicitation and consulting Contracts with current and former employees, officers, directors, consultants and independent contractors of any of the Sellers and collective bargaining agreements and any other Contracts with any labor union or other collective bargaining group of any of the Sellers, (B) Contracts setting forth the terms of or otherwise relating to Benefit Plans, (C) sales agency, dealer, distribution, brokerage or franchise Contracts of any of the Sellers and (D) Contracts with any shareholder, member, manager, director or officer of any of the Sellers;

(vii) Contracts of any of the Sellers with any Governmental Body;

(viii) Contracts of any of the Sellers not made in the ordinary course of business consistent with past practice; and

(ix) other Contracts to which any of the Sellers is a party or by or to which they or any of the Assets or the Business is bound or subject which has an aggregate future liability, benefit or right to payment to any Person in excess of \$25,000.

**"Newly-Hired Employees"** means any employee of the Sellers as of the Closing Date who becomes an employee of the Purchaser as of the Closing Date.

**"Newly-Hired Employees' Liabilities"** has the meaning stated in Section 2.06(b).

**"Non-Assigned Designated Remaining Lease"** means any Designated Remaining Lease which the Purchaser notifies the Sellers to reject pursuant to Section 8.04.

**"Other Employees"** has the meaning stated in Section 2.06(c).

**"PBGC"** means the Pension Benefit Guaranty Corporation or any entity succeeding to any or all of its functions under ERISA.

**"Permit"** means any permit, license, approval, consent, permission, notice, franchise, confirmation, endorsement, waiver, certification, registration, qualification, clearance, variance or other authorization issued, granted, given or otherwise made available by or under the authority of any Governmental Body or pursuant to any federal, state, local or foreign Law.

**"Permitted Liens"** means all (a) statutory Liens of landlords, Liens of carriers, warehouse persons, mechanics and material persons and other Liens imposed by Law incurred in the ordinary course of business consistent with past practice for sums not yet due and payable, if a reserve or other appropriate provision, if any, as shall be required by GAAP shall have been made therefor, (b) Liens incurred or deposits made in connection with workers' compensation, unemployment insurance, social security, or other similar types of programs or Laws or to secure the performance of tenders, statutory obligations, surety and appeal bonds, bids, leases, government contracts, performance and return of money bonds and similar obligations, incurred in the ordinary course of business consistent with past practice, (c) purchase money Liens incurred in the ordinary course of business, consistent with past practice, and (d) all other liens set forth on Schedule 1.01(a) hereto, in each case in clauses (a) through (d) solely to the extent that any such Liens relate to Assumed Liabilities.

**"Person"** means any individual, corporation, partnership, limited liability company, association, joint venture, trust or any other entity or organization, including, without limitation, any Governmental Body.

**"Petition Date"** has the meaning set forth in Recital A to this Agreement.

**"Pre-Closing Environmental Liabilities"** means any accrued or unaccrued, absolute or contingent claim, liability (whether due to negligence, strict liability or otherwise), responsibility, obligation or economic loss arising from or associated with (i) actual or alleged violations of or liability under any existing or former lease or other contract, any Environmental Laws and any Environmental Permits, (ii) any Environmental Claims, (regardless of when asserted or initiated), and (iii) any Environmental Conditions at, on, under, or emanating to or from the Real Property, any Leasehold or any Relevant Property; in each case (i) through (iii) arising from facts, conditions or events first existing or first occurring on or before the Closing Date, whenever, however and by whomever the fact, condition, or event giving rise to any such claim, liability, responsibility, obligation or economic loss is caused, and whether or not the fact, condition, event, claim, liability, responsibility, obligation or economic loss is, at the time of this Agreement or the Closing Date, known, suspected or unknown, disclosed or undisclosed, latent or patent and whether or not arising pursuant to or in connection with any existing or future Environmental Law or common law. The term includes, but is not limited to, any such claim, liability, responsibility, obligation or economic loss arising

from or associated with (a) the transportation, treatment or disposal of Hazardous Materials by or on behalf of Sellers at any time at any property; (b) the failure of Sellers to obtain and comply with any Environmental Permits; and (c) the exposure of the Environment, persons, or any real or personal property to Hazardous Materials. Pre-Closing Environmental Liabilities are Excluded Liabilities under Section 2.04 of this Agreement.

**"Pre-Petition Facility"** means the Credit Agreement, dated as of August 31, 2005 (as amended, restated, supplemented or otherwise modified from time to time), by and among Sellers, as borrowers, and North American Scaffolding, Inc., a Delaware corporation, as assignee of Fifth Third Bank, as lender.

**"Proceedings"** has the meaning set forth in Recital A to this Agreement.

**"Product Liability"** means, with respect to any products manufactured, leased, marketed, distributed or sold by any Seller relating to the Business, all liabilities (whether contingent or otherwise and whether known or unknown) resulting from actual or alleged harm, injury, damage or death to persons, property or business, irrespective of the legal theory asserted from such products manufactured prior to Closing.

**"Purchase Price"** has the meaning stated in Section 3.01.

**"Purchased Assets"** has the meaning stated in Section 2.01.

**"Purchaser"** has the meaning stated in the heading of this Agreement, and its successors and assigns.

**"Purchaser Required Consents"** means the Consents set forth on Schedule 6.04.

**"Real Property"** means all land, buildings, improvements and fixtures erected on any real property used in the operation of the Business or otherwise held by any Seller, and all appurtenances related thereto.

**"Release"** means (a) any releasing, spilling, discharging, disposing, leaking, pumping, injecting, pouring, depositing, dispersing, emitting, leaching or migrating into the indoor or outdoor environment, including, without limitation, ambient air, surface water, groundwater and surface or subsurface strata, or into or out of any property, including the movement of Hazardous Materials through or in the air, soil, surface water, groundwater, surface or subsurface strata or property and (b) the abandonment or discarding of barrels, tanks, containers or receptacles, whether or not sealed or closed, containing, or which formerly contained, Hazardous Materials.

**"Relevant Property"** means all sites, facilities, locations, Real Property and Leaseholds (a) presently or formerly owned, leased, used or operated by the Sellers (whether or not such properties are currently owned, leased, used or operated by the Sellers), (b) at which any Hazardous Material has been transported, disposed, treated, stored or Released by or on behalf of the Sellers, or (c) that are directly adjacent to any

sites, facilities, locations, Real Property or Leaseholds presently or formerly owned, leased, used or operated by the Sellers.

**"Rejection Effective Date"** means, with respect to any Designated Remaining Lease, the fifth Business Day after the date on which the Purchaser notifies Sellers in writing pursuant to Section 8.04 that Purchaser elects to have Sellers reject such Designated Remaining Lease.

**"Required Consents"** means the Consents set forth on Schedule 5.04.

**"Required Permits"** has the meaning stated in Section 5.05.

**"Sale Documents"** means this Agreement, each other document, agreement and instrument to be executed and delivered by the Sellers or the Purchaser pursuant to Article IV of this Agreement, all other documents and instruments by which the Purchased Assets are transferred by the Seller to the Purchaser, and the Escrow Agreement.

**"Sale Hearing"** has the meaning stated in Section 7.03(b).

**"Sale Order"** has the meaning stated in Section 7.03(c).

**"Section 365(d)(4) Deadline"** means January 9, 2012, as such date may be extended from time to time by the Bankruptcy Court.

**"Securities"** means (a) Equity Securities, (b) notes, bonds, debentures, certificates of deposit and all other evidences of indebtedness or Debt, (c) securities directly or indirectly convertible into or exercisable or exchangeable for any of the securities referred to in (b) above, (d) rights, warrants, options, calls, subscriptions or commitments of any kind or character relating to, or entitling any Person to purchase or otherwise acquire, any of the securities or rights referred to in (b) or (c) above, and (e) all other securities of any type.

**"Sellers"** has the meaning stated in the heading of this Agreement.

**"Tax" or "Taxes"** means all taxes, charges, fees, levies, duties, imposts, deposits, withholdings, restrictions, fines, interests, penalties, additions to tax or other tax, assessment or charge of any kind, including, without limitation, income, excise, personal property, Real Property, withholding, sales, use, gross receipts, value added, franchise, profits, capital, premium, occupational, production, severance, ad valorem, occupancy, stamp, transfer, employment, payroll, unemployment insurance, social security, disability, workers compensation, custom duties, license recording, documentation and registration fees imposed by any Governmental Body, and all interest and penalties thereon and additions thereto.

**"Target Date"** means the ninth Business Day from the date of the entry of the Sale Order on the docket of the Bankruptcy Court.

**"Tax Return"** means any federal, state, local or foreign return, report, claim for refund, declaration, statement or other form relating to Taxes, including, without limitation, any schedule thereto or amendment thereof.

**"Termination Date"** means November 28, 2011, or such later date as Purchaser and Sellers may agree upon.

**"Transactions"** means the transactions contemplated by, or described in, the Sale Documents, including, without limitation, the sale, transfer, assignment, conveyance and delivery of the Purchased Assets by the Sellers to the Purchaser.

**"Transfer"** means a direct or indirect offer, transfer, sale, assignment, pledge, conveyance, hypothecation, license, sublicense or other disposition of all or any interest.

**"Unfunded Vested Liabilities"** of a Person means, with respect to any Benefit Plan at any time, the excess, if any, of (a) the present value of all vested nonforfeitable benefits under the Benefit Plan, over (b) the fair market value of all Benefit Plan assets allocable to those benefits, all determined as of the then most recent valuation date for the Benefit Plan, but only to the extent that the excess represents a potential liability of the Person or any member of its Controlled Group to the PBGC or the Benefit Plan under Title IV of ERISA.

## ARTICLE II

### The Transaction

Section 2.01. Purchase and Sale of the Purchased Assets. Pursuant to Sections 105, 363, and 365 of the Bankruptcy Code and upon the terms and subject to the conditions set forth in this Agreement and the Sale Order, at the Closing, for the consideration payable by the Purchaser to the Sellers in accordance with Article III, the Sellers will sell, transfer, assign, convey and deliver to the Purchaser, and the Purchaser will purchase, accept and acquire from the Sellers, all of the Sellers' right, title and interest in, to and under all of the Purchased Assets, free and clear of any and all Liens, other than Permitted Liens. Purchaser shall be entitled to assign all or a portion of its rights under this Agreement to one or more Affiliates. No such assignment shall relieve Purchaser from its obligations under this Agreement.

The term **"Purchased Assets"** means all of Sellers' right, title and interest in, to and under the Business, goodwill, operations as a going concern, assets, properties, interests and rights owned, leased, licensed or used by any of the Sellers of every kind and wherever situated as of the Effective Time, including, without limitation, the following, but excluding only the Excluded Assets:

- (a) all Leaseholds in which Sellers have an interest, subject to the treatment of any such Leasehold pursuant to Section 8.04;
- (b) all (i) Equipment, (ii) Fixtures and (iii) Inventory in which Sellers have an interest;



(c) all right, title and interest of Sellers now or hereafter existing, in, to and under the Assigned Agreements, as each of the Assigned Agreements may have been amended or otherwise modified prior to the date of this Agreement, including, without limitation, rights of Sellers to receive moneys due and to become due under or pursuant to the Assigned Agreements;

(d) all accounts receivable of Sellers including, without limitation, (i) invoiced accounts receivable, (ii) accrued but uninvoiced accounts receivable, and (iii) all other rights to payment for goods or services sold, delivered or performed, in each case, as of the Effective Time;

(e) all petty cash, security deposits, refunds, deposits and prepaid expenses of Sellers and all vendor rebate accounts and prospective rebates, whether soft dollar or hard dollar;

(f) all Securities in which Sellers have an interest (other than the Securities of any Seller);

(g) all Intellectual Property in which Sellers have an interest;

(h) all other rights, assets and goodwill of Sellers, including, without limitation, all (i) buildings, (ii) tangible and intangible personal property, (iii) Permits, (iv) the right to carry on the Business, (v) subject to Section 8.02(c), books of account, general, financial, accounting and personnel records, files, invoices, customer's, distributor's and supplier's lists, job files and advertising and promotional materials, all to the extent necessary or appropriate for the conduct of the Business on a go-forward basis, (vi) warranty, guarantee or similar arrangements by any manufacturer, supplier, Seller, distributor or other Person, and (vii) causes of action, claims and demands of whatever nature (other than causes of action or claims pursuant to Section 544, 547, 548, 549 or 550 of the Bankruptcy Code or any other state law regarding fraudulent transfers or transactions) arising from or in connection with the business and operation of Sellers; and

(i) all proceeds and products of any and all of the foregoing Purchased Assets.

Section 2.02. Excluded Assets. The Sellers will retain (and the Purchased Assets will not include) the following (collectively, the "Excluded Assets"):

(a) all of the Sellers' rights under the Sale Documents;

(b) the cash portion of the Purchase Price payable to the Sellers pursuant to Article III;

(c) the Equity Securities of any Seller;

(d) the articles of incorporation, minute books, stock books and other corporate records of the Sellers having exclusively to do with the corporate organization and capitalization of the Sellers;

(e) the books of account, general, financial, accounting and personnel records, files and invoices of the Sellers to the extent not assigned pursuant to Section 2.01(h)(v); provided

## ARTICLE III

### Consideration

Section 3.01. Consideration. Upon the terms and subject to the conditions set forth in this Agreement and the Sale Order, at the Closing, as payment in full of the Purchase Price for the purchase of the Purchased Assets the Purchaser will (i) pay, or cause to be paid, to the Sellers, by wire transfer of immediately available funds, an amount in cash equal to for the Sellers' estates, plus an additional \$12,750,000 in cash, (ii) pay the Cure Amounts, and (iii) assume the other Assumed Liabilities (collectively, the "Purchase Price").

Section 3.02. Allocation of Purchase Price for Tax Purposes. On or before the date that is thirty (30) days after the Closing Date or as soon thereafter as practicable, the Sellers and the Purchaser will agree upon an allocation of the Purchase Price covering the Purchased Assets for federal, state and local Tax purposes. Upon reaching such agreement, such allocation will be set forth on Schedule 3.02 hereto. The Sellers and the Purchaser will implement, report and accept the allocation set forth on Schedule 3.02 for federal, state and local Tax purposes. The parties agree that such allocations will not in any way limit their respective rights and obligations under the Sale Documents in respect of representations, warranties, covenants and agreements and the breach thereof or damages therefor.

### Section 3.03. Deposit.

(a) Making of Deposit. The parties agree that the Deposit Amount shall be held in escrow pursuant to the Escrow Agreement and shall not become, or be considered, part of the bankruptcy estate of the Sellers until it is released to the Sellers in accordance with the terms of the Escrow Agreement.

(b) Sole Remedy. Notwithstanding any provision of this Agreement to the contrary, the Sellers hereby agree that in the event that the Sellers are entitled to retain the Deposit Amount pursuant to the Escrow Agreement, the Deposit Amount shall be the Sellers' sole remedy against Purchaser or its Affiliates for any breach of this Agreement or any Sale Document as liquidated and stipulated damages. Except for so retaining the Deposit Amount as provided above, the Sellers shall not have any other claim or remedy against Purchaser or its Affiliates relating to the Transactions (or the failure thereof) (whether resulting from breach or otherwise). As acknowledged by the parties, the full extent of the Sellers' damages in the event of a any such breach by the Purchaser can not be accurately anticipated or determined, and the amount of liquidated damages does not constitute a penalty.

## ARTICLE IV

### The Closing; Conditions to Closing

#### Section 4.01. The Closing.

(a) Time and Place of Closing. The consummation of the Transactions (the "Closing"), will take place at the offices of Latham & Watkins LLP, 885 Third Avenue, New York, New York 10022, at 10:00 a.m. (New York City time), on the Target Date, or at such


In witness whereof, the parties have executed and delivered this Agreement as of the date first written above.

**SELLER:**

WACO INTERNATIONAL CORPORATION


**Address for Notices for Sellers:**

P.O. Box 318028  
4545 Spring Road  
Cleveland, Ohio 44131-8028  
Attention: Lawrence Napolitan, CFO  
Telephone No.: (216) 749-8919  
Facsimile No.: (216) 635-3689

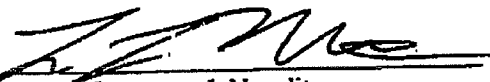
By:   
Name: Lawrence L Napolitan  
Title: CFO

With a copy to:  
Bemesch, Friedlander, Coplan & Aronoff  
LLP  
200 Public Square, Suite 2300  
Cleveland, OH 44114-2309  
Attention: Stuart A. Laven, Jr.  
Telephone: (216) 363-4493  
Telecopy: (216) 363-4588


WACO INTERNATIONAL (WEST), INC.

By:   
Name: Lawrence L Napolitan  
Title: CFO


ARISE SCAFFOLDING AND EQUIPMENT,  
INC.

By:   
Name: Lawrence L Napolitan  
Title: CFO

WACO INTERNATIONAL, INC.

By:   
Name: Lawrence L Napolitan  
Title: CFO

WACO EQUIPMENT CO.

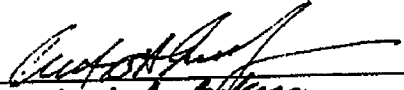
By:   
Name: Lawrence L Napolitan  
Title: CFO

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PURCHASER:

SAFWAY SERVICES, LLC

Address for Notices:  
Safway Services, LLC  
Attention: Curt Paulsen  
N19 W24200 Riverwood Drive  
Waukesha, WI 53188  
Telephone No.: (262) 523-6570  
Facsimile No.: (262) 523-9753

By:   
Name: Curt Paulsen  
Title: VP + General Counsel

With a copy to:

Latham & Watkins LLP  
885 Third Avenue  
New York, NY 10022  
Attention: Keith Simon  
John Giouroukakis  
Telephone No.: (212) 906-1372, (212)  
906-1754  
Facsimile No.: (212) 751-4864

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